



City of Harrisonburg

City Hall
409 South Main Street
Harrisonburg, VA 22801

Meeting Minutes - Final Planning Commission

Wednesday, October 11, 2023

6:00 PM

Council Chambers

1. Call To Order

The Harrisonburg Planning Commission held its regular meeting on Wednesday, October 11, 2023, at 6:00 p.m. in the City Council Chambers, 409 South Main Street.

Present 7 - Brent Finnegan, Adriel Byrd, Donna Armstrong, Valerie Washington, Richard Baugh, Vice-Mayor Laura Dent, and Heja Alsindi

2. Roll Call/Determination of Quorum

Members present: Chair Brent Finnegan; Heja Alsindi; Dr. Donna Armstrong; Richard Baugh; Valerie Washington; and Vice Mayor Laura Dent. Vice Chair Adriel Byrd arrived late.

Also present: Adam Fletcher, Director of Community Development; Thanh Dang, Deputy Director of Community Development; Wesley Russ, Deputy City Attorney; Meg Rupkey, Planner; and Anastasia Auguste, Administrative Specialist/Secretary.

3. Approval of Minutes

3.a. Minutes from the September 13, 2023 Planning Commission Meeting

Chair Finnegan asked if there were any corrections, comments or a motion regarding the September 13, 2023 Planning Commission minutes.

Vice Chair Byrd moved to approve the September 13, 2023 Planning Commission meeting minutes.

Commissioner Armstrong seconded the motion.

The motion to approve the September 13, 2023 Planning Commission minutes passed (7-0).

This Minutes was approved.

4. New Business - Public Hearings

- 4.a. Consider a request from Craig D. Smith and Sue W. Smith for a special use permit to allow a boarding and rooming house at 660 Walnut Lane

Please refer to attachment 11 in Legistar for the full minutes extract.

A motion was made by Byrd, seconded by Armstrong, that this PH-Special Use Permit be denied. The motion carried with a recorded roll call vote taken as follows:

Yes: 5 - Finnegan, Armstrong, Baugh, Vice-Mayor Dent and Alsindi

No: 2 - Byrd and Washington

- 4.b. Consider a request from Ruth Romero and Teodoro Perez to rezone 708 Northfield Court

Chair Finnegan read the request and asked staff to review.

Ms. Dang said the applicant is requesting to rezone a +/- 4,647 square foot parcel from R-4, Planned Unit Residential District to R-8C, Small Lot Residential District Conditional. The lot has a duplex dwelling unit and is addressed as 708 Northfield Court. The applicant is proposing to construct a 10-ft. by 13-ft. covered porch in the rear of the duplex dwelling unit. The Zoning Ordinance (ZO) requires covered porches to meet principal building setbacks. The R-4 district requires duplexes to have a 25-foot minimum rear yard setback, which the applicant’s proposed covered porch would encroach into. The applicant is requesting approval to rezone the property to R-8, which requires a 15-foot minimum rear yard setback. Within the attached exhibit, the applicant illustrates the footprint of their existing building and the proposed covered porch. Know that in 2022, the applicant lawfully demolished a garage and constructed an addition to the dwelling.

Proffers

The applicant has offered the following proffers (written verbatim):

1. More than one dwelling is prohibited.
2. The minimum front yard setback along Northfield Court shall be 30 feet.

The submitted layout is not proffered.

Regarding proffer #1, in the R-8 district, single-family detached homes and duplexes are allowed by right and given the lot area and dimensions of the property, theoretically, the existing duplex dwelling unit could be demolished and a new duplex structure (two dwelling units) could be constructed on the parcel. If the rezoning is approved, although the R-8 district dimensional regulations would allow the property to be further subdivided, since the applicant has proffered to prohibit more than one dwelling on the property, they would be restricted to having just one dwelling unit on the property.

Regarding proffer #2, the R-8 dimensional regulations allow for a 10-foot minimum front yard setback. The applicant has proffered that the front yard setback along Northfield Court shall be 30-feet, which is consistent with the R-4 district regulations.

Land Use

The Comprehensive Plan designates this site as Medium Density Residential and states:

These areas have been developed or are planned for development of a variety of housing types such as single-family detached, single-family attached (duplexes and townhomes), and in special circumstances, multi-family dwellings (apartments). Depending on the specific site characteristics, densities in these areas should be around 15 dwelling units per acre. Non-residential uses may also be appropriate.

With the submitted proffers, use and density confirms with the Medium Density Residential designation. Know also that the R-8 district's occupancy regulations are the same as the R-4 district's occupancy regulations. The occupancy regulations allow owner-occupied dwellings to be occupied by a family plus two individuals or a maximum of three individuals and nonowner-occupied dwellings can be occupied by a family plus one individual or a maximum of two individuals.

Transportation and Traffic

A traffic impact analysis (TIA) was not required for the rezoning request.

