

Spotsylvania County Planning Commission

Holbert Building Board Room, 9104 Courthouse Road, Spotsylvania VA 22553

MINUTES: June 5, 2019

Call to Order: Mr. Newhouse called the meeting to order at 7:00 p.m.

Members Present:

Richard Thompson	Courtland
Howard Smith	Livingston
Jennifer Maddox	Berkeley
Michael Medina	Salem
Mary Lee Carter	Lee Hill
C. Travis Bullock	Battlefield
Gregg Newhouse	Chancellor

Staff Present:

Paulette Mann, Planning Commission Secretary
Wanda Parrish, AICP, Director of Planning
Shannon Fennell, Planner III
B. Leon Hughes, AICP, Assistant Director of Planning
Alexandra Spaulding, Senior Assistant County Attorney

Announcements: Ms. Parrish updated the Commissioners about upcoming cases.

Review & Approval of minutes:

Motion and vote: Mr. Newhouse made a motion, seconded by Mr. Thompson to approve the revised minutes of May 15, 2019. The motion passed 7-0.

Unfinished Business: None

Public Hearing(s):

Rezoning(s):

R18-0004 11.684 Acres Ladysmith Rd., L.L.C. (Ordinance No. RO18-0004): Requests a rezoning of vacant parcel that is approximately 4.79 acres from Residential 2 (R-2) to Commercial 3 (C-3) with proffers for commercial development. The property is located on the west side of Jefferson Davis Highway (Route 1) approximately 820 feet north of the Spotsylvania Parkway (Route 628) and Jefferson Davis Highway (Route 1) intersection. The property is located within the Primary Development Boundary. The property is identified for Commercial development on the Future Land Use Map of the Comprehensive Plan. Tax parcel 35-A-102. Battlefield Voting District.

Mr. Newhouse opened the public hearing.

Mr. Hughes presented the case. The property subject to the rezoning request is located at 9624 Jefferson Davis Highway which is on the west side of Jefferson Davis Highway (Route 1) approximately 820 feet north of the Spotsylvania Parkway (Route 628) and Jefferson Davis Highway (Route 1) intersection. The property totals approximately 4.79 acres is currently zoned Residential 2 (R-2). The total by-right development potential for the property is one (1) single-family detached home. The property is vacant and is adjacent to and north of the AutoZone and south of the strip shopping center with several restaurants and other consumer service establishments. Across Jefferson Davis Highway is the Cosner's Corner Shopping area and to the northwest, near the rear corner of the subject parcel, is a retail location of the Rappahannock Goodwill. The proposed rezoning applies to the only remaining parcel along the corridor between Spotsylvania Parkway and the signalized intersection of Route 17 and Jefferson Davis Highway that does not have a commercial zoning classification. The area available for development on the site is limited because of significant slopes and wetlands on the southern and western sides of the property. The property is located in the County's Primary Development Boundary which includes areas intended to develop with more intensive non-residential uses than outside of the boundary. The property is designated on the Comprehensive Plan's Future Land Use Map for Commercial development, which consists of a variety of retail and office uses, examples of which include, but are not limited to: medical facilities, shopping centers, restaurants, automobile service and sales facilities, and similar uses. The future land use designation in this area is generally reflective of existing zoning and the commercial node in the immediate area.

The applicant is the owner of the subject parcel and is making the request to rezone the property from Residential 2 (R-2) to Commercial 3 (C-3) to allow commercial development that is similar to the existing commercial development pattern of the immediate area. The applicant has submitted a proffer statement that prohibits several uses permitted by-right and by special use. Staff and the applicant agree that the uses prohibited by the proffer statement are not compatible with the current development pattern of primarily consumer services and retail uses. The prohibited uses are Heavy equipment and specialized vehicle sale, rental and service establishment; Vehicle sale, rental and ancillary service establishment, large scale; Building Materials yard; and Auction establishments.

