



PLANNING COMMISSION

AGENDA for November 14th 2023

AGENDA

REGULAR MEETING

Call to Order by Chairman and Roll Call

Public Comment on Items Not on the Agenda

Review and Adoption of Minutes

October 10th 2023 and November 14th 2023

Report of Secretary

New Business

- 1) Section 711 Zoning Text Amendment
- 2) 2345 Birch Ave – Conditional Use Permit for 5 unrelated persons

Adjournment

Members and Term Expirations

Dennis Hawes, Chairman, 7/31/2024

Harold Kidd, 6/30/2026

Justin Wiseman, 8/31/2025

Marolyn Cash, 6/30/2024

Sarah Henson, 9/30/2027

Melvin Henson, City Council Representative,
9/30/2027

Kristie Gibbons, 12/31/2024

Timothy Petrie, 12/31/2024

Jason Tyree, Ex Officio member

Staff

Tom Roberts, Director of Community Development

City Hall, 2039 Sycamore Avenue, Buena Vista VA 24416

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Meetings

Members of the Buena Vista Planning Commission meet in Council Chambers, 2039 Sycamore Avenue, at 7:00 p.m. on the 2nd Tuesday of each month, unless otherwise announced. Meetings may be held and business conducted without a quorum, but no votes may be taken unless a quorum is present. A majority of members constitutes a quorum. A motion passes with a majority vote; a tie constitutes defeat of the motion.



PLANNING COMMISSION

MINUTES of October 10th 2023

Members of the Buena Vista Planning Commission met in Council Chambers at 7:00 PM on Tuesday, October 10th 2023.

Members Present:

Dennis Hawes, Chairman
Melvin Henson, City Council Representative
Marolyn Cash
Sarah Henson
Harold Kidd
Timothy Petrie

Members Absent:

Kristie Gibbons
Justin Wiseman
Jason Tyree, Ex Officio member

Staff Present:

Tom Roberts, Director of Community Development

Public Hearing

352 Beverly Hollow Ln R6 PUD

Mr. Roberts began by summarizing the proposed development, which is a single family home on a 33 acre wooded parcel. The applicant, Mr. Gunner Beverley, rose to speak and explained that he chose to put the driveway on the northern part of the property due to concerns from his neighbor about adequate right-of-way.

Mr. Henson noted the narrowness of Beverly Hollow Ln and concerns about access by emergency services. He then asked at what point the City should require improvement of the road for any additional development. Mr. Roberts responded that he did not have a good answer for that. In this case the length of the road and the topography would make improvement very expensive, and there just is not a clear threshold of how many houses before it must meet VDOT or other standards. Mr. Hawes asked whether the house would be insured, making the point that Mr. Beverley is taking the risk of proximity to emergency services or difficulty of access.

Ms. Dana Wilkins, adjacent property owner, rose to speak. She explained that she believes that some of the area surveyed as Mr. Beverley's property is actually her property. Part of this area which she disputes is where Mr. Beverley originally wanted to put his driveway. She disputes the survey and is hiring her own surveyor to review it. Mr. Roberts stated that he has looked at the property and the plat and he believes that Mr. Beverley's survey is correct, but that Ms. Wilkins's family has used some of Mr. Beverley's property for some years.

Mr. Hawes noted that this dispute is beyond the scope of the Planning Commission. Mr. Petrie asked if the Commission should wait until the dispute is resolved. There was a brief discussion of the approval timeline and Mr. Roberts noted that the next step is a City Council public hearing. He also explained that no Planning approval is required for the road construction, and Erosion & Sediment Control Plan has already been approved for the road, and that it is Mr. Beverley's risk building the road before the land dispute is resolved. There is more time prior to approval by Council for the land dispute to be resolved.

Mr. Petrie clarified the type of approval required and whether additional Commission review would be required for additional development. Mr. Hawes replied yes. Mr. Petrie motioned to recommend approval as presented, Mrs. Cash seconded, and all voted yes.

Roll Call

Meeting is called into order and roll was called.