Public Water and Sanitary Sewer

Staff has no concerns with the requested rezoning regarding water and sewer matters.

Housing Study

Rezoning this property to R-8 will not impact housing because the property currently has one duplex dwelling unit, and the proffers restrict the property to having only one dwelling unit on the property.

Public Schools

Rezoning this property to R-8 with the submitted proffers will not change the estimated student generation for the property.

Recommendation

Staff recommends approval of the rezoning.

Vice Mayor Dent said I am a little confused, it is a duplex, but they are saying only one dwelling meaning in the duplex unit?

Ms. Dang said theoretically we could imagine that half of the building could be demolished and a new structure could be put into place that might have two dwelling units also subdividing. R-8 requires a subdivision so that each duplex unit...It would be a stretch, but it is a theoretical just to protect that there is only one dwelling unit here on this property.

Vice Mayor Dent said the property meaning one half of the duplex?

Ms. Dang said right, the duplex dwelling unit sits on its own parcel.

Chair Finnegan said there is one structure there but there are two dwelling units. Is the other half owned by someone else?

Ms. Dang said I believe it is owned by somebody else.

Vice Chair Byrd said the 25-foot setback is for R-4, have they usually considered that because it might be back to the side of the residence like these particular properties are? Because most properties, their rears are to each other.

Ms. Dang said they would still have the same 25-foot setback. If two R-4 properties backed up to each other, each of them would still have a 25-foot setback.

Chair Finnegan said 50 feet between the two structures.

Commissioner Baugh said R-4 is kind of a mess. R-4 was like the first stab at the planned unit type of thing. So, among other things like when that ordinance was written it was proto version of trying to think of more master development type of stuff and it never really worked and then there are sort odd spots of it here and there that have tended to develop not like that or at least a lot of them are like this, they are just another residential category of lots that just got different rules on them because they are R-4. Did I get that right?

Chair Finnegan opened the public hearing and invited the applicant or applicant's representative to speak to this request.

Ruth Romero and Teodoro Perez, the applicants, came forward regarding the request. Ms. Romero speaking through an interpreter said I have lived seven years at 708 Northfield Court. This year I have made an addition to my house. The purpose for that addition was that I had my two elderly parents that lived in a trailer. They were going to amputate the foot of my father. Since they did not have anybody to take care of them and in my house is my husband and my son. But I had a problem, in my house there was a free room but my problem was that my father could not go up the stairs. I told my mom "Mom, I am going to buy a big house that is a one level only" and my mom said "no, my daughter, because you are already old to buy another house." So, I had them living in the living room. I thought I would remove the garage and construct a mini apartment for them. The first floor has a bedroom and a small kitchen so they would be able to make food. My father passed in March, and I only have my mom. When I applied for the permit to construct the porch on the back, they gave me the permit to build in the back, not the front. I originally wanted it on the front of the house. They told me that I could build it, but in the back, up on the second floor. Now I want to build it on the first floor, where the door is, so that my mother can go out and there is the porch with a roof and all. When I am older, I also will live there because it is one story, and I can do like a cookout or something like that. I am a hardworking person and I like to live with the law with respect. That is why I ask for the permit because I want to live within the law, and I do not see any problem with it. I am conscious that I live in a country where there

are rules and laws and I try to respect them. I would like to know if I can get that permit.

Bryan Nixon, a resident at 408 Glenfield Court, came forward to speak to the request. He said I am the President of the Northfield Estates homeowner's association. The association does not necessarily have an issue with this applicant, but we are concerned with the precedent it would set going forward. We see the possibility of other properties wanting to take advantage of this R-8 reclassification and we have concerns about fire protection and stormwater runoff if they were to add onto to their properties. I will also draw attention that parking is already an issue in the neighborhood, if the properties were to expand, we are concerned that we do not have room for parking, that is something to take into consideration. Another thing that I thought of is that the property backs up to the side of another house and would shrinking the setback negatively impact that backyard neighbor since the side setback is 10 feet, does that cause an issue with fire protection?

Chair Finnegan asked if anyone else would like to speak to the request. He also said before I close the public hearing do we have any last questions for the applicant. Hearing none, he closed the public hearing.

Vice Chair Byrd said earlier the reason why I was discussing the fact that generally the back setback and the house is facing the side, it just made me more mentally aware of when two houses are side by side what are the size of those setbacks and therefore what is that distance and are we making the distance smaller than that. Since we are not, I did not have an issue with that. That we are changing the back setback to a house that is facing the side of the property. I have seen a lot of these covered porches coming and as soon as someone wants to put a cover over their porch per our ordinance it changes the footprint of the building. In R-8 we are seeing the change of the footprint of the whole building but that does not change anything else about the building per say, it is still one residence. That is why I tend to be in favor of these, and also because in another body we have been sending them to us. One that I saw before that body, they had a homeowner's association so I can see that particular type of private body being concerned about this type of thing but I would inform them that people are likely going to want that if they are going to want covered porches and so you might want to check with the members that you have with the tendency of that. Therefore, make your rules accordingly regardless of what the City Council chooses to do on this particular application. I have said enough, and I will likely be voting in favor of this.