In Favor:

- a. This parcel is the lone parcel in this section of the Route 1 corridor without a commercial zoning classification.
- b. The proposal is consistent with the intent of the Primary Development Boundary and Commercial Land Use designation.
- c. Development of the parcel will add to the County's tax base in a fiscally positive manner.
- d. The proposal will have limited impacts on public facilities.
- e. The proposal and is consistent with the development pattern of the area, includes proffered design criteria, provides a missing link in the pedestrian network, and restricts non-compatible uses.
- f. The proposal will not decrease the Levels of Service on the transportation network as improvements are in place to accommodate this proposal.

Against:

- a. The project does not have commitments from tenants, so it is not possible to know

what the ultimate user(s) will be.

The project is consistent with the Comprehensive Plan and will allow a vacant parcel to be developed in a manner that is consistent with the current development to the north and south. If approved, all of the zoning classifications along this section of Route 1 will be commercial. Although the applicant does not have tenants, the proffers commit to development of a similar character to the existing development pattern. The GDP shows more intense commercial development on which the public facility and traffic analysis was based and found to result in minimal impacts. Based on the findings in favor, Staff recommends approval of R18-0004 with proffers.

Mr. Hughes stated that the applicant is present but doesn't have a presentation.

Ms. Carter inquired if the sidewalks that will be installed will complete that stretch of sidewalks.

Mr. Hughes stated yes, it would finish the sidewalk. The sidewalk will now be complete from Lee's Parke to Route 17. This is a good example of each person paying their way so that sidewalks can be in place and eventually completed.

Speaking in favor or opposition:

Donald Burrell, Battlefield Voting District: He inquired whether the adjacent properties would be notified once a tenant is determined.

Mr. Hughes explained that the property owners would not be noticed again. At that point the tenants would locate by right, with the exception of what has been proffered out.

Mr. Medina inquired about what could potentially change in regard to tenants.

Mr. Hughes explained that the tenants must develop consistent with the GDP.

Mr. Newhouse stated that he appreciates that the applicant is stating they will develop with similar design criteria as the adjacent properties. He inquired whether staff is comfortable with that.

Mr. Hughes stated that staff is not concerned.

Mr. Newhouse closed the public hearing.

Motion and vote: Mr. Bullock made a motion, seconded by Ms. Carter to recommend approval the rezoning with proffers. The motion passed 7-0.

R18-0009 SRSF Investments, LLC (Ordinance No. RO18-0009): Requests a rezoning of 1.8 acres from Rural (RU) to Mixed Use 4 (MU-4) with proffers to allow for the conversion of an existing residential structure to commercial use, expansion of that structure, and to allow another onsite structure for residential use. The property is located at 9134 Courthouse Road. The property is within the Primary Development Boundary. The property is identified for Mixed-Use

development on the Future Land Use Map of the Comprehensive Plan. Tax parcel 47(A)148. Livingston Voting District.

Mr. Newhouse opened the public hearing.

Mr. Hughes presented the case. The applicant is the owner of the subject parcel and is making the request to rezone the property from Rural (RU) to Mixed Use 4 (MU-4) to allow the conversion of a residential structure to a law office while retaining the residential use in the second structure. The MU-4 zoning classification does permit commercial and residential uses on a single parcel. The proposed development is similar to the existing and future commercial development pattern of the immediate area. The applicant has submitted a proffer statement that commits to development in accordance with the Generalized Development Plan, to dedicate right-of-way along Courthouse Road and provide an interparcel connection in conjunction with future development on the adjacent parcel that is in the Spotsylvania Courthouse Village. In accordance with the provisions of the Mixed Use Zoning classification the applicant is also proposing alternative development standards to the bulk requirements that will allow the property to be developed with a more intense use while maintaining existing structures and the character of the property. The alternative bulk standards include allowing a slightly larger lot width than permitted, the lot is 110.05 feet in width and the allowed width in the MU district is 110 feet. The applicant is also proposing an alternative standard to the lot size. The lot is 79,902 square feet and the district maximum is 21,780 square feet. Also proposed is an alternative standard to the primary build-to zone requirement. The district maximum is 45 feet and the existing house is setback 152 feet. The applicant intends to add an additional 830 square feet of office space onto the rear of the existing building proposed to be converted to an office building.