Mr. Hawes mentioned that he had communicated more with the City Manager about the City Manager's ex officio role on the Planning Commission, and whether or not the Manger could vote. The Manger and the City Attorney said that no he should not vote, but Mr. Hawes found that in Roberts Rules of Order an ex officio member may vote. Mr. Roberts weighed in that the Manager voted can be seen as a conflict of interest that goes against the principle of a citizen board. Mr. Hawes noted that the Manager could abstain if he felt an item was conflict, and Mr. Petrie noted that the Manager is still a citizen with an opinion. Mr. Hawes and Mr. Petrie agreed that Mr. Tyree (the Manager) made a positive contribution to the discussion when he joined in.

Minutes

Mr. Kidd motioned to approve the September 12th 2023 minutes, Mr. Henson seconded, and all voted to approve except Mr. Petrie and Mrs. Cash who abstained because they were absent.

Secretary's Report

Mr. Hawes then introduced the new Planning Commission member Sarah Henson.

Mr. Roberts began by discussing the proposed ROW abandonment of 200 block of Poplar Avenue, discussed at the previous meeting. City Council held their public hearing and requested additional engineering to ensure adequate stormwater outfall. Public Works is also looking at cleaning out the channel of Pedlar Gap Run to ensure adequate flow during storm events.

City Council approved the repeal of the local Fair Housing regulation.

City Council has begun reviewing drafts of a prohibition on street parking of non-passenger vehicles such as RVs and trailers. Mr. Henson asked about RVs or trailers being loaded, and Mr. Roberts replied that you can have it parked on the street if you are actively loading or unloading. Mr. Kidd asked about dumpsters, and Mr. Roberts replied that dumpsters would not be allowed except for in front of construction sites. Mr. Roberts also noted that this prohibition would apply City-wide unless otherwise allowed. Mr. Henson asked about tractor trailers, and Mr. Roberts replied that those would not be allowed in the new regulation, and they are already prohibited in residential areas. School buses would be prohibited also.

The purpose of this new regulation is to clarify and expand a very unclear current rule about items in the street.

New Business

Harmonizing term expirations for Planning Commission

Mr. Roberts noticed that the dates during the year when Commission terms end are random and spread through the year. For more uniformity, he proposes making all terms end on December 31st of a given year. That way new members would always start in January. He emphasized that it was only his idea that spurred this no situation. Mr. Hawes noted that approving new members in the holidays may be difficult, so this time of year may not be the best.

Adjournment 7:55 PM

Approved: _____



PLANNING COMMISSION

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Members Present:

Dennis Hawes, Chairman
Melvin Henson, City Council Representative
Marolyn Cash
Kristie Gibbons
Sarah Henson
Harold Kidd
Timothy Petrie

Members Absent:

Justin Wiseman
Jason Tyree, Ex Officio member

Staff Present:

Tom Roberts, Director of Community Development

Roll Call

Meeting is called into order and roll was called.

Secretary's Report

- 1) Applied for Community Flood Protection Fund (CFPF) grant for flood hazard resilience plan and engineering analysis of interior waterways. Mr. Roberts explained that the 1999 Watershed Plan was very robust but needs to be updated to reflect improvements that have been constructed and changes in the streams. Fresh recommendations will allow the City to pursue grants for new projects.
- 2) Applied for Industrial Revitalization Fund (IRF) grant for Mountain Gateway Community College renovation. This was for the same scope of work for which the City unsuccessfully applied for CDBG funds. Phase I work began a couple weeks ago—hazardous material abatement and roof repair.
- 3) Is preparing a Virginia Trees for Clean Water grant for tree planting at City Hall and at new GMP playground. Mr. Hawes suggested planting chestnuts.
- 4) Have not had time to research the Planning Commission bylaw questions we discussed at the last meeting regarding the month that terms expire.

New Business

Certificate of Appropriateness for 123 E 29th St

Mr. Roberts briefly introduced and explained that this is two single family houses because the City's zoning code does not have a definition or category for accessory dwelling units or guesthouses. There was a brief discussion of the pages in the applicant's presentation that introduced his family and their vision, and Mr. Hawes noted that this should not be factored into the Commission's decision.

