



City of Harrisonburg, Virginia

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August 1, 2016

TO THE MEMBERS OF CITY COUNCIL CITY OF HARRISONBURG, VIRGINIA

SUBJECT: Public hearing to consider request from Thomas W. Richardson and James F. Richardson with property representative Mossy Creek Holdings to rezone a parcel containing 26,258 +/- square feet from R-2, Residential District and R-3, Medium Density Residential District to B-2C, General Business District Conditional. The property is located at 480 East Market Street and is identified as tax map parcel 27-A-6.

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

Chair Fitzgerald read the request and asked staff to review.

Chair Fitzgerald continued by saying thank you for your patience. The next item on the agenda, and I am assuming we are going to actually do the next two items together, 480 East Market Street rezoning and SUP for reduced parking. She then asked staff for a review.

Ms. Dang said the Comprehensive Plan designates this area as Professional. This designation states that these areas are for professional service oriented uses with consideration to the character of the area. These uses are found in the residential areas along major thoroughfares and adjacent to the Central Business District. Conversion of houses in these areas to office and professional service uses is permitted with appropriate attention to maintaining compatibility with adjacent residential areas in the same manner as described for Planned Business areas.

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

- Site:** Single-family dwelling, part which is zoned R-3 adjacent to East Market Street and part which is zoned R-2 adjacent to East Elizabeth Street.
- North:** Across East Elizabeth Street, single-family dwellings, zoned R-2
- East:** Across Sterling Street, personal service establishment (The Beauty Spa) and a mixture of single-family dwellings and professional offices, zoned R-2 and R-3
- South:** Across East Market Street, medical and professional offices, apartments, and Woodbine Cemetery, zoned R-3
- West:** A mixture of residential dwellings and professional offices, zoned R-3

The applicant is requesting to rezone a parcel containing 26,258 +/- square feet from R-2, Residential District and R-3, Medium Density Residential District to B-2C, General Business District Conditional. Simultaneously, the applicant is also requesting a special use permit per section 10-3-91(8) to allow for reducing required parking areas. Both applications are discussed and reviewed herein. Presently, a residential dwelling occupies this property. As explained in the applicant's submitted letter, if approved,

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the applicant desires to operate Mossy Creek Fly Fishing, a fly fishing retailer, guide service, and fly fishing educational services use from the building.

The Comprehensive Plan's Land Use Guide designates this area as Professional. This designation states that these areas are for professional service oriented uses with consideration to the character of the area. These uses are found in the residential areas along major thoroughfares and adjacent to the Central Business District. Conversion of houses in these areas to office and professional service uses is permitted with appropriate attention to maintaining compatibility with adjacent residential areas in the same manner as described for Planned Business areas. The proposed rezoning, B-2, General Business District is intended to provide sufficient space in appropriate locations for a wide variety of retail shopping, commercial, automotive, miscellaneous recreational, and service activities.

The subject parcel is also within one of the Comprehensive Plan's designated Corridor Enhancement Areas; therefore, items such as: land use; vehicle, pedestrian, and bicycle circulation; access management; development, redevelopment, and reuse opportunities; conservation of special features; and signage should be considered. Staff has discussed with the applicant the need to be mindful of these matters.

With regard to the rezoning, the applicant has proffered the following (written verbatim):

The property shall be redeveloped by improving and maintaining the existing structure, which may include additions to the building, and where the following B-2 uses will be retained:

(By Reference to Numbered Paragraphs of the Existing B-2 Ordinance with Some Modifications)

- (1) Mercantile establishments which promote the show, sale and rental of goods, personal service establishments and other shops.
- (2) Governmental, business and professional offices and financial institutions.
- (4) Theaters, community rooms, museums and galleries and other places of assembly for the purpose of entertainment or education. In addition, customary recreational and leisure-time activities which are compatible with surrounding uses are permitted.
- (5) Religious, educational, charitable or benevolent institutional uses which do not provide housing facilities.
- (15) Accessory buildings and uses customarily incidental to any of the above listed uses.
- (18) Public uses.

In addition, the applicant would retain the right to seek a special use permit for any uses allowed by such in B-2.

