



City of Harrisonburg, Virginia

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December 22, 2016

TO THE MEMBERS OF CITY COUNCIL CITY OF HARRISONBURG, VIRGINIA

SUBJECT: Public hearing to consider a request from Robert Cook with representative Dick Blackwell to rezone a 0.69 +/- acre parcel zoned R-3C, Multiple Dwelling Residential District Conditional to B-2C, General Business District Conditional. The property is located at 1375 Wine Drive and is identified as tax map parcel 88-I-7.

EXTRACT FROM MINUTES OF HARRISONBURG PLANNING COMMISSION MEETING HELD ON: December 14, 2016

Chair Fitzgerald and Mr. Finnegan recused themselves from the request at 7:13 pm.

Vice Chair Way read the request and 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 and land uses.

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

Site: Undeveloped parcel, zoned R-3C

North: Harrisonburg Community Health Center property, zoned B-2C; and an undeveloped parcel, zoned R-3C

East: Undeveloped parcel, zoned R-3C

South: Aspen Heights student housing complex within Rockingham County, zoned R5

West: Undeveloped and developed single-family parcels zoned, R-1

The applicant is requesting to rezone the parcel from R-3C, Multiple Dwelling Residential District Conditional to B-2C, General Business District Conditional. If approved, the property owner's plan is to establish and operate a professional salon academy for educating students in cosmetology and hairstyling services, which includes the operation of a personal service establishment.

Before getting into the details of the proposed request, some history of this property should be known. Prior to 2007, this parcel was part of a larger 16.51-acre tract known as Ashby Meadows. In May 2007, City Council approved to rezone a 6.96 +/- acre area closest to Port Republic Road (which includes the subject property identified as tax map number 88-I-7) from R-1, Single-Family Residential District to R-3C, Multiple Dwelling Residential District Conditional. Three subdivisions took place in 2008, which

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divided the original 16.51-acre tract into 29 parcels for single-family dwellings and the remaining 6.96 +/- acres into four parcels zoned R-3C. In 2010, the parcel identified as tax map number 88-G-7 was rezoned from R-3C to B-2C; this is where the Harrisonburg Community Health Center is located today. The three remaining parcels, including the subject parcel, are undeveloped and remain zoned R-3C, Multiple Dwelling Residential District Conditional. In November 2016, the parcel identified as 88-H-8 was presented to Planning Commission with a request for rezoning to amend the May 2007 proffers. Planning Commission voted in favor (6-0) to recommend approval of the rezoning. The rezoning request for 88-H-8 was presented to City Council and approved on the first reading on December 13, 2016.

The approved and existing proffers (from the May 2007 rezoning and written verbatim) include:

1. All buildings would be used only for medical offices and professional offices.
2. Screening between residential R-1 and proposed medical or professional office R-3.
 - a. Screening on east and west side as shown on preliminary site plan would be evergreen such as Leyland Cypress or equal.
 - b. Screening in middle section between R-1 and proposed R-3 would be 6' vinyl fence similar to attached picture.
3. All buildings would be one story, all brick and of colonial design similar to attached pictures. Design would have to be approved by Architectural Control Committee.
4. Islands would be landscaped by Developer and maintained by adjoining property owner. This will be a deed requirement.

The 2007 proffer statement and supporting materials are included in this packet.

With regard to the current request, the salon academy includes a personal service establishment and educational use, which are not permitted by right in the R-3, Multiple Dwelling Residential District. Although personal service establishments are permitted by special use in the R-3, Multiple Dwelling Residential District, the district does not permit this type of educational use. The salon academy would be permitted by right in a B-2, General Business District. Therefore, the applicant is requesting that the property be rezoned from R-3C, Multiple Dwelling Residential District Conditional to B-2C, General Business District Conditional.

The applicant has proffered the following (written verbatim):

1. Only the following uses permitted by right in section 10-3-90 shall be allowed:
 - a) Personal service establishments.
 - b) Governmental, business and professional offices.
 - c) Educational uses.
 - d) Accessory buildings and uses customarily incidental to any of the above listed uses.
2. None of the uses permitted by special use permit shall be allowed.
3. Screening along the western property line shall be a six-foot-tall opaque fence and evergreen trees shall be planted and maintained to provide a vegetative buffer parallel to the western property line with intent to create a dense screen, where such evergreens shall be planted at no less than 5 to 7-ft on center and 6-ft in height at the time of planting.
4. Buildings would not be more than two stories, and would be substantially of brick material and of colonial design.
5. Islands would be landscaped by developer and maintained by adjoining property owners.