Mr. Roberts highlighted that what is under consideration is whether the exterior architectural features are compatible and harmonious with the neighborhood. He then went through some of the specific items to be considered in the Seminary Hill district, beginning by acknowledging that the proposed house is contemporary style. He noted that the Seminary Hill district does not have a consistent period of construction or architectural style.

There was some discussion of the name change of the Seminary Hill district that removed the word "historic," and that this change did not have any effect on the requirements of the district or the legal basis for the design review process.

The Commission agreed that there is not a dominant style in the district and that the district regulations are written to be vague. Mr. Kidd noted that the house is more or less compatible with other houses on the street, except that the porch will extend right up to the sidewalk. He suggested that it be slid back five feet. Mr. Petrie motioned to approve the certificate of appropriateness, and Mr. Kidd amended to add the condition of a five foot front setback to the porch. Mrs. Gibbons seconded, and all voted yes.

Conditional Use Permit for Dimensional Regulations

Mr. Hawes introduced the item and Mr. Roberts began by explaining that the table of setbacks found in Section 630 was part of the original zoning code, and as new zones were created they were not added to the table, resulting in the table representing some but not all of the zones. The other zones have dimensional regulations found within their text. When creating new zones in the past, Mr. Roberts has chosen not to add new zones to the table to avoid complicating the table, and instead has kept dimensional regulations within the text of those zones.

Mr. Roberts then explained the proposed changes, the primary of which is to allow all dimensional regulations to be modified or waived by a conditional use permit. He noted that most CUPs are for uses not dimensional regulations, and the zoning must explicitly authorize CUPs for a use or regulation in order to approve one. He then explained how CUPs differ from variances and modifications, both of which have stricter criteria for approval than CUPs.

Mr. Roberts noted that that this proposal is spurred by the proposed development between 6th Street and 9th Street on Magnolia. Back in the summer, the Planning Commission suggested informally that the developer of that site pursue R6 PUD zoning and submit a plan of development, but on further review, R6 has tighter requirements for minimum open space and lower maximum dwelling units per acre than R4, so the developer prefers R4. They wish to have a setback less than the 30' setback in R4.

Mr. Roberts then went through the more minor housekeeping updates to the section text in the staff report. When going through the zones removed from the table, he explained that B2

Planned Business is an “old” zone that is not well written and is essentially defunct. There is only one parcel zoned B2. B2 is essentially a commercial planned unit development (PUD) zone.

Mr. Hawes requested this be on a public hearing in January.

Mr. Hawes then requested a text amendment to provide guidelines for parking for dwelling unit CUPs.

Adjournment 7:45 PM

Approved: _____



PLANNING COMMISSION Staff Report

Zoning Text Amendment
Section 711 Group Homes
12/1/2023

Synopsis

Revise section for conditional use permits for dwelling occupancy beyond the zoning definition of a family, and adopt guidance on parking requirements for such CUPs.

Summary:

- Drastically simplify text to focus on essential components
- Recommend one parking space for each person in excess of four unrelated
- Recommend that once minimum off-street spaces for single-family (two spaces) is met, on-street parking be included in total count

Analysis

Section 711 has been in place for about 15 years and is intended to regulate the occupancy of dwelling units and provide a path for property owners to house larger numbers of unrelated persons that would otherwise be prohibited. Prior to 2018, this section was the only part of the Land Development Regulations setting an occupancy limit on structures. The 2018 amendment added a new definition of “family” applicable to all dwelling units, and amended Section 711 to provide for the conditional use permit for more than four unrelated persons.

Planning Commission has recently expressed desire for more guidance in the regulations on provision of parking spaces at dwellings applying for such a CUP. Staff reviewed the text of Section 711 and found it to be unnecessarily specific and complicated, and recommend repealing and replacing with new text.

Structure of new text

The new text will pare back many of the conditions listed in the current text, and remove the detailed lists of requirements for such dwellings and requirements for submittals.

Currently, this CUP is only applicable to occupancies where one or more residents is leasing. In practice, this would almost always be the case, because it is rare that more than four unrelated individuals legally co-own a dwelling. Thus this condition is unnecessary and could cause confusion or a loophole. This condition is a legacy of the original text of the section, which was focused solely on rental housing.