With regard to the site the applicant proffers:

A landscaping buffer with intent to form a dense screen shall be established along the western and northern perimeter of the property as indicated on the site plan, prepared by Engineering Solutions, dated July 6th 2016, and submitted with this application. Existing vegetation may be maintained or new materials planted. When new materials are planted, they shall be 6 feet in height at the time of planting and planted at a minimum of 5 feet on center.

Dedicate right-of-way as needed along East Market Street for the city's future traffic signal improvements at the intersection of East Market Street and Sterling Street / Reservoir Street as indicated on the site plan, prepared by Engineering Solutions, dated July 6th 2016, and submitted with this application.

The southern access to the property along Sterling Street shall be marked as exit only.

All freestanding signs shall be no taller than 10ft in height, and no freestanding sign shall exceed 50 square feet. There will be no LED, scrolling message board sign.

For all intents and purposes, the site plan provided is conceptual. However, the layout demonstrates where the buffering will be located per the submitted proffers and demonstrates that the site can sustain the minimum required parking spaces.

Often, a rezoning that changes a property's zoning from a residential district to a business district would increase the intensity of the permissible uses. However, if the rezoning request with the submitted proffers is approved, the allowable uses under the B-2 district would be quite limited and less intensive than the current R-3 district allows and fits better with the character of Professional land uses.

From the beginning, the applicant has expressed interest in keeping the existing building and has stated in the Description of Proposed Use letter that they will be making improvements inside the building, and that "[t]here are no plans to alter the exterior of the building other than to provide an upgraded entrance."

Initially, staff was concerned that future owners could demolish the building and construct a larger building that could result in higher intensity usage. After discussing this with the applicant, the applicant provided the opening statement in their proffer letter "[t]he property shall be redeveloped by improving and maintaining the existing structure, which may include additions to the building." This allows for improvements and additions to the existing building, and prohibits demolition of the existing structure and prohibits additional buildings on the property. If plans were made to demolish the building, the property owner must amend the proffers.

The applicant proffered a significant limit to the types of uses that would be allowed on the proposed B-2C zoned property. Because this property is adjacent to and serves as an entryway to a residential neighborhood, staff was concerned with the potential for increased traffic on Sterling Street and potential noise and/or lights coming from this property. Of particular note, staff was concerned about restaurant uses. Restaurants are a higher intensity commercial use. Depending on the type of restaurant, a restaurant may have very early hours (e.g. coffee shop), outdoor seating, and/or late night use. Additionally, a restaurant in this building would require 33 parking spaces, compared to the required 17 parking spaces for retail use. The applicants have not included restaurants as an allowable use in their proffer. The proffers satisfy staff's concerns regarding allowable uses on the property.

With regard to the proffer associated with a landscaping buffer, a dense screen will be provided along the western and northern perimeter of the property to provide separation between the allowable commercial uses and neighboring residential district.

The site plan shows that the applicant desires to make one access "enter only" and the second access "exit only" so that boat trailers can pull into the parking lot in an organized fashion. In the rezoning application, the applicant's letter describes "[the retailer] is very low traffic compared to most retailers. The service portion of the business leads to little added traffic as well because most trips meet on the water, and not at the retail store." Staff agrees that high volumes of traffic are not anticipated. Staff and the applicant agreed that the access into the site should be furthest away from East Market Street so that vehicles coming off of East Market Street onto Sterling Street and making left turns into the site do not cause a vehicular back up into the intersection. The applicant has proffered that the southernmost entrance will be marked "exit only." If the applicant desires, the northernmost entrance may be "enter only" or full access for both entering and exiting the site.

With regard to the proffer associated with signage, typically, B-2 zoned properties, if they have enough sign area allotted to the site, can have freestanding signs as large as 240 square feet in area and up to 35-foot in height. Specifically for the site, the property would have about 90 square feet of sign area available

for use because the property's street frontage along East Market Street is about 90 feet in length. The applicant has proffered that freestanding signs shall not exceed 50 square feet and shall be no taller than 10-feet in height. Understand that remaining signage square footage allowed on this property may be applied to the building walls as long as it meets other requirements of the Sign Ordinance. Of particular note, since the site is surrounded by residentially zoned properties, as is the case today under the existing R-3 zoning, any use that operates on site would be limited as to the locations of particular advertising. Similar to the setback regulations, this restriction does not specify the restriction being only applicable when the adjacent property is "used" residentially, but rather when the adjacent property is a "residential district." Staff has explained to the applicant that, as is currently regulated within the Sign Ordinance, wall signs (which are signs mounted on the exterior of the building) shall not be placed on side or rear walls of the building that abut and that are within 100 feet of a residential district. Therefore, advertising wall signs would only be permitted that display toward East Market Street.

