



City of Harrisonburg

City Hall
409 South Main Street
Harrisonburg, VA 22801

Meeting Minutes - Final Planning Commission

Tuesday, February 18, 2025

6:00 PM

Council Chambers

1. Call To Order

2. Roll Call/Determination of Quorum

Present 5 - Brent Finnegan, Valerie Washington , Richard Baugh, City Council Representative
Laura Dent, and Heja Alsindi

Absent 2 - Kate Nardi , and Shannon Porter

3. Approval of Minutes

3.a. Minutes from the January 8, 2025 Planning Commission Meeting

Chair Baugh asked if there were any corrections, comments or a motion regarding the January 8, 2025, Planning Commission minutes.

Vice Chair Finnegan moved to approve the January 8, 2025, Planning Commission meeting minutes.

Councilmember Dent seconded the motion.

The motion to approve the January 8, 2025, Planning Commission meeting minutes passed (5-0).

A motion was made by Finnegan, seconded by City Council Representative Dent, that the Minutes be approved. The motion carried by a voice vote.

4. New Business - Public Hearings

4.c. Consider a request from Miranda Ebersold to amend the Zoning Ordinance to reduce the minimum setback of accessory buildings on through lots in the UR, Urban Residential District

Please refer to attachment 5 in Legistar for the full minutes extract.

A motion was made by City Council Representative Dent, seconded by Finnegan, that this PH-Ordinance be recommended for approval to the City Council, due back on 3/11/2025. The motion carried with a recorded roll call vote taken as follows:

Yes: 5 - Finnegan, Washington, Baugh, City Council Representative Dent and Alsindi

No: 0

Absent: 2 - Nardi and Porter

- 4.a.** Consider a request from Janis Brown Enterprises LLC to rezone two parcels addressed as 1211 and 1231 Smithland Road

Please refer to attachment 16 in Legistar for full minutes extract

A motion was made by Alsindi, seconded by Washington, that this PH-Rezoning be tabled. The motion carried with a recorded roll call vote taken as follows:

Yes: 4 - Finnegan, Washington, Baugh and Alsindi

No: 1 - City Council Representative Dent

Absent: 2 - Nardi and Porter

- 4.b.** Consider a request from Daniel W. and Nancy R. Brubaker Trustees to rezone (amend proffers) for a +/- 12-acre site addressed as 210, 290, and 280 West Mosby Road

Ms. Dang said 164-unit multiple family development on property addressed as 210, 290, and 280 West Mosby Road, which are identified as tax map parcels 7-C-2 and 3. The site was rezoned from R-2, Residential District, R-2C, Residential District Conditional, and B-2C, General Business District Conditional to R-5C, High Density Residential District Conditional. The approved special use permits allow for multiple-family dwellings of more than 12 units per building and for multiple-family buildings to be greater than four stories and 52 feet in height. The applicant still plans to construct an “affordable residential community” that would not exceed 164 multi-family dwelling units, but would like to amend one of the current, regulating proffers. The approved 2023 proffers are attached herein and the 2023 staff memorandum and supporting documents are available here: <https://harrisonburg-va.legistar.com/LegislationDetail.aspx?ID=6339874&GUID=9FFDCB41-D913-4C14-8E99-17C1449F1880&Options=&Search=>>.

Currently, proffer number 3 from the 2023 approved rezoning states:

A minimum of 82 units will be age-restricted, in that at least one member of each household must be aged 55 or older and will comply with applicable laws and regulations relating to age restricted housing.

The applicant is requesting to amend this proffer so that they can apply for funding through the Section 811 Project Rental Assistance (PRA) program, which provides project-based rental assistance for extremely low-income persons with disabilities linked with long-term services. The applicant’s letter goes into more detail into why they are requesting to amend the proffer and they propose the following new proffer number 3:

A minimum of 82 units shall meet the federal regulations in the Fair Housing Act

exemption for properties intended and operated for occupancy by persons 55 years of age or older.

All other proffers would remain the same as was approved in 2023.