The current text specifies various requirements for dwellings permitted with this CUP, such as that sleeping may only be in bedrooms, parking requirements must be followed, and that the CUP may be revoked for excess noise or nuisance complaints. These requirements are superfluous because they can easily be enforced using other existing code sections. Their inclusion only serves to remind applicants of rules that already apply.

Finally, the current text lists 33 items that must be included in a submittal for such a CUP, as well as some miscellaneous additional regulations (even a duplicate requirement about

parking). Most of the items are simply not necessary for staff or Planning Commission to make an informed decision about whether to recommend approval. Additionally, the site plan submittal requirements listed in Article 15 would apply to these CUPs so this list is a duplicate. Lastly, staff can request whatever details they deem necessary on a site plan.

The new text will be structured more directly and clearly, applying to all dwelling units.

Parking guidelines

The text will add language to guide parking requirements for such CUPs, which is one of the most scrutinized elements of these applications. These will be guidelines and not requirements for issuance of these CUPs, because CUPs are designed for flexibility and discretion for the Commission and Council. Because this is a somewhat unusual use (more than a typical family in a house), there are few examples in other zoning codes for equivalent parking minimums. Typically parking requirements are based on dwelling units, not on number of people in a unit. Additionally, the current trend is to reduce or eliminate parking requirements. Although the primary cases for reducing parking requirements are commercial districts and areas offering public transportation, some cities are reducing or eliminating for residential uses also. As a result there are fewer current resources on setting parking minimums.

Draft Text

711.00 Findings and Intent.

711.00-1 Regulating the occupancy of dwelling units can prevent or mitigate negative impacts of high residential density on individual properties and neighborhoods.

711.01 City Council may allow by a conditional use permit the occupancy of a dwelling unit by a combination of persons other than a family, as herein defined.

711.01-1 Exceptions. No conditional use permit shall be required for dwelling units governed by Section 714 Residential Transient Occupancy. No conditional use permit shall be required for residential facilities identified in Code of Virginia, § 15.2-2291.

711.02 Dimensional regulations and parking requirements

711.02-1 In granting such a conditional use permit City Council may waive or modify any dimensional regulation of the underlying zoning district.

711.02-2 In granting such a conditional use permit, City Council may waive or modify any off-street parking requirement of the underlying zoning district. The following guidelines are recommended for determination of adequate parking:

711.02-2.1 At a minimum, two off-street parking spaces should be provided.

711.02-2.2 One parking space should be provided for each person in excess of the zoning definition of family.

711.02-2.3 Once the minimum of two off-street parking spaces is provided, on-street parking spaces should be considered in the total spaces available to the dwelling unit.



PLANNING COMMISSION Staff Report

Conditional Use Permit

2345 Birch Ave – Section 711 CUP for 5 Unrelated Persons

12/6/2023

Synopsis

Conditional Use Permit for up to five (5) unrelated persons in a single family dwelling at 2345 Birch Ave.

Site Information

Address/Tax Map:	2345 Birch Ave, 35- 1- 4- 4- 13	
Existing zoning:	R3 Residential Limited	
Existing land use:	Single-family dwelling	
Proposed zoning:	R3 Residential Limited	
Proposed land use:	Single-family dwelling, increased occupancy	
Surrounding zoning and land use:		
R3 Residential Limited single-family dwellings		
Size:	Parcel: 1.5 lots (9,375 sf) House: ~2,451 sf	
Tentative Timeline	Preliminary Commission Discussion	12/12/2023
	Planning Commission Public Hearing	1/9/2024
	City Council Public Hearing	1/18/2024
	City Council Adoption	2/1/2024

Analysis

Applicant Scott Thatcher (owner) seeks a Conditional Use Permit (CUP) to allow occupancy of the house by five unrelated persons. Currently, there are five persons living in the house; the owner is pursuing this CUP to bring the property into compliance with the zoning.

The surrounding neighborhood is detached single-family dwellings.

Parking

There is a garage in the basement and a driveway perpendicular to the street that is approximately 50’ from the garage door to the edge of pavement. Additionally, there is a front gravel driveway parallel to the street that is approximately 46’ long. There is no curb & gutter. The parallel driveway could be considered street parking, but because it is graveled and has a wooden edge, it looks like it is more part of an individual yard than true public street parking.