6. A free-standing sign shall be no taller than 8-ft in height and shall not exceed 60 square feet in area. Building mounted sign shall be no more than 30 square feet in area. There will be no LED or scrolling message board signs on the property.

Below is a brief summary of differences between the May 2007 and the new proffers offered by the applicant:

- The 2007 proffers limit the uses to only medical and professional offices. The proposed proffer #1 adds professional service establishments, governmental and business offices, educational uses, and accessory buildings and uses customarily incidental to previously listed uses.
- Proffer #3 addresses screening along the western property line, which is adjacent to an undeveloped single family parcel. In addition to the fencing proffered in 2007, the applicant is proffering the addition of a vegetative buffer.
- The 2007 proffers limit buildings on this parcel to one story. The proposed proffer #4 would allow a two story building.
- In the R-3, Multiple Dwelling Residential District, signs are restricted to a maximum height of six feet with a maximum sign area of 24-square feet. In the B-2, General Business District, signs are permitted to be a maximum of 35-feet in height. Sign face area is limited to one square foot per one lineal foot of site frontage parallel to the principal street, not to exceed 240-square feet. The subject property's frontage is 130-feet. The proposed proffer #6, reduces the allowable sign height to eight feet with a maximum sign area of 60-square feet, and limits building mounted signs to 30-square feet in area, which mimics some of the proffers approved in 2010 for the Harrisonburg Community Health Center parcel.

The applicant has provided details on the hours of operation and staffing for the salon academy; however, such details are not proffered. The salon academy anticipates operating six days per week between 9am-9pm, and expects up to 55-people within the building at any one time.

As stated previously, the Comprehensive Plan designates this area as Professional. The Professional designation states that this area is for professional service orientated uses with consideration to the character of the area. This area includes a single-family residential neighborhood. Generally, the Professional land use is equated with "professional offices," which is defined in the Zoning Ordinance as "offices limited to personal services customarily performed by professionals such as doctors, dentists, architects, engineers, lawyers, accountants, real estate agents, insurance agents and brokers *who are not dependent on extensive on-site advertising*" (emphasis added).

A B-2, General Business District use at this location is not supported by the Comprehensive Plan. The B-2 district is generally considered equivalent to the Land Use Guide's Commercial designation, or at least a Planned Business area, not the Professional designation. Staff believes that approving the rezoning request would change the character of the area and would set a precedent for intense commercial uses along the west side of Port Republic Road between Neff Avenue and the east city limits, which is not desired by the Comprehensive Plan. Along this corridor, there remains almost 1,500 lineal feet of undeveloped property frontage. These undeveloped parcels are designated as Professional in the Land Use Guide.

It should be acknowledged that in 2010, staff and Planning Commission supported and City Council approved the rezoning of the Harrisonburg Community Health Center property from R-3C to B-2C to allow for the pharmacy associated with the Harrisonburg Community Health Center. The language used in the proffers limit the functions and types of pharmacy uses, thus eliminating CVS, Rite-Aid, or Walgreen-type stores which are typical to commercial areas from operating at the site. The 2010 staff report for the Harrisonburg Community Health Center rezoning states that "if the applicants wanted to

build only the Harrisonburg Community Health Center, they could do it by right with the existing proffers, but they would be limited to one story.” The 2010 staff report goes on to say that “...we are not ready to open this section of Port Republic Road to other commercial uses.” Staff continues to support this statement and recommends that this corridor and area be considered for detailed review during the Comprehensive Plan update and if a new land use designation is proposed that it be properly vetted with the community.

Staff does not believe that the proposed salon academy and other allowable uses under the proposed proffers are compatible with the adjacent residential development. The proposed uses are not supported by the Comprehensive Plan and would be more appropriate in an area that is already zoned B-2, General Business District and/or has a Commercial land use designation.

Staff recommends denying the requested rezoning from R-3C, Multiple Dwelling Residential District Conditional to B-2C, General Business District Conditional.

Vice Chair Way asked if there were any questions for staff.

Mrs. Whitten asked if this academy fails to be successful, could this use continue.

Ms. Dang said it could because it is a professional service establishment that we are approving; it is not specific to the business that is here but it is the land use that would allow others.

Mrs. Whitten said the educational component makes it a little more palatable than just a straight up salon with 55 people. The other difference in the professional use, as far as I would be concerned, would be the number of visits and cars associated with this kind of use as opposed to a medical office, lawyer, or an architect.