The Fair Housing Act has provisions to allow exemptions of housing for older persons from liability for familial status discrimination. In order to qualify for the “55 or older” housing exemption, a facility or community must satisfy each of the following requirements:

- At least 80 percent of the units must have at least one occupant who is 55 years of age or older; and
- The facility or community must publish and adhere to policies and procedures that demonstrate the intent to operate as "55 or older" housing; and
- The facility or community must comply with the U.S. Department of Housing and Urban Development’s regulatory requirements for age verification of residents.

By amending the proffers, the applicant intends to align the approved rezoning with the definition of the Federal Fair Housing Act when providing housing for residents aged 55 and older. The proffer amendment does not alter the applicant’s objective of providing an age-restricted community, but rather would provide the flexibility for a percentage of the units to not meet the age restriction, which is already permissible through the Fair Housing Act. The new proffer, which references the Fair Housing Act’s exemption, would require a minimum of 66 dwelling units to be rented to households with one person who is aged 55 years or older (82 units x 80% = 65.6 units).

Additionally, the applicant had originally contemplated two 82-unit buildings for this site - one “family” building and one “senior” building. Since the 2023 rezoning, the applicant found that when competing for tax credits, it would be optimal for them to reduce the number of dwelling units in the family building by two units and increase the number of dwelling units in the senior building by two units. This is the reason why in their letter, the applicant describes they plan to apply for “811 Rental Assistance for disabled residents for 11 of the **84** total units”. Rental assistance may be provided to individuals who may be younger than 55 years but may not be older than 62 at the time they begin receiving this rental assistance (though they may continue to receive it after turning 62).

Staff recommends approval of the rezoning (proffer amendment) request.

Chair Baugh asked if there were any questions for staff.

Councilmember Dent said in that paragraph, where it talks about 811 rental assistance, why does it have the emphasis on 11 of the 84 total units? Where do those other two units come from? Look at the paragraph “811 Rental Assistance for disabled residents for 11 of the 84 total units emphasis added.”

Ms. Dang said thank you for bringing that up. Just a little minor thing. So what the applicants contemplated was two buildings, each of them would be 82 units for that total of 164 units. In their letter, they explain that they would increase the number of units in one building from 82 to 84 and adjust the other building still maintaining the 164 total. I wanted to call attention to that and maybe that made it more confusing, but I called attention to that because 84 does not match 82, and it tripped me up when I saw that.

Chair Baugh said instead 82 plus 82 it will be 84 plus 80.

Ms. Dang said yes.

Chair Baugh said the face to the outside would not be identical, but it would it be darn close?

Ms. Dang said right. I will add that the applicant is available on the phone.

Chair Baugh asked if there were any more questions for staff. Hearing none, he opened the public hearing and invited the applicant or applicant’s representative to speak to their request.

Mark Slack, the applicant, called in to speak to the request. I listened to Thanh’s description of what we are trying to accomplish and that is to open up the opportunity to apply to Virginia Housing for 11 units of 811 certificates for residents who are disabled. The 811 certificate program taps out at age 62. What we are hearing from the Department of Behavioral Health is that the market for residents over the age of 55 is already pretty slim, but we are looking to add these units of rental assistance to the property to help, one addresses this constituency, and two, to help the economic viability of the property. We cannot apply for the rental assistance until we make sure that the land use is consistent with the 811 certificates.

Chair Baugh asked if there were any questions for the applicant’s representative. Hearing none, he asked if there was anyone in the room or on the phone wishing to speak to the request. Hearing none, he closed the public hearing and opened the matter for discussion.

Vice Chair Finnegan said Chair, I would support this. I understand why the adjustments are being made. It makes sense to me. I would be in support of this. I will move to approve.

Councilmember Dent seconded the motion.

Chair Baugh called for a roll call vote.

Vice Chair Finnegan	Aye
Councilmember Dent	Aye
Commissioner Alsindi	Aye
Commissioner Washington	Aye
Chair Baugh	Aye

The motion to recommend approval of the rezoning request passed (5-0). The recommendation will move forward to City Council on March 11, 2025.

