



City of Harrisonburg, Virginia

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May 1, 2017

TO THE MEMBERS OF CITY COUNCIL CITY OF HARRISONBURG, VIRGINIA

SUBJECT: Public hearing to consider a request from Sunrise Church of the Brethren with representative Curtis Joiner to rezone four parcels zoned R-3, Medium Density Residential District to B-2C, General Business District Conditional. The 0.52 +/- acre site is located at 1476 & 1486 South Main Street and is identified as tax map parcels 11-C-12 through 15.

EXTRACT FROM MINUTES OF HARRISONBURG PLANNING COMMISSION MEETING HELD ON:
April 12, 2017

Chair Way read the request and asked staff to review.

Ms. Ott said the Comprehensive Plan designates this area as Planned Business. This designation states that these areas are suitable for commercial development, but need careful controls to ensure compatibility with adjacent land uses.

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

Site: Contains one building used as an accessory use for Sunrise Church of the Brethren, zoned R-3

North: Single family dwellings and retail uses, zoned R-3 and B-2C

East: Single family dwellings, zoned R-1

South: Sunrise Church of the Brethren and commercial uses, zoned B-2

West: Across South Main Street, restaurant and auto parts/service center, zoned B-2

The applicant is requesting to rezone four parcels totaling 0.52 +/- acres from R-3, Medium Density Residential District to B-2C, General Business District Conditional. Presently, a 1,632 square foot building occupies the property. The building was formerly a single family dwelling and had been used by the Sunrise Church of the Brethren as a meeting space.

The Zoning Ordinance states that the R-3, Medium Density Residential District is intended for medium density residential development and other uses intended to respect the residential character, which are aesthetically compatible within the district by means of architectural expression, landscaping, and restrained traffic flow. The 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. No minimum lot size restrictions exist in the B-2, General Business District.

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

The City With The Planned Future

The following B-2 uses will be retained:

- Mercantile establishments which promote the show, sale and rental of goods, personal service establishments, restaurants and other shops and stores customary to shopping centers and convenience outlets.
- Governmental, business and professional offices and financial institutions.
- Hotels, motels and similar types of transient accommodations. Nontransient housing facilities are not permitted nor may existing housing facilities be expanded.
- 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.
- Religious, educational, charitable or benevolent institutional uses which do not provide housing facilities.
- General service or repair shops permitted by right in the B-1 Central Business district but without the limitation as to the number of employees.
- Pet shop or pet grooming establishment and animal hospitals.
- Warehousing and other storage facilities with floor area limited to twenty thousand (20,000) square feet, which are contiguous to permitted uses in this district.
- Funeral homes.
- Research and development activities which do not cause any more smoke, dust, odor, noise, vibration or danger of explosion than other uses permitted in this district and which involve no more than fifteen (15) percent of the gross floor area in the assembling or processing of products. Any assembling or processing shall only involve products developed on the premises. All services and storage shall be conducted within the principal structure which is to be completely enclosed.
- Plant nurseries, greenhouses, landscaping businesses, and similar operations provided any outside storage of material, other than plants, must be screened.
- Public uses.
- Concealed wireless telecommunications facilities, industrial microcells, distributed antenna systems, and macrocells. Telecommunications towers are permitted only by special use permit. Wireless telecommunications facilities are further regulated by article CC.
- Accessory buildings and uses customarily incidental to any listed uses in these proffers.

In addition, the applicant retains the right to seek special use permits allowed in the B-2 district.

With regard to the site, the applicant proffers:

- An opaque fence 6 feet in height to be located along the rear of the property between the parking lot and the adjoining R-1, Single-Family Residential properties to the East.
- All exterior lighting that is located between any building and the adjoining R-1, Single-Family Residential properties to the East shall be of the type and design as to direct the illumination away from the residentially used property and toward the building and parking areas of the subject property.
- When redevelopment of the site triggers an engineered comprehensive site plan, the redeveloped site shall include a minimum 10 foot landscaping buffer with trees or other

plants installed and maintained with the intent to form a dense screen. The installed vegetation shall be 6 feet in height at the time of planting, installed at a minimum of 5 feet on center, and located along the rear of the property between the parking lot and the adjoining R-1, Single-Family Residential properties to the East.