Chair Finnegan said even if Planning Commission and City Council says yes to this, there may be additional rules that the HOA has that we do not control and that is a civil matter. I did want to make sure that is clear to the applicant. We do not have influence on the rules of the HOA. I recall, I want to say it was the same neighborhood, a daycare application. I do not remember what the outcome of that was from City Council but even if City Council had said yes, if the HOA said no, they could not do it. It gets confusing but there are layers of authority that we do not have impact on. I would also be in favor of this. These keep coming up and this is something to keep in mind when we do the Zoning Ordinance revisions. How can we make rules that keep the spirit of the neighborhood intact. The idea of the single-family housing but change some of the setback

allowances by-right.

Vice Mayor Dent said likewise I would support it, I am just curious looking at the diagrams and the aerial photographs with the lines between the backyards of the opposite facing streets, it looks like there is strip of unused land and is not an alley.

Mr. Fletcher said it is a common area.

Vice Mayor Dent said that just adds to the fact that the added porch does not encroach on anybody else, possibly the neighbor to the side since it is facing the other street, but since the porch is more adjacent to the common area it does not really encroach, so that still might but a case-by-case basis. I think it is fine.

Commissioner Baugh said as a former HOA member who used to live on top of the hill in one of the duplexes on Northfield, I generally agree with the HOA’s concerns and I think I would be pretty conservative about approving anything like this. In this specific instance that we keep seeing of the porches that it is the simple fact that you put a roof on them that is causing the problem, I am okay with that.

Vice Chair Byrd said I would like to make a motion to approve the rezoning.

Vice Mayor Dent seconded the motion.

- Commissioner Armstrong Aye
- Commissioner Baugh Aye
- Vice Chair Byrd Aye
- Vice Mayor Dent Aye
- Commissioner Alsindi Aye
- Commissioner Washington Aye
- Chair Finnegan Aye

The motion to recommend approval of the rezoning passed (7-0). The recommendation will move forward to City Council on November 14, 2023.

A motion was made by Byrd, seconded by Vice-Mayor Dent, that this PH-Rezoning be approved. The motion carried with a recorded roll call vote taken as follows:

Yes: 7 - Finnegan, Byrd, Armstrong, Washington, Baugh, Vice-Mayor Dent and Alsindi

No: 0

5. New Business - Other Items

None.

6. Unfinished Business

None.

7. Public Comment

None.

8. Report of Secretary & Committees

8.a. Rockingham County Planning Commission Liaison Report

Vice Chair Byrd said on October 3rd they gathered and the first item was a rezoning from what they call residential or recreational to A-2. It is near [unintelligible] Gardens, they approved it. Another one was from low density residential to A-2 in Briery Branch area, that was tabled. They wanted to build some mobile homes, but the Commissioners felt that since their district member where that location was not present, they would just table that. The third one was a rezoning from A-2 to planned medical research, this is near Sentara Medical Center, around Mattie Drive, that was approved, when utilizing the houses that already exist there as a temporary home for homeless outpatients. They were treated at the hospital and now they are getting released from the hospital, but they do not have a home, they will have a temporary place to reside while they still have their outpatient care.

Vice Mayor Dent said that it is called a respite home.

The fourth one was A-2 to planned neighborhood. This is also near the Sentara Medical Center on the opposite side of the street but not across from it, a little bit down from Stone Spring. That was also tabled and that was concerning 180 houses and other structures. They are waiting to hear from their schoolboard about the possible redistricting of their schools so they can decide should they build those houses there. Those were their four things and there were some other things tabled or postponed but they did not discuss those.

Vice Mayor Dent said the respite house was approved or tabled?

Vice Chair Byrd said yes that was approved.

8.b. Board of Zoning Appeals Report

None.

8.c. City Council Report

Vice Mayor Dent said last night we had some fanfare about the new police officers and promotions. We passed the water/sewer ordinance that we brought up last time, with changes mostly simplifying it. The Planning Commission items that we did from last month's meeting, we passed unanimously the 4030 South Main Street to allow storage in the back of the property with the fencing as we approved. Now the 810 Port Republic Road became sort of contentious as in we all approved it unanimously, we liked it, but when we relayed the message from Planning

Commission about the parking, that was not well received I will say. I do not quite know how to characterize it. The debate about parking seemed to be kind of extraneous to this particular project that we much appreciated. I, for instance, brought up that in the midst of the big discussion about should we drop parking minimums, I tossed out the idea of a parking maximum but we were not ready to calculate that on the fly, in the midst of the discussion on how much parking I also commended them on having the parking indoors because then it does not contribute to the eyesore and the heat island effect and so on. I tried to encapsulate some of the discussion from Planning Commission but there was some push back on the debate about parking. For instance, Councilman Jones said that whether students have parking or not depends mostly on whether the parents are willing to insure it and some other discussion like that. There was some confusion about what this vote meant that the motion to deny failed was 4-3 then the motion to approve passed 4-3 likewise, but then the special use permit vote was 5-2, it was Chair Finnegan that went from No to Aye. With that was about was more than...