Mr. Finks asked when would a traffic study come into play.

Ms. Dang said as part of the application for rezoning a Traffic Impact Analysis (TIA) determination is required, based on the activities that are proposed here, it did not trigger a TIA.

Vice Chair Way asked if there was anything else before opening the public hearing. Hearing none, he opened the public hearing and asked if anybody would like to speak in favor or against this request.

Nathan Miller, attorney with Miller, Earle & Shanks, said I represent the developer and also the lady who runs the academy, so I have double interest here. Right now, what I would like to do is request an opportunity to tell you how we will present our position for the consideration of the board. I would like for Mr. Dick Blackwell first to make comments about some of the questions that were raised about traffic, and then I would like to make a couple comments relative to the staff’s concerns and their denial. Then, I would like to ask Judy Crawford, who is the owner of the academy, to make a comment to you all about what she plans to do there and give you a better feel for what that operation looks like.

Dick Blackwell, Blackwell Engineering, said the concern of the other application from last month was traffic and people parking on the street; that was discussed last night by the council. In this case, compared to what is required for the City’s parking requirements based on the size, the salon academy requires additional parking. It needs to be in excess for this use, which is quite a bit more than required. I think the community would appreciate putting all the cars on the lot rather than on the street, and we can do that with this design. Water and sewer and stormwater would have to be taken care of. Stormwater was provided for when the subdivision was designed, but with the new regulations on water quality, we will of course have to look at that. As far as the engineering standpoint, I personally do not see any problems. We did not proffer the plan, it is not wise we found out through the years to proffer an exact plan before you design it. The minimum parking we already determined that we can obtain on the property in excess of the maximum number of people to be there, that is a pretty important thing to determine in advance.

Mr. Miller said I would like to make a couple of comments for your consideration, to address some of the concerns that the staff has and which I think are legitimate observations. I think there is some reasoning that the commission needs to consider when they are dealing with a fast growing community, which is a challenge for you all I am sure. When you talk about professional usage, we are talking about architects, engineers, lawyers, accountants, real estate, insurance agents; this is a professional academy. Attached to the academy is when you train a person - that is my understanding and Judy Crawford will address this more in detail for you - you need to have a facility so they can practice. It is like a technical school, if you are going to train a plumber or somebody to work on a vehicle, you need to have the ability to train them onsite. That is what we are doing here; but, it is focused on an academy to train young people that want to go into these professions.

One of the issues that your Zoning Ordinance states is that these are professional offices who do not depend on extensive onsite advertisement. As you know, the proffers that were just offered here were designed to narrow that very issue down to the point where an academy is really going to be advertising at a no greater level of intensity that you might find with a law office or a real estate office. I think the proffers that the applicant and developer have shown you are designed to put a collar around this development. It does two things, one it brings it into compliance with professionalism; also, it addresses the issue of precedence because it is a legitimate question to raise about precedent, but I think where this property is located you have a different issue. I do not think with the proffers as extensive as they are, which are more than most proffers on any development, you will find, those proffers put that collar around to address those issues so that you do not set a precedent. I would suggest that comprehensive plans are important; I represent three municipalities and a county, I understand what comprehensive plans mean, but they also have to be flexible and this one that you have is from 2011. If you look at Port Republic Road from this point out to the hospital you see massive changes in the development area. That means that those folks in between here and there are going to have to adapt their development of their real estate to those changes, that is why they are before you with these kinds of proposals and proffers.

The Community Health Center and the Pharmacy have already been adapted to that area, there is not a problem with them. I do not think the issue of this one lot is going to make that much difference, it will not make a difference with traffic as you noticed in the hours that traffic will be spread from 9 am – 9 pm, you will not have rush hour traffic at 5 pm or at 8 am. It spreads out over a long period of time even though there may be a large number of people say 40 or 50 in the facility during a period of time. Those are some of the things I would suggest to you that you may want to consider when deliberating whether or not to approve this. I would like to ask Judy Crawford, who owns the academy, to come and make some comments to you all, so you have a feel for her approach and what she wants to do and can answer questions about the technical and operational aspect of it.