- When redevelopment of the site triggers an engineered comprehensive site plan, a Traffic Impact Analysis determination and/or study shall be performed with the baseline use to be classified as a professional office of 1,632 square feet. This proffer shall be binding only during the first redevelopment since approval of the rezoning request.

The applicant explained details about the immediate intended use of the property; however, such details are not proffered. The owner of a local food truck would like to use this property to park a food truck and, eventually, would like to remodel (potentially with an addition) the existing structure to make it into a restaurant. If this rezoning request is approved, future buildings or 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. When a shared line abuts a residential district, the minimum setback then increases to 30-feet which is the case to both the north and east of the subject property. 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 applicant and the food truck owner have both been made aware of the increased side and rear yard setbacks and the building code requirements for converting a structure into a restaurant. There are also interior lot lines that would need to be vacated prior to the issuance of a building permit.

As stated previously, the Comprehensive Plan designates this area as Planned Business. The Planned Business designation states that these areas are suitable for commercial development, but need careful controls to ensure compatibility with adjacent land uses. Commercial uses are desirable at this location with special consideration for the impacts on adjacent residential properties.

The applicant has proffered to limit the types of uses that would be allowed on the proposed B-2C zoned property by removing some of the more intensive uses such as vehicle repair, vehicle sales/rental, and fuel stations to address staff's concerns with potential noise and/or lights coming from this property and impacting the adjacent residential neighborhood. Furthermore, the applicant proffered that site lighting will be directed away from the residentially used properties and a six-foot tall, opaque fence will separate the property from the R-1, Single Family Residential properties to the east. These proffers satisfy staff's concerns for potential commercial uses on the subject site.

While a 1,000 square foot restaurant in the existing building might not be a huge impact on surrounding properties, staff was concerned about future redevelopment, which could include much larger, more intensive commercial uses. The last two proffer statements refer to the redevelopment of the property with an engineered comprehensive site plan. Meaning, if the existing site was modified at such intensity that an engineered comprehensive site plan is required (such as, but not limited to, the building being demolished and the entire site redeveloped for commercial use), these proffers would be triggered. They are meant to mitigate impacts on the adjacent residential district by installing a minimum 10-foot landscaping buffer with trees or other plants to form a dense screen and to properly assess the redevelopment's impact on transportation infrastructure by performing a traffic impact analysis (TIA) determination and/or study using the professional office of 1,632 square feet as the baseline use.

The first engineered comprehensive site plan-triggered proffer statement is associated with a landscaping buffer. The intent is to form a dense screen, combined with the six foot fence that would already be in place, along the eastern boundary to provide separation between the allowable commercial uses and

neighboring residential district. A 10-foot landscaping buffer and six foot fence would provide noise reduction as well as visual screening from lights and activities associated with commercial uses.

The last proffer statement addresses staff's concern regarding TIA determinations and studies, and how they are performed with the current use's traffic impact comparing it to the traffic impact of any future use. For this site, the change from an office use to a restaurant use in a 1,632 square foot building does not prompt a TIA study which Public Works Department may require. TIA studies may be required for any planned development expected to generate an additional 100 or more vehicle trips in the peak hour. If uses on this site increase in intensity incrementally without an engineered comprehensive site plan, then a new, higher baseline would be established by the time this site is redeveloped years down the road. Meaning, the opportunity to fully evaluate the traffic impact could be lost. Following discussions with staff, the applicant has offered that a future TIA determination and/or study required by an engineered comprehensive site plan would use the baseline of a professional office in a 1,632 square foot building. For example, if the property was redeveloped with an engineered comprehensive site plan for a 3,000 square foot fast food restaurant with a drive-thru, the AM peak would be 137 trips. The AM traffic peak for a 1,632 square foot professional office is only 3 trips with the difference being 134 trips, which is over the 100 trip threshold to activate a study. The TIA proffer would only apply to the first redevelopment of the site.