Staff provided the following analysis:

A. Transportation Analysis – The office and residential uses are low volume traffic generators expected to generate an additional 31 trips per day. The Level of Service along Courthouse Road/Business 208 will not be degraded due to this development and the development comports with access management goals by proffering a future interparcel connection.

B. Comprehensive Plan

- 1) **Land Use** – Overall this project is expected to result in minimal impact to County public facilities and not have any negative impact on adjoining properties. This project will “breathe new life” and activity into the building and restoration of the existing structure is beneficial. The rezoning is consistent with the mixed use land use designation envisioned for the area.
- 2) **Transportation** – The office and residential uses are low volume traffic generators expected to generate an additional 31 trips per day. The Level of Service along Courthouse Road/Business 208 will not be degraded due to this development and the development comports with access management goals by proffering a future interparcel connection.

3) Public Facilities -

- a) **Fire, Rescue, and Emergency Services (FREM)** – The first response station Company 1 is approximately 3 tenths of a mile from the parcel.
- b) **Sheriff** – For purposes of the Public Facilities Plan, the Level of Service indicator is to maintain a 1: 1,500 ratio of Deputies per capita. The County’s current ratio is 1:1,138 of Deputies per capita which exceeds the Level of Service standard. Consistent with the Code of Virginia, Sec. 15.2-2303.4, the applicant has not offered any proffer to offset the impact of their development on the Sheriff’s Office nor is a facility planned.
- c) **Water and Sewer Facilities** – The proposed development is located within the Primary Development Boundary and will be served by public water and sewer.
- 4) **Historic Resources** – The proposed development is not expected to have any negative impacts on significant natural, historic, and cultural resources. The circa 1884 home fronting Courthouse Road will remain and office conversion will not result in any significant change as it relates to the historic character established in the area. This particular parcel was surveyed as part of the Courthouse Sidewalks Project Cultural Resources Survey under DHR ID 088-5405. Architectural resources onsite were determined likely not National Register of Historic Places (NRHP) eligible due to low historic integrity due to significant alterations over time having diminished architectural integrity. Perhaps of local interest, the proposed project helps maintain the existing character of the immediate area, maintaining a structure that has been located there and visible along Courthouse Road Business since 1884.
- 5) **Natural Resources** – The project is not expected to negatively impact threatened or endangered species.

Staff discussed the following finding:

In Favor:

1. This parcel is the lone parcel in this section of Courthouse Road/ Business 208 without a commercial or office zoning classification.
2. The project is an adaptive reuse of a structure that will preserve some of the historic character along Courthouse Road.
3. The proposal is consistent with the intent of the Primary Development Boundary and will enhance the opportunity for the County to receive increased revenues.

4. The proposal will have limited impacts on public facilities and is consistent with existing development patterns of the area.
5. The proposal will not decrease the Levels of Service on the transportation network.

Against:

There were no findings against the proposal.

The project is consistent with the Comprehensive Plan and will allow an adaptive reuse of a structure that will preserve some of the historic character along Courthouse Road. The retention of a residential use supports the goal of the MU district by keeping residents in the neighborhood to provide support for the commercial uses. Approving the MU zoning request with the alternative development standards will allow the parcel to be developed in a manner that is consistent with the current development to the west and south. Alternative standards will also help preserve the existing character of the site. If approved, all of the zoning classifications along this section of Courthouse Road will be either commercial or office and the GDP is designed to accommodate future MU development. Based on the findings in favor, Staff recommends approval of R18-0009 with proffers. He stated tha the applicant is present but does not have a presentation.

Mr. Newhouse inquired if the single family home is already on the property.

Mr. Hughes stated yes, the home is present today

Mr. Medina suggested that the interparcel connection be moved further northwest.