A motion was made by Finnegan, seconded by City Council Representative Dent, that this PH-Rezoning be recommended for approval to the City Council, due back on 3/11/2025. The motion carried with a recorded roll call vote taken as follows:

Yes: 5 - Finnegan, Washington, Baugh, City Council Representative Dent and Alsindi

No: 0

Absent: 2 - Nardi and Porter

5. New Business - Other Items

5.a. Consider the FY2025-2026 through 2029-2030 Capital Improvement Program

Mr. Fletcher said I will not be going over what I did last month, but I wanted to point out there was a clerical error on page 20, specifically here at the total available funds that needed to be removed from the total that would be needed. This should have been a little over 28 million. That was incorrectly input in. That effects the total which effects the total needed and effects that total. I was able to find that and was able to correct that. That sheet is what I gave to you earlier this evening, so the corrected version is there. The corrected version is online. Again, it was just a clerical error, and I can pinpoint exactly how this happened. A couple of weeks ago, when the Finance Director decided to demonstrate funds available for Fire Station 4 I had to go back and change a whole bunch of data. The difference between those two numbers is 4.6 million, which is the exact amount that it is listed in for Fire Station 4. That is where the error came from.

The other information I was just going to show is just in graphical form here, just showing the CIP's data, the total data in different formats. This is just showing the five-year totals across the different funds that are in the CIP, clearly the General Fund, it is making up quite a bit of all of the funds, almost 50 percent here of all the funds. Same data shown differently, so this is the same totals the five-year horizon and then it is broken up by department. You can see the totals from the departments, of course, Public Works and water making up significant amounts and then Transportation there coming in higher amounts then what we typically see from them, but those showing some public infrastructure needs for the transit facility itself, capturing a couple million dollars worth of improvements at the facility that we hope to be able to provide. Then, looking at the year-by-year totals, this is a very typical scenario where the upcoming fiscal year we really want to try to get those projects in. Oftentimes they are not able to be funded, and you usually see that tailing off as we hit the five-year horizon. This is not typical of a breakdown of each of the fiscal years in the five-year horizon. Then the sobering graphic here, showing the total that we need there in the orange and then in each year, what would be left to be able to meet those demands which is the total that we have available in each of those fiscal years. It just shows the great need that we have across all of the different projects across the City. [Referring to the graphics on screen] I would be happy to put any of those back up, but we recommend in favor as is presented by staff. Again, I just want to thank all of our colleagues across all the different departments because it is a big, huge team effort.

Vice Chair Finnegan said would it possible to share those slides?

Mr. Fletcher said we will get it to you.

Vice Chair Finnegan said the visual representation is helpful.

Mr. Fletcher said this is the one that always kind of gets me every year when you see the demands of what we want and then what we actually can provide.

Vice Chair Finnegan said in terms of general funds, the property taxes is the number one source of revenue for the City, correct? I think it is easy for this body to say we only do yes, no, you can build an apartment, but I think it is important for us to understand what land uses bring in what kind of revenue.

Mr. Fletcher said it shows the demands from the results of those projects, but it also goes to show where we have projects planned and where projects are coming in adjacent to them and how we work together to be able to fund some of these projects or partially fund some of those projects. You might capture some proffers that might provide sidewalk or street improvements and things like that, that can reduce some of these costs. For the most part you are looking at the real demands of what the City would have to be providing.

Councilmember Dent said I almost hate to do this, but to bring up the elephant in the room that the federal government's funding priorities are in flux, to put it mildly, where, if any, does it affect our just guesstimates of what might be available in any given year?

Mr. Fletcher said I will be straightforward, I cannot really answer that question. A lot of the other funds that are represented in the CIP are bonds and grants that we might be receiving and a lot of times those are state grants for Smart Scale, for transportation projects. You might pick up a couple of grants here and there for Fire Department projects where they might pick up a couple hundred thousand dollars here and there. I do not really know how to answer your question.

Councilmember Dent said even state grants are often passed through as a federal. As you say, this is not a budgeting tool, but it is a planning tool. We have to look at where do we think the money is actually coming from if it is not from the federal government anymore.