Concerns regarding careful controls to ensure compatibility in case of a larger, more intense use one day occupying this property have been addressed through the use of the engineered comprehensive site plan-triggered proffers. Staff believes the requested rezoning is acceptable given the limitations proffered by the applicant.

Staff recommends approval of the rezoning request as submitted by the applicant.

Chair Way asked if there were any questions for staff. Hearing none, he opened the public hearing and asked if anyone would like to speak in favor of this request.

Curtis Joiner, representing Sunrise Church of the Brethren, said I am here if you have any questions or concerns.

Mr. Colman asked how the two houses were being used.

Mr. Joiner said right now we just use it for storing church files; occasionally a group would meet there. Our pastor moved his office, that was in the house, back over to the church and all of our meetings are now held in the church. We were letting a couple of groups, such as Narcotics Anonymous, use it free of charge; but they have since moved over to the church. Right now it is basically sitting empty.

Ms. Dang asked whether Mr. Colman referred to two houses, because there is only one building on that site. There used to be a second.

Mr. Colman said which one is the house that is there; is it the one closest to the church or farther away from the church.

Ms. Ott said it is the one farther away.

Mrs. Banks said a 30-foot setback would apply along any residentially zoned property for any new construction. The house can continue to exist, but they could not add on to that particular side and encroach into the setback.

Mr. Finks said do you have any idea where the food truck would sit on the lot.

Mr. Joiner said out front, right on the street. The owner of the food truck plans to renovate the house with bathrooms and seating, I believe, for approximately 16-20 people.

Chair Way asked if there was anyone else that would like to speak in favor or against the request.

Kathleen Mania-Casey, owner of Grilled Cheese Mania, said what we are doing now with the trailer is exactly what we want to do. Our plan is to move the trailer over to the new property and run it just as it is now from South High Street, with picnic tables outside and oldies music playing, just a friendly place, I have corn hole and hula hoops. Then, do the build-out a little at a time and eventually move inside. I want the build out to be as simple as it can be. I do not want anything fancy; I know I need to have a handicap bathroom and ramp in the front. I just want people to have a place to sit inside, because that is the one thing that has held our business back; although we are the number one on Trip Advisor in Harrisonburg.

The weather has held us back so much because when it is really hot and cold people do not want to sit outside. Our hoses are freezing, and at night I have to drag them in; otherwise I would stay where I am. I was not looking to do any huge investment. I am not looking for a drive-thru; we are not looking to take the house down. I still want to keep the house the way it is, I love the house; it just seems the perfect fit for me. I love being on the property with the church, I love being close to JMU and being so much more visible. It just seems like a good move for us.

Suzanne Fiederlein, 28 Edgelawn Drive said I love Grilled Cheese Mania, but I am really concerned about the long term integrity of our neighborhood. If we start opening the east side of South Main Street to commercial development, it will entail night time activity and increase car traffic. It is already hard enough to get out of Edgelawn Drive or East Weaver Avenue. Then there are the night noises. What is currently there is a daytime business and even with the Suntrust Bank I hear people pulling up with their radios blaring, using the ATM at all hours of the night. Even something that is technically a daytime business brings night time noises. Morning dumpster dumps at 6 a.m. Saturday morning.

I think any attempt to break through that traditional professional building activity with night time oriented activity, I find is a problem. If it were just the Grilled Cheese Mania and that could be guaranteed long term, that would be one thing, but when you rezone, it opens up the possibility for other development down the road. Then you are going to start having many more night time oriented things that are really going to cause a problem for the neighborhood.

Catherine Weiss, 1450 Bluestone Street, said you would be amazed at the noise level that we hear; it usually starts Thursday and goes all the way through Sunday. The college students are very loud and I would love to have Grilled Cheese Mania there if it was just a day time thing; but Ms. Fiederlein is right, it is going to be really noisy if we add that in. It will be a great attraction and bring lots of activity, lots of cars, and lots of noise. If we could have more professional day time businesses, I think I agree that it would be much more helpful.