Judy Crawford said I have been in business for 40 years. I went to an amazing school when I was out of high school and it set me on my journey of becoming who I am today. I do not know if you know The Studio on Neff Avenue, but I know what it is like to have five people in your chair at once and the parking that goes along with it. That is not what I am looking for. I have worked really hard to keep my profession alive and well. I have paid lots of taxes, I have bought a franchise. My school is going to open in Harrisonburg to have licensed hairstylists and provide professional services, we do not have that bridge. I cannot find employees without bringing them in to train them. I have trained people for 25-30 years and I have paid them to learn, I have sprouted a lot of companies around Harrisonburg because of what I have done. I just want to take that forward with the time I have left to give back into my industry.

My daughter is my business partner; my sister is going to be part of the company as well. We just want the bridge, instead of going and taking out a loan to go to JMU for four years, let me teach you how to do a service. You can learn how to cut hair, you can do something besides bartend in order to put a roof over your head. We are followed by the Gainful Employment Act and once students leave school they are

watched for three years to make sure that they have jobs; and me, as an academy owner, I am held responsible for each and every student that walks in my doors, out of my doors, if they get their license, if they go forward or if they do not.

The academy operates under the Salon Academy National Franchise Licensing Agreement, which works with a marketing business plan. I am so honored to be chosen as a representative in Virginia, it will be the only Salon Academy in Virginia. There is one that just opened in the DC area. We are the 47th Salon Academy nationally, and I am so honored to work with the group of people that I am able to work with, and to be able to bring that to my home town. We are really focusing on areas like ours so we can keep our kids here, not keep them here, but prepare them so they can go anywhere. Fifty percent of the hairdressers that I have today are degreed employees. They have earned a degree; have not been able to find jobs, they come to me to get a different start. That says a lot about our industry. Our industry is amazing; the distinguishing characteristics of the academy are highlighted. We carefully select students maintaining rigorous academic standards, professionalism, and design and train students to be prepared and excel in their chosen fields. The education provided will be the highest quality in well equipped classrooms within a state of the art training facility. The trainees share common values and goals. The academy curriculum of this facility meets the state standards. We are considered a campus; we are not considered a business. We have all the same rules that JMU has to go by, that Blue Ridge Community College has to go by, and the graduates will be licensed and available for employment upon graduation.

We have all heard employers, politicians, and the business community voicing support for the need to have more technically, vocationally trained employees for work forces. This is one of those opportunities for the City to educate and train, plus to give an opportunity to our young people. I went to Page County High School, my parents were just happy if you did not get pregnant when you left school. One foot in front of the other, I ended up where I am today. I am just very proud of where we came in our area. Now I am part of this amazing professional world that hairdressing has become and I am very proud of being a part of it. I am a pioneer with this area, and so my academy is just near and dear and special to my heart. If you have any question I can answer, I will answer them.

Mr. Finks said the report stated that there would not be more than 55 people at any one time. Do you have a sense of numbers?

Ms. Crawford said my dream would be 110 students, which would be 55 people at a time, which might take me 10 years to get to. We have to sell our academy just like JMU has to go and search for its students and so forth. Because of the clinical work that the students do on clients, it does help to finance our school. The tuition is very cheap and reasonable; we do rely on that portion of it to help to fund the school. It is not for profit.

Mr. Finks said that 55 number, is that your vision and does it include anyone coming in to get the services.

Ms. Crawford said it is a monthly or bi-monthly academy basically that you can join. It is only a nine month program, if you have 10 people joining a month, you also have 10 people graduating. With the flux and the flow of it, it is such that the dream would be, we are giving you the maximum dream we are building the maximum building to fill that dream. It would be no more than one person per student on the floor. You might have 20 people starting and the first two months that they are in classrooms, and then they have a month that they are practicing on mannequins and so forth. Then, basically you rotate onto the floor duty that you are actually putting your hands on guests and promoting it to go forward; but you are never working on more than one person at a time. Does that help?

Mr. Finks said yes that answers the question.

Vice Chair Way asked if there was anything else before we close the public hearing. Hearing none, he closed the public hearing and asked Planning Commission for a motion on the request for the purpose of discussion.

Mr. Finks said it is a tough one; especially after last month when we had Mr. Barzanji come in and talk about the parking issues in that neighborhood on the street. I feel that there is already an issue there with the Harrisonburg Community Health Center. I would be concerned about us adding to that issue, if there is already a parking issue that needs to be addressed, if we go forward would this just compound that issue to the point where parking permits would not really make a dent in what potentially already exists.