Chair Finnegan said I do not think that was me.

Commissioner Baugh said it was me.

Vice Mayor Dent said the ones who voted no on the special use permit were Commissioner Armstrong and Commissioner Washington. What I mean is Chair Finnegan voted no on the rezoning but then aye on the special use.

Commissioner Baugh said and so did I. I think both of us thought that we were not no across the board and that the special use permit unit isolation was fine, particularly in the context of if the large development was approved.

Vice Mayor Dent said the votes got a little mixed up between the two. We passed it all 5-0, we liked it.

Vice Chair Byrd said just let them know that Adriel just makes motions just to make motions.

Vice Mayor Dent said the closing the portion of Massanutten Street, I had a little oops moment because just that day I had driven with Councilmember Robinson through the whole street not realizing that part of it was already private. We passed that as well because it seemed to be a good safety measure. Councilmember Robinson knew a fair amount of the history of the place that there use to be other businesses along their but now that it is one business or partners, it makes sense to have it be a private road.

Ms. Dang said Vice Mayor Dent, did you mention Vine Street?

Vice Mayor Dent said we passed that unanimously again. I just repeated the comment that this was a good community engagement effort, and they increase the density slightly by adding the second duplex unit that opens out onto Vine Street without encroaching on the neighborhood or Wren Way that had objected to having more traffic there, that was a good solution, so we approved that.

9. Other Matters

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

Ms. Dang said left in front of your seat when you arrived was a printout of the 12 items that we

are expecting for next month but know that many of the applications are related to each other so there are six sites to be considered plus the one zoning ordinance amendment that is associated with the...that is the same applicant as some of the other requests as well. Staff does recommend holding one meeting to consider all of these agenda items.

Vice Mayor Dent said you sure?

Chair Finnegan said there are essentially going to be six hearings.

Ms. Dang said possibly seven hearings. We will probably pull out the Zoning Ordinance amendment as like its own thing.

Chair Finnegan said it is heavier but number of applications does not necessarily...as we only had two tonight and it is 7:48. Do we have any concerns about holding one meeting next month? We can take a break, just please let me know if and when we need to take an adjournment or a quick five-minute break.

Vice Mayor Dent said I think I would rather do one than have one on Tuesday November 21st just before Thanksgiving.

Chair Finnegan said before we adjourn, I did want to highlight the Central Planning District Commission Report Virginia Housing...they presented data on all the different localities and how many Airbnb's and there is a real contrast between Rockingham County with no restrictions and Harrisonburg that has them. If we wonder if there is any question about what we are doing and if having these debates has any effect, there is data to show that it does. I would encourage everyone to check that out.

Vice Mayor Dent said I raise the sort of interlocking questions that we are wrestling with about on one hand wanting to keep the short-term rental regulations under close control, especially as we are anticipating the zoning ordinance rewrite to allow for greater density and a lot of the discussion was about accessory dwelling units. The Virginia Tech academic who is doing this study had an interesting response she said "we have shown that even just allowing for ADUs does not mean that a lot of them suddenly spring up" because people do not necessarily have the capital especially in low to moderate income housing, although those are the people who could use having the extra income so there might be some assistance or incentives if the community wants to help promote that ability. There is still debate and philosophical questions about how much we want to control or support the ability to have these short-term rentals. In a way it was somewhat reassuring, or it surprised me that she said the data does not show that you suddenly get a proliferation just by allowing them. So, that was kind of counter to my intuition that we wanted to keep a close watch on not allowing too many for fear that it might overwhelm the housing stuff. They have not gotten to the Harrisonburg in-depth study. They had done all the other regions first, many of which are very different in the whole range of the CSPDC, which is a big region with Bath and Highland County where they are very open to short term rentals. If someone wanted to rent out their farmhouse and bring in tourist dollars, it is very different for us in the City.

Chair Finnegan said the fulltime rentals in Rockingham County, the data that they show it is one percent of their entire housing stock in the County.

Vice Mayor Dent said ours is 0.1. That means that we are keeping tight control over it. It has worked if you wanted to keep it under control I suppose.

10. Adjournment

The meeting adjourned at 7:50pm

NOTE TO THE PUBLIC

Staff will be available at 4:00 p.m. on the Monday 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