

Council Kills Special-Use Permit Request

By Tony Brown, Daily News-Record

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HARRISONBURG - Ted Byrd played sheriff at Tuesday night's regular City Council meeting.

He deputized the other four council members and led a unanimous posse to gun down a petition for a special-use permit for an old house on Old South High Street downtown.

He said the property owner was trying to get out of breaking the law.

"This was an illegal use from the getgo," the lone Republican on council said. "Sometimes, you gotta draw the line. This is begging for forgiveness instead of asking for permission. We're either a body of laws, or not."

Byrd was so persuasive that he converted Democrat Richard Baugh, who did a complete 180 on the issue.

As the elected council's representative on the appointed Planning Commission, Baugh was part of a unanimous decision by the commission to recommend council approve the petition.

The city planning and zoning staff also is on record recommending the change.

The owner of the home at 257 Old South High - a dead-end road left over from a widening project that diverted a section of South High Street about a block to the west - had been renting the home to five unrelated people in an area that allows two at the most.

That kind of arrangement is not unusual along Old South High, lined with older homes that have largely been given over to housing for students at nearby James Madison University, Adam Fletcher, the city's planning and community development director, told the council.

But many of them are nonconforming uses - properties being used that way before the area was zoned how it is today - or their owners had already sought city permission to use the houses as off campus student residences.

But the owner of the home in question, Glenn Loucks, had simply been allowing five people to live there in violation of the zoning code. That worked out fine until one of the neighbors complained, and city planning staffers investigated and gave Loucks 30 days to fix the situation.

Loucks, who owns the house through Ilex LLC, appealed the staff decision to the Board of Zoning Appeals, which sided with the staff.

The petition for the special use permit was Loucks' latest appeal. He had hoped the city would allow him to let up to four unrelated adults occupy his house.

He made his case for that Tuesday night, defending himself largely with the "but everybody does it" gambit.

Byrd wasn't having any of it and made a motion to deny, which independent George Hirschmann seconded without having to hear Byrd's stem-winder to the council's three Democrats.

Baugh came around first, and Chris Jones and Mayor Deanna Reed joined him, though not without thinking about it until the last moment, if the pauses before announcing their votes were any indication.

Loucks, contacted Wednesday, declined to comment, saying he was still working with the city on trying to arrive at a solution everybody can live with.

That might require a wholesale rezoning of the street to allow every home to accommodate up to four individuals. The street has only a handful of owner occupied dwellings versus more than 20 rentals, Fletcher said.

At Tuesday's meeting, Byrd indicated he might be inclined to at least think about reversing his position if such a rezoning petition were to come to the council, but made no promises.

Joint Session

Coincidentally, the Old South High standoff took place at a regular meeting that immediately followed a special joint session of the council with the Planning Commission to go over a single agenda item: the ongoing update of the 2011 comprehensive plan.

The sit down between the two bodies was brief and as inconclusive as expected, lasting only about half an hour.

But commission Vice Chairwoman Deb Fitzgerald did not gavel the session adjourned until after some friction.

In one corner, Byrd questioned whether the new version of the comp plan, which Virginia code says can concern itself only with land use and transportation, really needs to go into other areas of city policy at the lengths the last two did, in 2004 and '11.

He said he feared the latest iteration appeared to be headed in a similar direction.

Byrd argued that overdoing a document the code says can be general could come to make future councils feel bound to follow it despite changed circumstances.

The commissioners and other council members, at first silent, did not reply to his concerns directly.

And there was a flinty exchange between Reed and Jones, her immediate predecessor as mayor.

Jones asked city planner Thanh Dang whether efforts had been made to reach groups of citizens, such as recent immigrants, who might not be as likely as others to come to City Hall to participate in the public input process of the comprehensive plan.

Reed commented at one point during the ensuing discussion that such efforts should be made regularly when the city is seeking public input on other issues as well.

And Jones fired back that the council was dealing with the comp plan at the time, not other concerns.

The meeting quickly returned to the matters at hand.

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