Mr. Hughes stated that they are proffering to build the interparcel connection but it will not be built until development begins next door. They will look at the connectivity and move it accordingly at that time.

Speaking in favor or opposition: None

Mr. Newhouse closed the public hearing.

Motion and vote: Mr. Smith made a motion, seconded by Mr. Thompson to recommend approval of the rezoning with proffers. The motion passed 7-0.

Special Use Permit:

SUP19-0001 Shirley Ann Ali and Bashar Itraish (Mazari Motors): Requests a special use permit to allow vehicle sale, rental, and ancillary service establishment (small scale) on a parcel consisting of approximately 1.18 acres currently zoned Commercial 3 (C-3). The parcel is addressed as 10900 Courthouse Road and is located at the intersection of Courthouse Road (Route 208) and Ewell Road (Route 636), approximately 1,250 feet east of Jefferson Davis Highway (Route 1). The parcel is located in the Primary Development Boundary and the Primary Highway

Corridor Overlay District. The property is designated for Commercial Land Use on the Future Land Use Map of the Comprehensive Plan. Tax parcel 23 (A) 140. Courtland Voting District.

Mr. Newhouse opened the public hearing.

Ms. Fennell presented the case. The subject application is for Special Use approval of a Vehicle sales, rental, and ancillary service establishment on approximately 1.18 acres of Commercial (C-3) property. The property is located at 10900 Courthouse Road, which is located at the intersection of Courthouse Road (Route 208) and Ewell Road (Route 636), approximately 1,250 feet east of Jefferson Davis Highway (Route 1). The project will adaptively reuse an existing 2,600 square foot brick building for the dealership. The site was formerly used as a convenience store with fueling stations; and also contains two signs, a small shed, a vacuum and air pumping station. The proposal includes the interior renovation of the existing 2,600 square foot building to accommodate offices, an employee break room, restrooms, and a show room.

The Generalized Development Plan (GDP) shows this proposal completed in two phases. Phase I consists of the applicant demolishing the existing gas tanks, fueling stations and canopies, vacuum stations, bollards, a sign, and shed. This phase also includes the striping of 68 vehicle display spaces and 14 parking spaces provided for customers and the employees, the construction of a sidewalk and landscaping along Courthouse Road (Route 208). Phase II consists of the redesign of the existing stormwater management basin to allow for 18 additional vehicle display spaces.

The site has two points of access which are existing, one from Courthouse Road (Route 208) and one from Ewell Road (Route 636). The estimated daily vehicular trips generated by the development upon the completion of Phase II is approximately 80 trips per day which is significantly lower than the 252 estimated daily vehicular trips that are projected for the by-right use convenience store with fueling stations. This proposal is an expansion of an existing used car dealership adjacent to the subject parcel; therefore, no decrease in levels of service on Courthouse Road (Route 208) are anticipated as a result of this proposal. The applicant submitted within the GDP narrative a vehicle delivery statement that stock vehicles will be delivered by smaller hauling trucks (carrying three vehicles or less) and will utilize the entrance on Ewell Road, just past the intersection of Ewell Road and Courthouse Road.

The applicant has requested a modification to the required street buffer type C on an arterial road. The street buffer type requires a 10' landscape strip along Courthouse Road (Route 208). According to the GDP, a large grass island approximately 160' in length is bifurcated by the right of way line and the island is triangular in shape; therefore, there is approximately 60' that is less than 10' in width. The required 10' width is present within the remaining 100' of the island. The applicant's modification request is to modify the required buffer width only within the 60' area of the entire 160' grassed island. The applicant proposes to plant the required number of plant types per the DSM within the remaining 100' of the grassed island; therefore, staff supports the modification.

Staff has conducted a Comprehensive Plan analysis and determined the proposed project to be consistent with the goals and objectives on the Comprehensive Plan.