As designed, there is capacity for five vehicles: one inside the garage, two in the perpendicular driveway, and two in the parallel driveway.

Current residents appear to regularly park in the front gravel drive perpendicular to the street, partly on the gravel and partly on the grass. The existing gravel driveway in the front (about 10' wide) could easily be expanded to accommodate this parking arrangement. Under this arrangement, there is capacity for seven vehicles: one inside the garage, two in the perpendicular driveway, and four parked perpendicular in the front yard.

Interior Layout

The house is a three-bedroom 2,451 sf ranch with a full basement. The basement features a garage. Currently, there are two rooms in the basement used as bedrooms but they do not meet building code egress requirements for sleeping areas. However, the owner plans to relocate the beds to the common area where they will have the necessary egress.

Other items

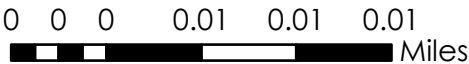
Trash pickup is in the rear of the house on the alley.

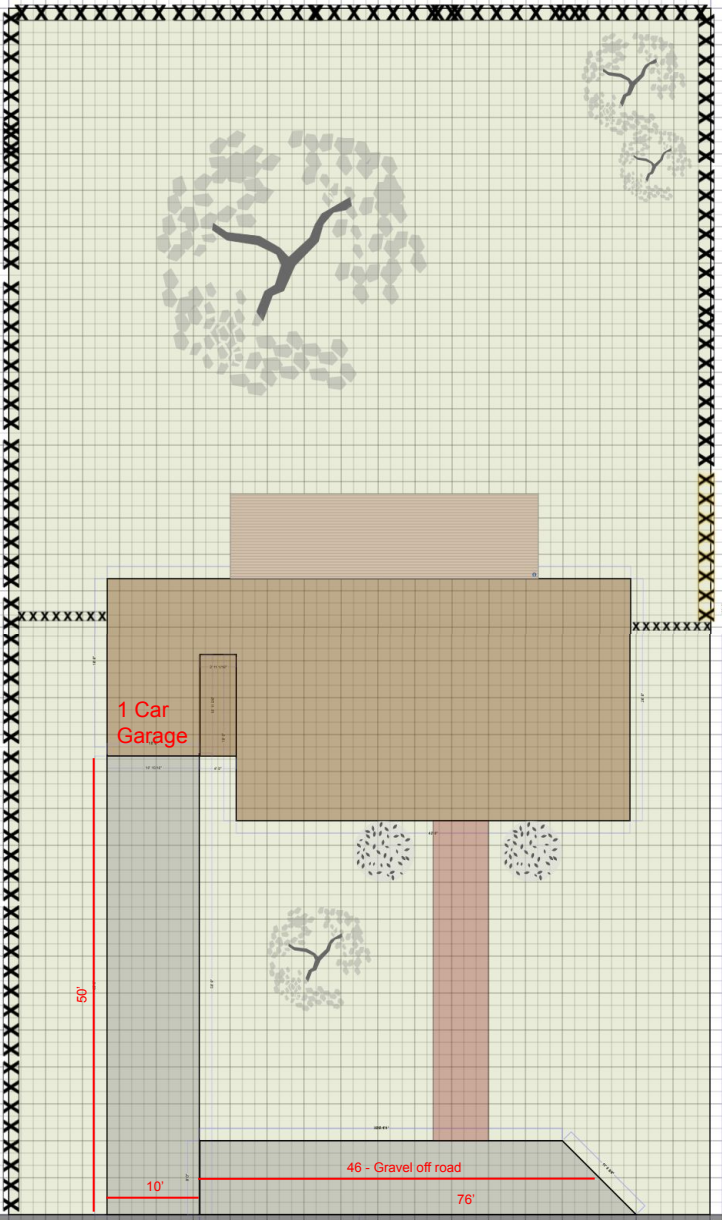


Virginia Geographic Information Network (VGIN)

2345 Birch Ave

11/10/2023





1 Car Garage

46 - Gravel off road

50'

10'

76'