Jeffery Landis, 59 East Weaver Avenue, said I did not come prepared to speak against this and I am also a fan of Grilled Cheese Mania; but, I would echo the concerns that have already been expressed. I am less impacted in that I am on East Weaver Avenue; however, our neighborhood is very concerned about any potential impacts that would disrupt the integrity of the neighborhood over time. In fact, we face this on an ongoing basis in all perimeters. I have not really heard details about how late Grilled Cheese Mania would be operating and I am unclear on what the long term potential would be if they decided to either move somewhere else or if another business decided to move in. Would this set precedence and if more intensive uses might be part of the package?

Chair Way asked would you like to speak at all to the hours in question.

Ms. Mania-Casey said right now our hours are 11am to 7pm and have been since we opened. We are not open on Sundays. You will not find somebody to take better care of your property, which is the reason why I want to be on a property by myself instead of with other trucks.

Chair Way said for the record the business owner is saying they run 11am to 7 pm and not on Sunday.

Eugene Bryan, son of Sonia Bryan, said his mother lives at 1466 South Main Street and is concerned about the amount of noise it can draw in, what it can do to the property value, and what the tax impact would be.

Chair Way asked if there was anyone else that would like to speak in favor or against the request. Hearing none, he closed the public hearing and asked Planning Commission for a motion on the request for the purpose of discussion.

Ms. Dang said just to make sure there is no confusion, this is the location that is next to the Sunrise Church of the Brethren that is closest to Monument Avenue and not the East Weaver property project that has been tabled. The other point about the hours of operation. I understand the curiosity about it, but that is not an item that is proffered.

Mrs. Whitten asked what are the hours for Rite-Aid; I would think they are opened until 10 pm.

Mr. Fletcher said I am not 100% certain, but I do not believe Rite-Aid proffered hours of operation.

Mrs. Banks said I do not think they have a proffer on their hours. I know CVS did, but I do not think Rite-Aid had a proffer on their hours.

Mrs. Whitten said but that is something you can do.

Mr. Fletcher said absolutely.

Mr. Colman said maybe the hours of operation are not proffered right now but, that could be a condition.

Ms. Dang said that is if the applicant would like to proffer it. They would have to proffer it tonight before this body took the vote.

Mrs. Whitten said I think it is a legitimate concern because considering the proximity to single family, lower density housing. Would that be something the applicant would be interested in proffering?

Mr. Joiner said the church is already zoned business. There have been talks in the past amongst leadership that we may look at selling the church down the road. Being that it is already zoned business you would not know what, or who, would buy the property at that time. If we proffer the hours no later than 7 pm and that stays with the land, then that could deter people from purchasing property.

Mrs. Fitzgerald said do you find that there is a lot of after hour use there? That is a nice big parking lot. Is there mischief that goes on back there?

Mr. Joiner said no, we have very little trouble. We do have a lot of traffic; people coming from Monument Avenue over to Main Street, or vice versa. So we do get some traffic that drives through there. We have several groups that meet there throughout the week; our choir is there every Wednesday night, Narcotics Anonymous, and another group are there. They have not reported any issues. Some of the neighborhood kids will stop and play basketball back there and we are fine with that; it is not a big issue. But we have never had an issue with trash. On occasion, somebody likes to change the message on our board out front. It has been a good area for us.

Chair Way said the land is designated as Planned Business so its rezoning would be an alignment with the Comprehensive Plan intent.

Mrs. Fitzgerald moved to approve the rezoning of 1476 & 1486 South Main Street (R-3 to B-2C) as presented by staff.

Mr. Finks seconded the motion.

Chair Way called for a roll-call vote:

Commissioner Colman – Yes

Commissioner Whitten – Yes

Commissioner Fitzgerald – Yes

Commissioner Baugh – Yes

Commissioner Finks – No

Commissioner Finnegan – No

Chair Way - Yes

Chair Way said the final vote was five to two (5-2) in favor of the rezoning request.

Chair Way said this will go forward to City Council on May 9, 2017

Mr. Baugh said if I may just state since I am the one person here who gets to vote on this twice, I voted yes for this but I am not carved in stone on this. I am happy to continue dialogue on this one.

Respectfully Submitted,

Alison Banks

Alison Banks

Senior Planner