



City of Harrisonburg, Virginia

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May 2, 2016

TO THE MEMBERS OF CITY COUNCIL CITY OF HARRISONBURG, VIRGINIA

SUBJECT: Public hearing to consider a request from Erickson Road Investments, LLC with representative Edmond Blackwell for a special use permit per section 10-3-91 (9) of the Zoning Ordinance to allow for the reduction in the required side yard setback to zero feet along the lot line of an adjoining lot or parcel zoned B-2 or M-1. The 26,572 +/- square foot parcel is zoned B-2, General Business District, is addressed as 1911 South High Street, and is identified as tax map parcel number 112-A-5.

EXTRACT FROM MINUTES OF HARRISONBURG PLANNING COMMISSION MEETING HELD ON: April 13, 2016

Chair Fitzgerald read the next request and asked staff to review.

Mrs. Banks the Comprehensive Plan designates this area as Commercial. This designation states that these areas include uses for retail, office, wholesale, or service functions. These areas are generally found along the City's major travel corridors and in the Central Business District of the City.

The following land uses are located on and adjacent to the property:

- Site: Convenience store and gas pumps, zoned B-2
- North: Across Erickson Avenue, Lumber and Building Material sales, zoned M-1
- East: Across South High Street, Financial Institutions, zoned B-2
- South: Commercial Businesses, zoned B-2
- West: Automotive repair business, zoned B-2

The applicant is requesting a special use permit (SUP) per Section 10-3-91 (9) of the Zoning Ordinance to allow for a reduction in the required side yard setback to zero feet along the lot line of an adjoining lot or parcel zoned B-2 or M-1. The property is located on the southwest corner of South High Street and Erickson Avenue. Currently on the site is a convenience store with four gas pumps, which are covered by a canopy that is attached to the convenience store. If approved, the applicant desires to redevelop the property and construct a new structure within 0.83 feet of its southern property line.

In 2009, the property was granted a variance of 10.1 feet from the required 30-foot setback along Erickson Avenue after right-of-way was purchased for the Erickson Avenue/Stone Spring Road improvement project. Thus, the existing structure sits only 19.9 feet from the Erickson Avenue right-of-way. As shown on the attached site plan for the proposed redevelopment, the applicant does not intend to take advantage of the front setback reduction when redeveloping the parcel.

Within the area where the new building is proposed, there is a 30% grade change. The southern property line is at an elevation of about 1,280 feet while the parking area for the site is at about 1,298 feet. Any building constructed in this area would require a foundation wall of approximately 18-feet and may require some encroachment onto the adjacent property. There is also a storm drainage pipe and sanitary sewer located within this area of the subject parcel, which crosses onto the adjacent property to the south. When redeveloping the subject property, the applicant will need to work closely with the adjacent property owner in order to construct the foundation wall and to ensure relocation of the sanitary sewer and the stormwater infrastructure, and any necessary easements, can be properly located. These issues would be worked out during the Comprehensive Site Plan review.

The Fire Chief has expressed that should the adjacent property to the south be redeveloped to accommodate a multi-story building with no setback requirement, there would be serious concerns about the ability of a fire to pass from one structure to the other. There are also specific Building Code regulations regarding fire rating and wall openings for structures with a zero to less than three foot setback. The applicant has been made aware of these issues and will need to work closely with the Building Inspections Division when designing the proposed new building.

Staff has no concerns with the requested SUP and supports the application.

Chair Fitzgerald asked if there were any questions for staff before opening the public hearing.

Mr. Way said it seems like this has potentially somewhat significant impact on the adjacent southern property. I am not sure there are any plans for that property, but I am presuming the owners have been notified and are okay with all of this. I am thinking in terms of more than just the building; the easements and any encroachment.

Mrs. Banks said I believe the applicant or the applicant's representative has been in touch with the adjacent property owners.

Mr. Fletcher said we also notified the adjacent property owners as required with any SUP public hearing.

Mr. Way said that is good.

Mr. Da'Mes asked the adjacent property owner, Mr. Early, to come forward to answer a question. He then asked Mr. Early if he understood that with the configuration shown on the plan, there was an alternate sewer line that would be on his property and may impact his use. He then asked staff to explain what that would mean regarding future use of Mr. Early's property.

Mrs. Banks said currently there is a sanitary sewer line within an easement that runs across the subject parcel and would have to be relocated to construct the building in this proposed location. One of the proposals for relocation shows the sewer line and easement coming onto Mr. Early's property and running along the property boundary between the proposed new building and Mr. Early's building.

Mr. Early said that is a concern. If I were to build adjacent to the subject property, I would have to be further south because there would be an easement there now. No one has discussed a sewer easement with me.

Mrs. Banks explained to Mr. Early that is something that would have to be worked out between you and the adjacent property owner. If that is the direction they desire to take the sewer line and easement, then they would have to work directly with you on that. The comprehensive site plan for the proposed project could not be approved until this issue was resolved. If this location does not work, the applicant has other options.

