



City of Harrisonburg, Virginia

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July 1, 2016

TO THE MEMBERS OF CITY COUNCIL CITY OF HARRISONBURG, VIRGINIA

SUBJECT:

Public hearing to consider a request from Harrisonburg OB/GYN Associates, LLC to rezone a parcel totaling 1.27 acres from R-3, Medium Density Residential District to B-2C, General Business District Conditional. The property is addressed as 2205 Evelyn Byrd Avenue and is identified as tax map parcel 77-L-12A.

EXTRACT FROM MINUTES OF HARRISONBURG PLANNING COMMISSION MEETING HELD ON: June 8, 2016

Chair Fitzgerald read the request and asked staff to review.

Mrs. Whitten said she would be recusing herself from this request; she then left the Council Chambers (8:51 p.m.)

Mr. Fletcher 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: Undeveloped property, zoned R-3

North: Across Evelyn Byrd Avenue, rear entrance to Target and undeveloped parcels, zoned B-2

East: Harrisonburg OB/GYN medical offices, zoned R-3

South: Duplex units located along Emerald Drive, zoned R-3

West: Medical offices, zoned R-3

The subject property was created in December 2006 when the site was subdivided and split from the parent tract of property that was improved with the Harrisonburg OB/GYN office complex that is now identified as tax map parcel 77-L-12B located at 2291 Evelyn Byrd Avenue on the southwestern corner of Evelyn Byrd Avenue and Crystal Lane. At the time of the subdivision, along with the dedication of the standard public general utility easements, the subject site was further encumbered with private drainage easements and a private detention pond easement. These easements are illustrated on the 2006 subdivision plat, which is incorporated with the application materials herein.

The applicant is requesting to rezone the 1.27-acre tract, which has almost 155-feet of property frontage along Evelyn Byrd Avenue, from R-3, Medium Density Residential District to B-2C, General Business District Conditional. As explained within the applicant's submitted letter, they have been unsuccessful in

selling the property for several years and thus are hoping the rezoning will provide a little more marketability for the site by expanding upon the allowable medical and professional office uses as is currently permitted within the R-3 district by further allowing business offices.

If approved, the applicant's submitted proffers would significantly limit the allowable uses. The applicant has proffered the following:

1. The site shall only permit business and professional office uses.
2. All uses allowed by an approved special use permit shall be permitted.
3. The existing vegetation (trees and shrubbery) parallel to and within 30 feet from the southern property boundary shall be maintained to provide a vegetated bugger to protect the adjacent residential uses from uses on the subject site; or, an evergreen vegetative buffer shall be created parallel to and within 10 feet from the southern boundary with the intent to create a dense screen, where such evergreens shall be planted at no less than 5 feet on center and 6 feet in height at the time of planting.

There is a change that I need to discuss regarding the vegetation buffer. The area that the applicants had previously proffered would be within 30-feet from the southern property boundary and they would then have the ability to have a 10-foot vegetative buffer along the southern property boundary. The suggestion for the buffer came from staff, where we had concerns knowing that the property was a planned business designation and the ability of using the site a bit more intensely than that of the adjacent residential properties to the south. Later we discovered that the property boundary is not where we thought it was; the boundary is actually further south within this shared access easement with the adjoining residential uses. We communicated this issue to the applicant and provided them with the opportunity to amend the proffer if they so desired, because the original intent was to have the evergreen buffer. The applicant did indeed provide us with the updated proffer statement and that is why the difference in the specific proffer statement. The new proffer statement reads:

The existing vegetation (trees and shrubbery) parallel to and within 45-feet from the southern property boundary shall be maintained to provide a vegetated bugger to protect the adjacent residential uses from uses on the subject site; or, an evergreen vegetative buffer shall be created parallel to and within 10 feet from the southern boundary with the intent to create a dense screen, where such evergreens shall be planted at no less than 5 feet on center and 6 feet in height at the time of planting.

During the review process, staff explained to the applicant that if the rezoning is approved, the site will be encumbered by additional minimum building setback regulations due to the surrounding properties being zoned residentially. As identified within the Zoning Ordinance, 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. Because all of the adjacent properties are zoned R-3, Medium Density Residential District, even if those properties have private covenants that prohibit residential uses, the additional setback requirements apply because the Zoning Ordinance's regulation does not delineate the "use" on the residentially zoned property, but rather more broadly states that it applies along lines that abut a "residential district." This means, if the rezoning is approved, the buildable area of the lot will be more restrictive than typically permitted for B-2 zoned properties that are adjacent to other B-2 parcels. (A visual reference of the potential buildable area is included with the application materials.)

Typically, a property that is zoned B-2 has more advertising abilities than a property zoned R-3. If rezoned, this would be true for the subject property. However, since the site is surrounded by properties that are residentially zoned, 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. Staff 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. Similar to the setback regulations, this restriction does not specify this restriction being only applicable when the adjacent property is “used” residentially, but rather when the adjacent property is a “residential district.”

As noted above, the Comprehensive Plan identifies the subject property 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 Comprehensive Plan further explains that when properties are being developed and redeveloped in Planned Business areas, the maintenance of functional and aesthetic integrity of the site should be considered including matters such as: control of access; use of service roads or reverse frontage development; landscaping and buffering; parking; setback; signage; building mass and height; and orientation in regard to aesthetic concerns.

Staff believes that many of the matters that the Comprehensive Plan recommends addressing for Planned Business properties have been sufficiently addressed through the combination of the site location, the submitted proffers, and existing regulations. As already explained, existing minimum setback regulations (which incorporates additional height restrictions) as well as existing sign controls should help govern the functional and aesthetic integrity for those specific matters. The site is also relatively limited given all of the easements and drainage areas that a development will have to accommodate. With regard to landscaping issues, the already established parking lot landscaping regulations should address much of the concerns this designation emphasizes for consideration. And finally, staff believes the third proffer submitted by the applicant, which will provide a buffer along the existing residentially developed properties to the south, adequately accommodates any buffering concerns.

Staff does not believe rezoning the property to B-2 with the submitted proffers will negatively impact the surrounding area.

Staff recommends approving rezoning tax map parcel 77-L-12A from R-3, Medium Density Residential District to B-2C, General Business District Conditional as submitted by the applicant.

Chair Fitzgerald asked if there were any questions for staff. Hearing none, she opened the public hearing and asked if the applicant or the applicant’s representative would like to speak.

From the audience, the applicant, Dr. Whitten, stated he had nothing additional to add.

Chair Fitzgerald 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.

Dr. Dilts moved to recommend approval of the rezoning at 2205 Evelyn Byrd Avenue from R-3 to B-2C with the proffers as presented by staff.

Mr. Colman seconded the motion.

Chair Fitzgerald asked if there was any further discussion. Hearing none, she called for a voice vote on the motion.

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

Chair Fitzgerald said this will move forward to City Council on July 12th with a favorable recommendation.

Mrs. Whitten returned to Council Chambers at this time. (9:03 p.m.)

Respectfully Submitted,

Alison Banks

Alison Banks

Senior Planner