The applicant is aware that, if approved, future additions to the existing building would be limited by setback regulations. This is because the B-2 zoning district's building setback requirements are 30 feet along the front property line, which is typical of most districts, and then 10 feet on both sides and along the rear; however, when a shared line abuts a residential district, the minimum setback then increases to 30 feet. Furthermore, if any structure is to be greater than 35 feet in height, then one additional foot of setback is required for each foot above 35 feet adjacent to shared lines of residentially zoned property.

The requested special use permit per Section 10-3-91(8) is to allow for reducing the minimum required parking spaces so long as the amount of space that would have been used for parking remains as open space and is so noted in the deed to the property. In addition to projected low traffic volumes as one reason for the special use permit request, the applicant describes in their Description of Proposed Use letter: "One unique demand of our retail operation is that there is ample room outdoors in the grass to 'test cast' fly rods." Without this special use permit, the applicant would not have green space for this purpose.

The applicant is requesting approval for only 9 parking spaces to be provided. Per Section, 10-3-25 Off-Street Parking Regulations, without the special use permit, this retail use of 3,223 square feet floor area requires 1 space per 200 square feet, equal to a total of 17 parking spaces required. The applicant has confirmed in the submitted site plan that the minimum required parking spaces of 17 total spaces can be met.

The applicant is also aware that they must meet parking lot landscaping requirements per Section 10-3-30.1 and has noted this on the submitted site plan.

Although not proffered, when a comprehensive site plan is submitted to the City Engineer for review, all typical street frontage improvements are required. As depicted in the submitted layout, the applicant understands that a sidewalk would be required along Sterling Street and East Elizabeth Street. Whether the sidewalk will include the standard 2-ft grass strip or not will be determined with staff at the time of comprehensive site plan development. Buffer strips between the back of curb and sidewalk provide a number of benefits including, but not limited to, providing a place to install traffic signs and utilities, increasing pedestrian comfort by providing additional separation from traffic, providing for a wheelchair recovery zone, providing a place to push and pile snow, and reducing problems with dips and cross slopes at driveway aprons. Staff recognizes that retrofitting sidewalks around already developed sites can be challenging. After careful review, administrative waivers to remove the grass buffer strip may be granted due to site constraints.

During yesterday's tour there were two items that were brought up by members of Planning Commission; one was a question about negative runoff impacts for the adjacent property owner to the west when a parking lot is constructed in the back portion of the lot. This is something that will be evaluated during

the comprehensive site plan phase of the project. The City Engineer is aware that this is something that needs to be looked at when it gets to this point.

The other item of concern that was brought up was parking along Sterling Street. Presently, parking is permitted on Sterling Street. As far as public safety and hazards regarding this parking, that would be something that would be evaluated by staff; and perhaps by the Transportation and Safety Advisory Committee if it becomes a concern. As far as this particular use is concerned, the applicant is providing parking spaces on their property to address their parking needs.

With all of this, staff believes the requested rezoning is acceptable given the significant limitations proffered by the applicant. Staff further supports the requested special use permit per Section 10-3-91 (8) to allow for reducing the minimum required parking spaces with the following condition.

If in the opinion of Planning Commission or City Council, parking becomes a nuisance, the special use permit can be recalled for further review, which could lead to the need for additional conditions, restrictions, or revocation of the permit.

Chair Fitzgerald asked if there were any questions for staff at this time.

Mrs. Whitten asked has there been any discussion about lighting; do we know what type of lighting will be installed in the parking lot. Will there be restrictions on the lighting because it is adjacent to residential?

Ms. Dang said that has not been discussed with the applicant.