Mr. Fletcher said if Planning Commission recommends approval of this tonight and City Council approves the SUP next month, it does not mean that the building will absolutely be constructed where

they are proposing it. This hearing just allows them to get to a zero setback if they would want to. Where they have it preliminarily shown does not mean this is where they will ultimately place it.

Mr. Early said from the way I understood, the sewer would be directly under the new building.

Mr. Fletcher said, yes the storm sewer would be under the building, not the sanitary sewer. Storm sewer is often times in a private easement and private easements can be determined between the property owners.

Mr. Early said I thought the sanitary sewer would be under the building.

Mr. Fletcher said the sanitary sewer is currently located where the building is proposed; but it is proposed to be relocated.

Mr. Early asked if it would be relocated on his property. The proposal shows it there and I do not like that. I hope you understand that.

Mr. Da'Mes said we just want you to understand that.

Mr. Early said I did speak with Mr. Holtzman and he was interested in purchasing some of my property; however, I do not wish to sell. I have plans of perhaps locating another building on my site, perhaps adjacent to this area, and if he has a zero setback I would expect the same thing. I believe that is reasonable thinking.

Chair Fitzgerald said that is not exactly what is before us tonight. When you decide to move forward with your plans we can discuss that.

Mr. Early thanked the Commission.

Chair Fitzgerald asked if there were any other questions for staff.

Dr. Dilts questioned whether there were other options for the easement location.

Mrs. Banks replied the owner could look into other locations on their property for the sanitary sewer and easement.

Mr. Way said just to be clear we are only deciding on a zero setback tonight, not locations of easements or buildings.

Mrs. Banks said correct, this is approval of a zero setback. This project would still have to go through the Comprehensive Site Plan review and meet all regulations.

Chair Fitzgerald said the question that we had yesterday at the site was whether or not the adjacent property owner to the south was aware of the possible implications of this project and clearly, as of right now he is very aware. She then opened the public hearing and asked the applicant or the applicant's representative to speak.

Mr. Ed Blackwell, of Blackwell Engineering, said he is representing the owner, Mr. Holtzman. The owner has been re-developing many of the Exxon convenience store/gas stations that he owns throughout the area. Mr. Holtzman has met with Mr. Early to the south and the other neighbor to the west. There are several ways we can take care of the sanitary sewer through this area and Mr. Holtzman is very open to working with either neighbor to work this out; or if it means making the building a bit smaller, which we really do not desire, but can do.

We realize as well that a high grade storm pipe will be needed for the storm sewer that will be under the building; this will all be within a private easement underneath the building. We will have to work with Mr. Early very closely on details during the site plan phase; right now we are just trying to see if a zero setback is a viable option.

We do know it will be a really tall wall, but we have a good architect and structural engineer to work out the details on that. If there are any other questions about the design, I would be happy to answer them.

Dr. Dilts asked if the building would be just one level.

Mr. Blackwell replied yes, just one level. On Mr. Early's side it will be one large wall. If Mr. Early would desire to have the same along his property boundary, it would be like the multi story buildings you have downtown with zero setbacks. We know we have to work around that sewer issue on that side of the building.

Chair Fitzgerald said it sounds like the sanitary sewer conversations are just beginning.

Mr. Blackwell said I have not been part of the conversations that Mr. Holtzman has had with Mr. Early. Our goal is to get the SUP and get through the site plan process this year in order to begin work next year.

Dr. Dilts said the space between the proposed canopy and the proposed building is very wide, is that because of cars maneuvering?

Mr. Blackwell said the owner has a lot of gas station/convenience stores and he has learned over time the distance he needs between the pumps and the front door of the store, to allow for parking and vehicle movement. The idea is to try and keep the canopy somewhat where it is now, with the new building within a certain range from the canopy.

Dr. Dilts asked if the only way to get that range was to have the zero setback.

Mr. Blackwell agreed and said we do not really want to move the canopy closer to Erickson Avenue; that is not a safe entrance location on the site.

Mr. Way said I think it is valuable that you have included the pedestrian walkway from South High Street to the building.

Mr. Blackwell said thank you; however, that is a City requirement now.

Mr. Colman said something else that may come into play with the sewer line is that you are probably going to need a temporary construction easement on the adjacent southern property.

Mr. Blackwell said of course, if we have a zero setback on the side with Mr. Early we will need to obtain some type of construction easement. Even if we construct ten inches off the property line as planned, we will need the easement. Again, this would have to be done during the site plan phase.

Chair Fitzgerald asked if there were any more questions for Mr. Blackwell. Hearing none, she asked if there was anyone else desiring to speak regarding the request. Hearing none, she closed the public hearing and asked Planning Commission for discussion or a motion on the request.

Mr. Colman moved to recommend approval of the special use permit as presented by staff.

Dr. Dilts seconded the motion.

Chair Fitzgerald called for a voice vote.

All voted in favor of the motion (7-0) to recommend approval of the SUP.

Chair Fitzgerald said this will move forward to City Council on May 10th with a favorable recommendation.

Respectfully Submitted,

Alison Banks

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