



City of Harrisonburg, Virginia

Department of Planning & Community Development

409 South Main Street
Harrisonburg, Virginia 22801
(540) 432-7700 / FAX (540) 432-7777
www.harrisonburgva.gov/community-development

Building Inspections

Engineering

Planning & Zoning

June 3, 2019

TO THE MEMBERS OF CITY COUNCIL CITY OF HARRISONBURG, VIRGINIA

SUBJECT: Public hearing to consider a request from Kathy Ulrich to rezone a +/- 36,000 sq. ft. area zoned R-3C, Multiple Dwelling Residential Conditional to B-2C, General Business District Conditional. The +/- 36,000 sq. ft. area is part of a +/- 41,944 sq. ft. parcel, where +/- 5,944 sq. ft. is located in Rockingham County. The area located in the City is addressed as 1385 Wine Drive and is identified as tax map parcel 88-I-8.

EXTRACT FROM MINUTES OF HARRISONBURG PLANNING COMMISSION MEETING HELD ON: May 8, 2019

Chair Way read the request and asked staff to review.

Ms. Banks said that the Comprehensive Plan designates this area as Limited Commercial. These areas are suitable for commercial and professional office development but in a less intensive approach than the Commercial designation. These areas need careful controls to ensure compatibility with adjacent land uses. The maintenance of functional and aesthetic integrity should be emphasized in review of applications for development and redevelopment and should address such matters as: control of access; landscaping and buffering; parking; setback; signage; and building mass, height, and orientation. Efforts should be made to maintain the intent as described.

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: Across Port Republic Road, single-family dwellings, zoned R-1; duplexes within Rockingham County, zoned R3
- South: Aspen Heights student housing complex within Rockingham County, zoned R5
- West: Undeveloped parcel, zoned B-2C

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-8) from R-1, Single-Family Residential District to R-3C, Multiple Dwelling Residential District Conditional.

The approved and current regulating 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.

Three subdivisions took place in 2008, which 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. In January 2017, the parcel identified as 88-H-8 was approved for a rezoning to amend the May 2007 proffers and to allow two story buildings. Also, in January 2017, the parcel identified as 88-I-7 was rezoned from R-3C to B-2C to allow for personal service establishments, governmental, business and professional offices, educational uses, and accessory buildings and uses customarily incidental to the previous uses. At the time, there were plans for a professional salon academy for educating students in cosmetology and hairstyling services to locate on that property. Although City staff and Planning Commission recommended to deny the rezoning of 88-I-7, it was approved by City Council with a 4-1 vote. The salon academy use was never established at the site and the property remains an undeveloped B-2C parcel. Therefore, the subject property of this request is the only remaining parcel that contains the original proffers from the May 2007 rezoning.

Regarding the current request, the applicant desires to "bring the subject parcel into alignment with the permitted uses on the two previously rezoned parcels," (tax map parcels 88-G-7 and 88-I-7, which were both conditionally rezoned to the B-2 district), by rezoning the site from R-3C, Multiple Dwelling Residential District Conditional to B-2C, General Business District Conditional.

The applicant has proffered the following (written verbatim):

1. The use of the property shall be limited to the following uses permitted by right under City Ordinance Section 10-3-90:
 - (1) Mercantile establishments which promote the show, sale and rental of goods, personal service establishments, restaurants (excluding freestanding fast food restaurants, fast food restaurants with drive-through windows, and coffee/donut shops with or without drive-through windows), and other shops and stores customary to shopping centers and convenience outlets (excluding convenience stores).
 - (2) Governmental, business and professional offices and financial institutions.
 - (3) Theaters, community rooms, museums, galleries and other places of assembly for the purpose of entertainment or education. In addition, customary recreation and leisure-time activities which are compatible with surrounding uses are permitted.
 - (4) Religious, educational, benevolent institutional uses which do not provide housing facilities.
 - (5) Pet shop or pet grooming establishments and animal hospitals (excluding kennels for boarding).
 - (6) Accessory building and uses customarily incidental to any of the above listed uses.
 - (7) Public uses.
 - (8) Small cell facilities, concealed wireless telecommunications facilities, industrial microcells, distributed antenna systems, and macrocells. Telecommunications towers

are permitted only by special use permit. Wireless communications facilities would be subject to the regulations contained in Article CC of the City zoning ordinance (or any similar future regulatory article or section).