Mr. Fletcher said there would not be any restrictions as such; because there is no regulatory control either. The comprehensive site plan requires for them to indicate the “foot candles” that are released from the site. The restriction is no more than .5 foot candles; aside from that there is no regulatory control. If you have concerns about lighting you could take that into consideration as a condition that is placed on the SUP request.

Mr. Way asked if B-2 was the most appropriate designation for this zoning classification. Is there something that would be better than B-2?

Mr. Fletcher said the front portion of the property is zoned R-3, so by-right a professional office could locate in the existing building. The parcel and the entire block is designated Professional within the Land Use Guide. Technically speaking the rezoning they are requesting does not fit exactly into the Professional category, because they have a retail component. So from a staff perspective and given all of the considerations and the back-and-forth with the applicant, they have proffered and limited themselves so much so that the intensity coming from their use is very, very similar to an office use.

Mr. Way said that makes sense. Does it open the door to future “things” in this area?

Mr. Fletcher replied no.

Mr. Baugh said it potentially opens the door to considering other low impact retail.

Mr. Finks said regarding the Sterling Street parking – would parking still be allowed from the exit of the site, south towards the corner at East Market Street? In looking at the site it does not appear there would be enough room to park a car along this portion of Sterling Street. Why does this not come up as a concern?

Mr. Fletcher said that will be reviewed as part of the comprehensive site plan that was referred to earlier and in the staff report. The City Engineer and the Department of Public Works will look at the stacking queue for the intersection and the exit of the site. Whether or not parking needs to be removed will be evaluated at that time. We are only focusing on the particular use with this request; therefore, much of the

infrastructural issues like sidewalk and parking along the street will get worked out during the comprehensive site plan review.

Mr. Finks said I feel that it directly affects whether we can approve the SUP because I think it becomes a problem if the parking is allowed in that area.

Mr. Fletcher said remember the front portion of the property is zoned R-3; so professional offices are permitted by right. It is a concern, but it is also a use permitted by right; so parking must be supplied on site to serve that particular use. Again, the egress and ingress locations on the site, in our view, are not really components of the SUP, because there are already permitted by right uses that are not residential.

Mr. Finks said that makes sense; but I still think that if we are looking at approving whether or not they have to install the appropriate amount of parking right now, if it becomes an issue where we have to reconsider our approval there may be a problem.

Mr. Fletcher said I am sorry, I thought you were talking about the rezoning approval, but clearly you are referring to the SUP. That is a component you can take into consideration with the SUP approval. If you think there would be a loss of spaces along the street that would cause a negative impact to the surrounding neighborhood, then maybe, in your opinion they are not providing enough off street parking spaces with this request. It was not a concern of staff at this point in the game; but, if there is a concern, the condition we are recommending is to call the SUP back if it does become a concern.

Mr. Colman asked how many vehicles do you believe park on that section of Sterling Street between the exit and the intersection. Does anyone park there?

Chair Fitzgerald said to me it seems like a dangerous place to park. She then asked if there were any further questions for staff at this time. Hearing none, she opened the public hearing for the rezoning request and asked if the applicant or their representative would like to speak.

Brian Trow said he is the owner of Mossy Creek Fly Fishing and the applicant representing the property owner, Mr. Richardson, for this request. I would like to thank Planning staff; they have been great to work with on this request. Please know a lot of the proffers put into this request were not just to meet their (staff) needs, they fit with our business model – meaning we like green space, we have very, very low traffic flow with our retail store, we have a very specialized business. Much of our business is service based and we bring people in from all over the east coast to fish all over the Shenandoah Valley. That traffic does not really translate into cars and people at the store all day long. We have a growing eCommerce business, so the retail portion makes up less than half of our business.

Additionally, concerning the parking for our business, I did not even know you were allowed to park along Sterling Street, so to the next point the reduction in spaces was not because we were thinking “we can just park people along Sterling Street.” We were operating under the impression that cars could not even park along the street.

We have wanted to be part of the downtown area for a long time. We have been in business for fourteen years and we have become a Harrisonburg fixture. People come from all over the state of Virginia because there are not a lot of businesses like ours. We send a lot of customers to the City’s downtown. Harrisonburg Downtown Renaissance (HDR) has been after our business to move downtown for more than a decade. The hard part of being downtown is to get someone who is driving down the I-81 corridor to come in and turn along several one way streets, find parking, and so forth in the downtown. So after watching for many years and trying to figure out where our permanent home would be, this property came about. It offers a very unique opportunity. It has the off-street parking space we require. It has that beautiful old building that we love and would make a unique store for our small retail operation.