Mrs. Whitten said I think the overarching concern is the use, not the parking. Is this use compatible, is this what the vision is for this section of the road way? It has really good proximity to the hospital and there really will be need for more professional offices. Ms. Crawford is a really nice lady and I think this is a really good business and we want this business to be successful in our city; but, we also want it to fit, we also want it to be where it belongs. It has not been that many years ago that the property behind the mall, we had everything from racetracks, to fast food, to doctors offices. It has taken the better part of the last 15 years to try and eradicate some of that. I do not want to go back to that “mish mash” of uses. When you do that you create problems for everybody, the property owner the people that live in proximity, customers, everybody. You just cannot vote based on who is a nice person and what is a nice business. I want it to work for everybody’s benefit, I agree with staff on this one.

Vice Chair Way asked staff if we have heard anything from anyone who lives in that neighborhood.

Ms. Dang said one of the gentlemen that was here last time, had come into the office inquiring about this. I have not received anything else.

Vice Chair Way asked whether we have a zoning classification that is the closest aligned to what professional is trying to be.

Mr. Fletcher said it depends on what you mean.

Vice Chair Way asked what do you mean by professional.

Mr. Fletcher said it is closely related to two districts, R-3 and B-2. Then, you break it down as to where are those properties in relation to the surrounding neighborhood. B-2 can be an area that is planned business along major corridors, but surrounded by other properties that are zoned business. Then, you have R-3 neighborhoods with major thoroughfares but are more residential in character and in nature. This is an area that has been planned for residential development; we have slowly increased the planned density to low density mixed.

Vice Chair Way said one of the things I think about is the impact on the R-1 neighborhood just adjacent to it.

Mrs. Whitten said this also does operate later into the evening than the Health Center.

Mr. Finks said there would not be any continuous traffic; they said after 5 pm it got better. This use would be until at least 9 pm.

Vice Chair Way said there are several reasons on why it is a tricky difficult case. One of them is how we define professional; you can make an argument that this is professional in some way in terms of the kind of personal services.

Mr. Baugh said this corridor was discussed a lot during the last Comprehensive Plan update. There were advocates at the time saying we know that RMH has moved out there and we know what will probably be coming across the line in the County. I remember people were advocating that we should change the Land Use Guide, change the planning for it to some sort of commercial, for all the way through on both

sides at Port Republic Road including the other side where you have existing residential. I can share with you that this idea was discussed and it was rejected. What we really said we would do is sort of create maybe a limited exception for professional offices because of RMH Sentara going out there, and that it made sense to have some efforts to accommodate professional offices, obviously primarily thinking doctors, medical and that is why it is the way it is.

Mr. Baugh went on to say, I feel very confident that this corridor was discussed heavily five years ago about whether we should go ahead and plan for more intensive commercial uses on that corridor and in both instances we said “no” we are really not ready to do that.

You have had this history there where I am saying there really was a decision that reflected on our planning, that there will be some sort of limited exception out there for the professional on that one side of Port Republic Road and then of course, what happens, the first thing that goes out there is the Health Center with the pharmacy that is more of a commercial use than a professional use. But again, it is kind of consistent with the medical side of what you anticipate going out there. It is also a heavily proffered development, as we ever have permitted, they really narrowed that down.

Vice Chair Way said it is somewhat the equivalence of more of a professional side, being the training thing, and then auxiliary commercial element as well.

Mr. Baugh said for what it is worth, when we were talking about it in 2011 it really was that “professional” sort of meant professional.

Vice Chair Way said professional as defined in the Zoning Ordinance is including professionals like doctors.

Mr. Baugh said I am absolutely confident this will come up again. This will come up in the Comprehensive Plan review that we will be diving into in the next few months.

Vice Chair Way asked for a motion on the request.

Mrs. Whitten moved to deny the request for the rezoning of 1375 Wine Drive (R-3C to B-2C) as presented by staff.

Mr. Finks seconded the motion.

Vice Chair Way asked for further discussion on the request.

Mr. Finks said I do think this is, before we vote, this academy is very important for Harrisonburg. Something for the students in the area, the economy, it would be very beneficial. It could really benefit Harrisonburg. I just do not think it is the right area for it.

Vice Chair Way called for a voice vote on the motion.

All voted in favor (4-0) to deny the rezoning of 1375 Wine Drive (R-3C to B-2C) as presented by staff.

Vice Chair Way said this will go forward to City Council on January 10, 2017.

Chair Fitzgerald and Mr. Finnegan returned to council chambers at 8:01 p.m.

Respectfully Submitted,

Alison Banks

Alison Banks
Senior Planner