2. Special use permits shall only be permitted as approved by City Council.
3. Building would be limited to two (2) above ground stories (basements would be allowed)
4. The site shall be limited to one freestanding sign, not taller than 12-feet in height and shall not exceed 80 square feet in area. The square footage limitations shall not affect any building mounted signage permitted by ordinance. There shall be no LED or scrolling message center/board signs on the property (including building or wall mounted).
5. All exterior lighting on the property will be designed to be directed to minimize directional impact to the residential neighborhood lying to the west of the property along Wine Drive, consistent with on-site safety illumination needs.
6. Vehicular ingress and egress to the property shall be limited to Wine Drive. A single vehicular entrance shall be shared with the adjacent parcel Tax Map 88-I-7. No vehicular access to or from the subject site shall be permitted to Port Republic Road.
7. No less than one (1) large deciduous tree shall be planted and maintained for every forty (40) linear feet of parcel public street frontage where trees are not required by parking lot landscaping regulations (Section 10-3-30.1(1) of the Zoning Ordinance). Trees shall be planted within 10-feet of public street rights-of-way. At the time of planting, tree sizes shall meet the requirements as defined in Section 10-3-24 of the Zoning Ordinance. Tree locations within 10-feet of public street right-of-way are at the discretion of the property owner/developer.

Below is a 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. With the requested rezoning, the B-2 zoning district has a wider range of permitted uses. The applicant has limited, within proffer #1, the uses that would be allowed by right on the property. The more intensive uses such as vehicle fuel stations, public and private parking lots, plant nurseries and greenhouses, vehicle sales, repair of vehicle, hotels and motels, warehousing, radio and television studios have been proffered out. The applicant has also excluded several types of restaurants and convenience stores that would typically generate high volumes of vehicular traffic to and from the property. All uses allowed by special use permit within the B-2 district must be approved by City Council.
- Proffer #2 from the 2007 rezoning addresses screening between the undeveloped R-1 parcels and the R-3C parcels. With the current rezoning request, the subject parcel is not directly abutting any R-1 zoned property, and therefore this proffer has been removed.
- Section 10-3-30.1(1) of the Zoning Ordinance (ZO) states that trees are only required to separate parking lots from public street right-of-way; therefore, where a parking lot is not adjacent to a public street, no trees are required. With the requested rezoning, through proposed proffer #7 the applicant has proffered the planting of trees along public street right-of-way when not required by the City's parking lot landscape regulations.
- The 2007 proffers limit buildings on this parcel to one story. The proposed proffer #3 would allow a two story building. (It should be noted that the 2017 proffer amendment for tax map parcel 88-H-8 and the 2017 B-2C rezoning of tax map parcel 88-I-7 both allow for two story buildings.)
- 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, freestanding signs are permitted to be a maximum of 35-feet in height and one sign is permitted along each public street frontage. 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 has two public street frontages, allowing for two freestanding signs, and has lineal site frontage of approximately 165-feet; thus, a freestanding sign up to 165 square feet, or two freestanding signs totaling 165-square feet, could be permitted. The proposed proffer #4, reduces the number of allowed freestanding signs to one, the allowable sign height to 12-feet, with a maximum freestanding sign area of 80 square feet.

- Proposed proffer #5 is a new proffer that addresses exterior lighting and any impact to the R-1 neighborhood along Wine Drive.
- Proposed proffer #6 is a new proffer that describes that access to the site will only be from Wine Drive through the shared entrance with tax map 88-I-7. No access into or from the property will be allowed on Port Republic Road.