Vice Chair Finnegan said I have similar questions about... because some of the projects that were in the CIP in years past have been taken out because they are funded, they are scheduled to be done, so they are no longer in there. My question is that federal funding that is no longer going to be available for the things that was were already funded. Is there going to be money clawed back or just not paid out? It is a huge concern.

Councilmember Dent said one example is, it seems likely that the direct pay essentially tax rebate from the IRA, Inflation Reduction Act, is probably going to be nixed. Keith Thomas, Sustainability

Manager, said that would be a rebate. We have already planned on the budget to build the thing, and if we do not get the rebate, oh well, it was a bonus anyway. That is unfortunate, but I am more concerned about things like the EECBG [Energy Efficiency Conservation Block Grant], the matching funding we are counting on for the solar panels on the Turner Pavilion. Is that going to be blocked now? We do not know. I mean, that is one example of many things that could be in jeopardy. That is a good point that things that are already in the pipeline and planned and approved are not in the CIP. How many of those are in jeopardy?

Vice Chair Finnegan said as someone who on my day job works on federally grant funded projects, I will say I have never seen grants get pulled back the way they have. Normally it is just let it play out we are not going to renew that, but this is a completely different thing.

Councilmember Dent said it has ripple effects throughout the whole country, the whole economy.

Mr. Fletcher said if I could change topics to the questions that were answered, I hope those were sufficient. I do not know if you had any further questions beyond those questions that came up because of the responses.

Vice Chair Finnegan said I think the one that I was most confused about was where is the intersection of Ott Street and MLK [Avenue], but then I realized what I think of as a parking lot entrance is technically a little stub of it. Is that a public street?

Mr. Fletcher said that is absolutely correct.

Vice Chair Finnegan said the City plows that?

Mr. Fletcher said I do not know the answer to that, but it shows up as City right-of-way on the maps. and Before MLK [Avenue] before Cantrell [Avenue], I think you used to actually be able to turn from Ott [Street] before they did the stairs and the regrading and everything. I think you used to come out of Ott [Street].

Chair Baugh said the road used to end there. You got to that point and did not continue. The link continuing over to [Route] 33 did not exist. There were people who are still alive who were around when that was built.

Mr. Fletcher said two dimensionally there is an intersection, but is there really?

Chair Baugh asked if there were anymore questions for staff.

Councilmember Dent moved to approve the CIP as presented.

Vice Chair Finnegan seconded the motion.

Chair Baugh called for a roll call vote.

Vice Chair Finnegan	Aye
Councilmember Dent	Aye
Commissioner Alsindi	Aye
Commissioner Washington	Aye
Chair Baugh	Aye

The motion to recommend approval of the CIP passed (5-0).

A motion was made by City Council Representative Dent, seconded by Finnegan, that this Action Item be approved. The motion carried with a recorded roll call vote taken as follows:

Yes: 5 - Finnegan, Washington, Baugh, City Council Representative Dent and Alsindi

No: 0

Absent: 2 - Nardi and Porter

6. Unfinished Business

7. Public Comment

None.

8. Report of Secretary & Committees

8.a. Rockingham County Planning Commission Liaison Report

Commissioner Alsindi said I attended the meeting on February 4th. There were six matters on the agenda. All the issues and matters on the agenda were approved. For the Capital Improvement Program, there was a big emphasis on schools, water and sewage. Then it seems that there have been some discussions on that because I attended only the meeting but prior to that there has been some discussion, the same as we did. An explanation of the process, as well. Again, education, schools, school renovation, those issues for the Capital Improvement Program. There was a rezoning request from B-2C to B-1 having to do with a well. A case that was, if I am putting it correctly, unique or unusual was the agricultural-forestal withdrawal request. It seems that the grandson wanted to come back and work on the farm. However there has been an LLC that has been signed at some stage between the father and the sons and daughter but the grandson could not come. They withdrew the request from the Mauzy agricultural-forestal district in order to reconsider how the grandson could come back, which was favorable to continuously have the family working for generations on the farm. They probably need to reconsider from a legal point of view to resolve the issue. There was also an ordinance amendment considering the BX district requiring water service and sewage. Additionally, any new BX district shall be located in an urban

growth area as designated by the comprehensive plan or a plan adopted by the County. That was also approved. These were the cases and issues discussed at the meeting.