For all these reasons it was easy to meet staff’s concerns regarding the rezoning. Hopefully, through this rezoning request and a comprehensive site plan where we can get the right landscaping and buffer in place

that will strike the right balance with the area. Hopefully, all concerns were taken care of through the proffering.

I would be glad to answer any questions you may have for me.

Mr. Finks said in the proposal it says that you will be holding or teaching classes. Can you tell me more?

Mr. Trow said most of our classes will be off-site on the water. We do have, upstairs, a room that will be designated for classes such as fly tying. This is where you have a group of five maybe six people and teach them how to tie a fly or a specific knot; classes of that nature. As for the grassy area in the back of the lot, people like to try out a fly rod before they make an investment that size, so having some green space in the back to allow casting is kind of a big thing. We currently do not have such a space and people go in the back parking lot or alley to test the rods.

Mr. Finks asked when you have a class on the water do you envision meeting folks at the fishing site or would they come to the store location and then you go out to the water.

Mr. Trow said we do have guided trips and classes where customers meet at the store. Our store hours are typical retail, 10 am opening, so a lot of our guide trips will meet at 8 am at the store before they head out to the water. So it is a mix, some folks will meet at the store and go to the water, while others come directly to the water.

Mr. Finks asked do you envision a situation where you would have more than the nine parking spaces that are proposed filled.

Mr. Trow replied no, not even close. If you look at the traffic survey for our rezoning request it was embarrassingly low. We just do not have a lot of vehicle traffic. The beginner classes that we have are generally private, so you may have a husband and wife or a father and son/daughter. The idea of lining up twenty people to take out to the water is not our business model and we do not plan for that.

Mr. Finks said thank you.

Chair Fitzgerald asked if there were any further questions for Mr. Trow. Hearing none, she asked if there was anyone else wanting to speak in favor of the rezoning request.

Tom Richardson, 2444 Massanutta Springs Road, said he is one of two owners of the property. My brother and I inherited the property from our aunt, who inherited it from our grandparents; so we have a long association with this property. I just want to speak in terms of the parking and you mentioned the parking along Sterling Street; over the past four years or so we have had a lot of contractors coming to this property that would park along Sterling Street and traffic would adjust. Sterling Street is a very wide street and they were able to park along there with no problems.

Thank you and if you have any questions for me about the house I would be happy to answer them.

Mrs. Whitten asked how old the house was.

Mr. Richardson said City records show that the property has been there since 1838. My grandparents always told us it was built in 1860. That seems to be right in terms of the age of the bricks and the age of the structure. My grandparents came into possession of the house in the 1940's and at that time I believe it was an upstairs/downstairs apartment. My grandparents converted it back to a single-family home.

Chair Fitzgerald said it is a grand old home.

Mr. Richardson said when we first put it on the market we were afraid that someone would purchase it and tear it down. We are thrilled that someone is going to come along and use the building and actually improve on it; I know my grandparents would approve.

Chair Fitzgerald asked if there was anyone else wanting to speak with regard to the request.

Sherwin Jacobs said he owns the building across the street (Sterling Street) and as far as the rezoning request he is in favor. I was concerned that the building would be torn down. My wife and I own old properties and renovate them, such as the one across the street. So I am very happy to see that it will remain.

The only concern I have expressed to some of you individually, is the parking. It might help with parking along Sterling Street if there was a median line going down the middle. Sometimes I park along Sterling Street with my truck to unload trash and I do cause a bit of a bottleneck in traffic. It could be because the cars traveling towards Market Street are simply over too far in the next lane, which a center line would help. But I was more concerned that the retail aspect would bring in more vehicles and the overflow might start using, on a regular basis, our parking lot across the street. I do not care if the business has a special occasion and you ask to use the parking, I am more than happy to accommodate that. But I would not want people to utilize the parking all the time and interfere with the Beauty Spa parking. When I originally looked at this request it appeared they were providing eleven spaces and now I believe it has come down to nine, I just hope this is enough. The parking is the only thing that I have any concern with. I am very happy that someone is interested in rehabbing the building; there have been too many older buildings torn down in Harrisonburg.