As part of the 2018 Comprehensive Plan Update, this corridor was reviewed to great extent, and after reviewing comments and proper vetting with the community the Land Use Guide changed this area from a Professional designation to a Limited Commercial designation. As previously stated, areas designated Limited Commercial are suitable for commercial and professional office development but in a less intensive approach than the Commercial designation. These areas need careful controls to ensure compatibility with adjacent land uses. The maintenance of functional and aesthetic integrity should be emphasized in review of applications for development and redevelopment and should address such matters as: control of access; landscaping and buffering; parking; setback; signage; and building mass, height, and orientation. Efforts should be made to maintain the intent as described.

The proposed rezoning is supported by the Comprehensive Plan. Staff believes that the submitted proffers limits the more intensive uses allowed within the B-2 zoning district; creates additional landscaping where not required by City ordinance; controls access to and from Port Republic Road; reduces allowable signs and signage; and limits building height, help to ensure compatibility with the adjacent land uses while meeting the intent of the Limited Commercial designation.

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

Chair Way asked they were any questions for staff.

Commissioner Colman asked if there were any water or sewer easements that may affect the proffer of the large, deciduous trees within ten feet.

Ms. Banks said that the proffers have been written the same way as the landscaping regulations that gives flexibility to locate the trees anywhere within the ten foot area in the case of an easement.

Chair Way opened the public hearing and invited the applicant to speak to the request.

Todd Rhea, attorney with Clark & Bradshaw, located at 92 North Liberty Street, came forward representing the applicant. This was a carefully considered request. We had a very positive experience working with staff, knowing the sensitivity of having a residential neighborhood behind the four-lot commercial and professional subdivision along Port Republic Road. Cognizant of the new limited commercial designation under your land use guide maps and talking collaboratively about what were uses that should be proffered out in limited commercially zoned property, and with the realization that, when this project started in 2007, Port Republic Road did not look like it does today, with Stone Port and Aspen Heights immediately to the east of the property. Finally, with the review and approval by City Council of the other three parcels in that development to B-2C or to expanded uses, we felt that this request was tailored to be consistent with those approvals. When the Community Health Center built their facility about five years ago, they planted trees along the Port Republic Road frontage and our proffer was designed to be consistent with the appearance of the subdivision. I am happy to answer any questions and look forward to a recommendation for approval.

Chair Way asked if there any further comments regarding the request. Hearing none, he closed the public hearing and opened the matter for discussion.

Commissioner Finks said that, when we were on the site, we noticed that the other B-2C property, where the salon was planned, directly behind this. I believe we denied that, but it was then approved by City Council. Nothing has been developed there, as we have seen in the picture. It is still a field. I appreciate all the work put into the proffers. I would like to see more proffers like number seven, regarding deciduous trees. It is a very important thing. The tree canopy is such an important thing to a city's health, as far as keeping the temperatures down on the pavement and general esthetics. I appreciate it when people take the time to include this sort of proffer. I understand that it was offered to keep in line with the adjacent properties. In general, I always appreciate when I see something like that proffered, to take into consideration putting in trees and adding to our tree canopy for a healthy city.

Commissioner Finnegan said that it is particularly important because many trees have been removed from that side of town, over the last year.

Commissioner Finks said that this rezoning would bring it in line with the Comprehensive Plan, so it makes sense.

Commissioner Colman said that his question regarding the trees was not about opposing trees. On the contrary, it was about where the trees could be located. It is a great thing to have trees planted and I support that wholeheartedly.

Commissioner Whitten moved to recommend approval of the rezoning request.

Commissioner Finnegan seconded the motion.

Chair Way said that he agrees with everything that Commissioner Finks said. It is very important.

All members voted in favor of recommending approval of the rezoning request (7-0).

Chair Way said that the recommendation for approval will move forward to City Council on June 11, 2019.

Respectfully Submitted,

Alison Banks

Alison Banks
Senior Planner