Ms. Fennell discussed the following findings:

In Favor:

- The request is consistent with the Comprehensive Plan with respect to land use, public facilities and historic and natural resources goals and policies.
- The proposal satisfies all of the Special Use standards of review as established in Sec.23-4.5.7 of the County's Zoning Ordinance.
- The proposed use is consistent with surrounding commercial uses.
- The proposal allows for the reuse of an existing vacant commercial building, in addition the proposed landscaping and removal the existing accessory structures will provide for a much needed revitalization that is consistent with the improvements to the east along Courthouse Road (Route 208).

Against:

- There are no findings against this application.

Based on staff's analysis and findings in favor noted above, staff recommends approval. Should the Commission recommend approval, staff recommends approval be accompanied with the following conditions:

1. The project shall be developed in conformance with the Generalized Development Plan titled, "Special Use Application – Mazari Motors" as revised on April 18, 2019 and prepared by Ryan K. Foroughi.
2. Display vehicles shall only be parked within display areas as depicted on the approved GDP.
3. There shall be no vehicle major service on site. Vehicle major service establishment shall be defined as major mechanical and body work, repair of transmissions and differentials, straightening of body parts, painting welding or other similar work is performed on vehicle.
4. Stock vehicles shall be delivered individually or via delivery trucks on the site utilizing the intersection of Ewell Road (Route 636) and Courthouse Road (Route 208).
5. At no time shall delivery trucks block or park on the public street during delivery. No large commercial haulers are permitted to deliver vehicles to the site. Large commercial haulers shall be defined as delivery vehicles that can haul more than 3 vehicles.
6. Demolition/removal of the existing gas pumps, canopy, islands, bollards, vacuum station and existing sign (as depicted on the approved GDP) shall be applied for in conjunction with the application for zoning use permit. Such demolition/removal shall occur prior to the issuance of the zoning use permit.
7. Landscaping improvements within right-of-way shall be completed and installed prior to the issuance of the zoning use permit.
8. Submission of the easement plat to permit access to the existing BMP and to expand the existing 10' waterline easement to 20' shall be approved and recorded within 90 days of

the approval of this Special Use Permit. Submission of a minor site plan shall be required prior to the commencement of Phase II (as depicted on the approved GDP).

Ms. Fennell stated that staff did receive one call regarding concerns about the applicant meeting parking requirements and that vehicles are often parked on his property without permission.

Mr. Smith inquired how the County handles code enforcement.

Ms. Parrish stated that code enforcement is complaint driven.

Mr. Smith inquired how much enforcement has been done thus far in regard to unloading vehicles in the early morning.

Ms. Parrish stated that she would need to look into that.

Mr. Bullock stated that a few years ago, he asked that same question and hasn't received an answer. He called out specific dates where he knows that car carriers have been in the middle of the roadway offloading vehicle. On all four occasions, he has called the Sheriff's office because the Zoning department was closed. He stated that this problem must be fixed as it is very dangerous.

There was discussion about whether major vehicle service will be done.

Ms. Fennell stated that only light service would be permitted such as replacing lights and windshield wipers.

Mr. Bullock inquired how this would be enforced.

Ms. Fennell stated that it would be complaint driven.

Ms. Parrish stated that any of the approved conditions are the requirement of the special use permit. The County has a very small code enforcement division and so we can only handle complaint driven enforcement at this time.

Mr. Smith stated that he's concerned that it doesn't do any good to have conditions if they cannot be enforced.

There was discussion that the car carrier drivers know to come when the zoning office is closed. There was discussion about a placing a condition that vehicles must be delivered during county office hours.

Ms. Maddox stated that she believes as a citizen, they wouldn't know to contact the code compliance office to complain about loading and unloading vehicles.

There was also discussion about there being 11 used car dealerships along Ewell Road & Pegram Lane and they are existing, non-conforming, grandfathered uses. They were placed there prior to the 2017 zoning amendment requiring a special use permit.

Several Commissioners expressed that they would love to know how many car lots are located within Spotsylvania County.

Mr. Thompson inquired if this request is approved and they violate the conditions whether their special use permit could be revoked.