Chair Fitzgerald asked if there was anyone else desiring to speak with regard to the rezoning.

Neil Lewis, 1081 James Place, I have been a customer of Mossy Creek for many years and I have never seen nine cars in their parking lot. I have taken classes countless times and people may meet at the shop but they do not leave their vehicles there; they go out to the site.

I do think they would be a valuable addition to the downtown. I know my family and I spend our time and money downtown, and Mossy Creek is the last bit of money we do not spend downtown. Thank you.

Chair Fitzgerald asked if there was anyone else wanting to speak. Hearing none, she closed the public hearing on the rezoning request and opened the public hearing for the SUP. She then asked the applicant if they would like to speak.

Brian Trow, applicant, said I just wanted to add that there is a lot of green space in the rear of this property. When we first began talking about the site I felt as if we were being encouraged to reduce parking, because it just makes for less runoff for the neighbors, less asphalt on a property that has a lot of grass, and the space was there. This is not something we are requesting just to save some money on pavement. This is what we did because we truly feel we do not need the parking. Showing that we do have the area reserved and that if our business does ever begin to have more vehicles we will simply put the parking in. For those reasons I do hope you allow us to keep a smaller footprint with regard to the parking. It was never once discussed among us that we would park extra vehicles along the street – as I said, we did not realize you could park on Sterling Street.

Mrs. Whitten asked if the garage that is currently located on the property would stay.

Mr. Trow replied yes. It will be used for storage; we are not about knocking buildings down. The reason the parking went from eleven to nine had to do with the placement of the ADA accessible parking space.

Chair Fitzgerald asked if there was anyone else desiring to speak regarding the SUP.

From the audience Mr. Jacobs reiterated his concern regarding overflow parking.

Brian Koerner, Engineering Solutions, the applicant's engineer, said we were responsible for doing the conceptual site plan. We originally had the accessible space located in front of the garage; however that area was too short. Even as a compact space there is not enough room to put a car in front of the garage, but it could be used as an unloading spot if necessary.

With the future site plan, we will be focused on reducing light pollution and having down lighting with no bleed off onto the adjacent properties would be the conceptual plan. I am a cyclist as well, and I believe that Sterling Street could be lined-off to somewhat reduce the width of the street and have a more calming pattern, that would be great. But I guess that is more of a City responsibility rather than ours as the applicant. We do feel that the nine proposed spaces are more than enough and will not have any overflow into the street. Thank you.

Chair Fitzgerald asked if there was anyone else desiring to speak with regard to the SUP. Hearing none, she closed the public hearing and asked staff if they were looking for two separate motions.

Mrs. Banks said yes.

Mr. Colman moved to recommend approval of the rezoning from R-2/R-3 to B-2C with the submitted proffers as presented by staff.

Mr. Finks seconded the motion.

Chair Fitzgerald asked if there was any further discussion on the request.

Mr. Way said I just want to add that I am pleased the way the proffers were written to capture the concerns and maintain the integrity of the building. The signage has been proffered and appears to be done in a tasteful way. Thank you.

Chair Fitzgerald called for a voice vote on the motion for the rezoning request.

All voted in favor (6-0) of the motion to recommend approval.

Chair Fitzgerald asked if there was a motion for the SUP request.

Mr. Way moved to recommend approval of the SUP as presented by staff. I am always glad to see us try to minimize the parking on these more residential area uses and I believe this makes good sense.

Mrs. Whitten seconded.

Chair Fitzgerald asked if there was any further discussion on the request.

Mr. Finks said I would like the City to consider cutting off parking along the west side of Sterling Street between the exit of the property and the intersection at East Market Street. I know this is not something that can be added to the SUP but I just wanted to get the idea out there for consideration.

Chair Fitzgerald called for a voice vote on the motion for the SUP.

All voted in favor (6-0) of the motion to recommend approval.

Chair Fitzgerald said these two items will move forward to City Council on August 9th with a favorable recommendation.

Respectfully Submitted,

Alison Banks

Alison Banks
Senior Planner