Councilmember Dent said I have a question about the BX growth area, they are requiring water and sewage does that mean our water and sewage or their own?

Vice Chair Finnegan said they have their own out in the urban growth area, like by the hospital.

8.b. Board of Zoning Appeals Report

None.

8.c. City Council Report

Councilmember Dent said the January 14 meeting, we opened the CDBG funding public comment period. A request from Florence LLC to rezone 160 Carpenter Lane. I do not entirely remember that, but I think we approved it. East Kaylor Park Drive for the entrance to the high school. Conveyance of a portion of Cardinal Drive and Eastover to JMU. I thought I was having déjà vu for a regular item we approved the issuance by HRHA of revenue bonds for this project on Mosby Road. Approximately 80-unit multifamily and 84-unit age restricted. We approved the bonds for that. We appointed Shannon Porter to Planning Commission. We approved the Zoning Ordinance amendment to allow acceptance of cash proffers. Interestingly, that was a four to one vote. Councilmember Alsaadun voted against it with the observation that a cash proffer from a developer, they would most likely pass on the cost of that to the residents and might impact the affordability. Data centers came up, we approved that as a special use permit in M-1 only. More about Kaylor Park Drive the Rocktown High School access easement to Oakbox LLC, we approved it.

Mr. Fletcher said that was not something that came to Planning Commission.

Mr. Russ said that was allowing moving the location of the entrance. That is Oak Hill apartments.

Councilmember Dent said that was a cool thing from my perspective.

Mr. Russ said they allowed them to rearrange where they connect to. I think it is Reservoir [Street].

Councilmember Dent said there is a very essentially dangerous intersection coming out on to Reservoir [Street], but they are connecting to Eastover [Drive], which will also reconnect back to Paul Street and give them more connectivity. That is a good thing? Alright, so that was January 14th.

Chair Baugh said that would be right in, right out like the other?

Mr. Fletcher said it would be full access because it is on Eastover [Drive].

Councilmember Dent said rather than just onto Port [Republic] Road. We did a reenacting thing on personal, property and real estate tax relief. A presentation on the Community Connectors program. We appointed David Powell to EPSAC .

9. Other Matters

9.a. Review Summary of next month's applications

Ms. Dang said we will actually have eight items now. The one on Smithland Road that we just received this evening, if it is ready to come back in March. We have a handful of special use permits and rezonings. A Zoning Ordinance amendment not initiated by City staff, and some other matters that you see there. Our recommendation is for these to proceed in one meeting.

Mr. Fletcher said I wanted to bring up the thirty percent thing. With Mr. Russ continuing to challenge me, and then I continue to read through, and I had to draw this out. What I was discussing earlier with Mr. Callahan was not right. I am confused as to why he brought it up because I still do not think what he said was accurate. I had to draw it out. Whoever said that they thought it was still relevant, it is true. The thirty percent rule is still true, because what the code says is that it has an established rear yard and the required rear yard, that is both. That is the established rear in the back and the required distance. What the amendment was doing, and this is what was bothering me as we were trying to think on the spot why Tyler still said that they could not build the building. It finally occurred to me that the why is because their amendment was requesting to be in the set back. Otherwise, you have to meet the principal setbacks. They were going to be building within the required setback, which was they want to go up to five feet. Can somebody remind me did he say that by us pushing it back ten feet reduces the size of his building? Is that what he said? I drew out the same size building was supposed to be same size building at a five-foot and a ten-foot set back. If you have a five-foot set back, you actually have more building in the required yard, and therefore you would take up more than thirty percent. By pushing the building back ten feet, you have less building in the required and therefore less of it to be thirty percent. I am still very confused by what he was saying. I do not know if my statements mislead anybody, and I do not know if that made a difference in your vote. If it did, we can always call the applicant.

Vice Chair Finnegan said ultimately, we were reducing the setback. It seemed to me like a compromised solution. It was twenty-five and reduced it to ten.