Ms. Parrish stated yes, that there is a process by which they would receive a notice of violation and it could ultimately be revoked should they not comply.

Mr. Hughes stated that they would be in violation if they didn't follow their vehicle delivery plan.

There was additional discussion about legal non-conforming uses prior to 2017. The intent of the ordinance rewrite was to get a handle on the non-conforming dealerships.

Applicant, Samer Shalaby, representing the applicant: He stated that this dealership will be one of the only ones with a special use permit on Ewell Road. As far as the delivery of vehicles, the cars will be delivered on a very small carrier that only holds 2-3 cars at a time and they wouldn't risk the loss of their approved SUP by not complying to the conditions and delivery plan. He stated that they have no problem with the reduction in hours that cars could be delivered if that is the recommendation that the Commission makes to the Board of Supervisors. He stated that they have been meeting with County staff for months and months and asked the Commission for their favorable recommendation to the Board of Supervisors.

Mr. Bullock inquired how long the applicant has been meeting with County staff regarding this proposal.

Mr. Hughes stated approximately a year.

Mr. Bullock inquired if they've had any issues with the applicant and the site.

Mr. Hughes stated that we've had to contact them and ask them not to park cars on the proposed lot.

Mr. Shalaby stated that there are commuters that tend to park there and they have had a few cars spill over onto the property but move them immediately.

Speaking in favor or opposition:

Michael Coangelo: He stated that he has been a real estate broker for over 25 years and that the Four-Mile Fork area of the county is now called the armpit of Spotsylvania. The way the area is mismanaged by the county is hurting him and his clients that own property in this area. There is a lack of vision and this type of development would not occur in Charlottesville or Charleston. He stated that he even has people parking cars on property that he owns to display their cars. He stated that he is very upset by this development.

Alvin Melendez: He stated that he owns the property that the applicant is currently using and that transporters of vehicles are supposed to comply with road requirements and that the state police should be called if they are not. He stated that the proposed property has been vacant and run down off and on for years and that it will be nice to see it developed and not sitting vacant. He stated that car dealerships bring a lot of tax revenue to the county. The last year that he operated his business there he sold \$6.5 million in cars.

Mr. Bullock stated that as a businessman and car dealer, they should tell the carrier driver not to park in the right of way.

Mr. Shalaby stated that this parcel is not creating the problem that Mr. Bullock is speaking of. This property will be one of few that is not grandfathered by old ordinance requirements. He displayed the lot and showed how they would be unloading and loading cars on their property.

There was discussion that the Commission would like to see what one of the haulers looks like that carries 2-3 cars, the loading and unloading plan shown graphically.

Mr. Medina inquired if the gas tanks have been removed.

Mr. Shalaby stated that they have been removed already.

Mr. Medina stated that he would like to see a global change to the hours of operation standard.

Ms. Carter agreed.

There was frustration amongst the Commission about the lack of personnel to do enforcement.

Mr. Shalaby stated that they are happy to place a sign on their property that reads if you see a zoning violation, please call the following number. He stated that it sounds as though many of the concerns are associated with the grandfathered, non-conforming uses.

Motion and vote: Mr. Newhouse made a motion, seconded by Mr. Medina to continue the public hearing until July 17, 2019. The Commission would like to see the following items at this meeting: A picture of a 2-3 vehicle hauler, loading and unloading plan to include the hours of operation, and how many grandfathered vehicle sales establishments are located within the county. The motion passed 5-2, with Mr. Smith and Mr. Thompson voting no.

Public Comment: None

New Business:

Mr. Medina stated that the vehicles parked in the grass on property that isn't owned by them bothers him and would like to see that investigated. He also suggested staggered work hours by the zoning enforcement officers so that someone can be reached in the evenings or over the weekend.

Adjournment:

Motion and vote: Mr. Thompson made a motion, seconded by Ms. Carter to adjourn. The motion passed 7-0.

The meeting adjourned at approximately 8:45 p.m.

Paulette L. Mann

Paulette L. Mann

June 19, 2019

Date