Chair Baugh said I think he was just looking at it as simply as at five feet. I have a five-foot area, that is a forbidden zone. At ten feet, I will have a ten feet area that is a forbidden zone. Therefore, I have got less spot to put the building in. The point is while we have not gotten there quickly or elegantly, that is not a problem. He is incorrect about that. Actually, when you when you think about if he has it his way, he is going to be...

Mr. Fletcher said it is going to take up more of the space that he is allowed to have.

Chair Baugh said there is a forbidden zone.

Mr. Fletcher said it was bothering me in the moment because I was like, Tyler said there was a reason, and I could not remember. He was like there is a reason and then I had to draw it out. This is supposed to represent a ten foot and a five foot. I was like, well, if he has to hold a ten, then he only has a little bit of it counting toward thirty percent. If it is five, he has much greater area counting toward the thirty percent.

Chair Baugh said he just thinking that there is a forbidden zone, and I cannot do anything in the forbidden zone.

Mr. Fletcher said if that made a difference in anybody's vote I wanted to make sure that was captured.

Councilmember Dent said where I was confused was the definition of the required backyard along the street.

Mr. Russ said it is more typical to just have rules about percentage of lot coverage. Ours only applies to this weird no man's land along the public street.

Ms. Soffel said I worked with Mr. Blanks, the Zoning Administrator on drawing it out, calculating with the ten-foot set back and so forth. What the thirty percent means for this garage according to what he had laid out, and he would still exceed the thirty percent with the five and with the ten. We got the numbers down. I did not bring those calculations or those drawings with me, but he would still have issues with that. Like I said before, there are some strategies. Shift things around, turn them, whatever.

Chair Baugh said he was thinking I have thirty percent of a shrinking area, and the answer is actually with the ten foot is thirty percent of a larger area that he is worried about.

Vice Chair Finnegan said as we are talking about that, the other thing that I wanted to mention was the CSPDC Housing Study. I hope that everyone at least has a chance to look over it. I think in order to make a lot of these projects pencil out, setbacks matter. If broadly, ten feet was mentioned a couple of times by staff. This is in line with other zoning designations, ten feet setbacks. That is where we are headed. I think ten feet is a number to keep in mind. Is that the right number? Is that where we want to go? I did want to also point out that the Housing Study is recommending density bonuses. That is one that was one of their recommendations for affordable housing. I encourage you to, at least, skim it. It is worth looking at it, and it has a lot to do with what we are doing here.

10. Adjournment

The meeting was adjourned at 9:12 PM.

NOTE TO THE PUBLIC

Staff will be available at 4:00 p.m. on the Tuesday before the next Planning Commission meeting for those interested in going on a field trip to view the sites on the next agenda.

INTERPRETATION SERVICES

Language interpretation service in Spanish, Arabic and Kurdish is available for Planning Commission meetings. To ensure that interpreters are available at the meeting, interested persons must request the accommodation at least four (4) calendar days in advance of the meeting by contacting the City Clerk at (540) 432-7701 or by submitting a request online at: www.harrisonburgva.gov/interpreter-request-form

El servicio de intérpretes inglés-español está disponible para las reuniones públicas de la Comisión de Planificación. Para asegurar la disponibilidad de intérpretes, cualquier interesado deberá solicitar la presencia de un intérprete al menos cuatro (4) días calendarios antes de la reunión comunicándose con la Secretaría Municipal al (540) 432-7701 o por medio de la página por internet al:

<https://www.harrisonburgva.gov/interpreter-request-form>

NOTE TO THE PUBLIC

Residents/Media will be able to attend the meeting.

The Public can also view the meeting live on:

- The City's website, <https://harrisonburg-va.legistar.com/Calendar.aspx>
- Public Education Government Channel 3

A phone line will also be live where residents will be allowed to call in and speak with Planning Commission during the Public Hearings and the Public Comments portion of the night's meeting. We ask those that wish to speak during the public comment period to not call in until after all the public hearings and public comment on those have been heard. This will avoid anyone calling on any other item from holding up the queue and then being asked to call back at a later time.

The telephone number to call in is: (540) 437-2687

Residents also may provide comment prior to the meeting by visiting this page: www.harrisonburgva.gov/agenda-comments