

CITY OF CHARLOTTESVILLE
DEPARTMENT OF NEIGHBORHOOD DEVELOPMENT SERVICES
STAFF REPORT



REQUEST FOR A ZONING TEXT AMENDMENT

PLANNING COMMISSION REGULAR MEETING
DATE OF PLANNING COMMISSION MEETING: October 13th, 2009

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Date of Staff Report: September 23, 2009

Applicable City Code Provisions: §34- 41 (Amendments to the Zoning Ordinance), §34-796
(Use matrix – mixed use corridor districts)

Background

At the Planning Commission’s September 9th meeting, a zoning text amendment was unanimously initiated to study the feasibility of adding amusement centers to the permitted uses for the HW – Highway Corridor zone. The request was brought to staff by David and Forrest Mitchell, the owners of Bounce N Play of Charlottesville, who would like to open up an amusement center in the Seminole Square Shopping Center. When the Mitchells inquired about the zoning, staff discovered that amusement centers are not a permitted use in the HW zone.

An amusement center is defined as “any establishment, business, or location in which there are more than three (3) mechanical, electrical, or electronic devices used, or designed to be used, or entertainment or as games, by the insertion of currency, coins or tokens, or by the payment of money to have them activated, and any place of business, or portion thereof, containing more than one (1) billiard table for use by patrons of the business. Jukeboxes, rides and regulation size ten-pin or duck pin bowling alleys shall not, alone, form the basis of a determination that an establishment is an amusement center.”

Executive Summary

This is a proposed zoning text amendment to amend §34-796 to allow amusement centers as a by-right use in the city’s HW mixed use districts.

Study period and public hearing

Once an amendment has been initiated by City Council, it is deemed referred to the Planning Commission for study and recommendation (City Code §34-41(d)). From the time of initiation, the planning commission has **100 days** in which to make its recommendation to City Council, or else it will be deemed to be a recommendation of approval. **If the Planning Commission initiates the request, the 100 day recommendation requirement does not apply.** Staff will provide the Planning Commission with reports and analyses as appropriate and a joint public hearing will be scheduled for the next available date.

Standard of review

As per §34-42 of the City Code, if initiated, the planning commission shall review and study each proposed amendment to determine:

- (1) Whether the proposed amendment conforms to the general guidelines and policies contained in the comprehensive plan;
- (2) Whether the proposed amendment will further the purposes of this chapter and the general welfare of the entire community;
- (3) Whether there is a need and justification for the change; and
- (4) When pertaining to a change in the zoning district classification of property, the effect of the proposed change, if any, on the property itself, on surrounding property, and on public services and facilities. In addition, the commission shall consider the appropriateness of the property for inclusion within the proposed zoning district, relating to the purposes set forth at the beginning of the proposed district classification.

Proposed Zoning Text Change

Revise the Mixed Use (§34-796) matrix as follows:

- Place a “B” in the row labeled “Amusement Center”, located in the Non-residential: General and Misc. Commercial section, under the HW zoning district column.

Standard of Review Analysis

1. Whether the proposed amendment conforms to the general guidelines and policies contained in the comprehensive plan;

The amendment is consistent with the 2025 Land Use Plan shown in the 2007 Comprehensive Plan. The plan’s goals call for the city to maintain a zoning ordinance that incorporates newer forms of mixed-use type of development desired by the community. In addition, the city is to promote land use that maintains and enhances the city’s role as a regional market place, without sacrificing the quality of life and environment. The amendment is consistent with these goals because it would permit an additional, unique mixed use in a zoning district intended for intense commercial development.

2. Whether the proposed amendment will further the purposes of this chapter and the general welfare of the entire community;

The purposes of the chapter would be furthered by this amendment. An approved amendment would encourage economic development, and would be an example of regulating and restricting the location of trades and industries. Allowing amusement centers in an appropriate zone like the HW – Highway Corridor gives additional recreational options for Charlottesville citizens, which promotes the general welfare.

3. Whether there is a need and justification for the change;

The original requestors, Bounce N Play of Charlottesville, would need an approved amendment in order to open their business under their current plan. If the amendment were not adopted, Bounce N Play would need to alter their business plan to conform to the zoning or find a location in a zone that permits amusement centers.

4. When pertaining to a change in the zoning district classification of property, the effect of the proposed change, if any, on the property itself, on surrounding property, and on public services and facilities.

This zoning text amendment does not include a change in the zoning district classification of any particular property.

Public Comment

No public comment has been received at this time.

Recommendation

Amusement centers would be a harmonious use for this zone that would have minimal impacts on the surrounding businesses and residences. It is not staff’s opinion that allowing amusement centers in this zone would create a surplus that would harm the surrounding uses. The use is already permitted in the majority of zoning districts by special use permit, but staff is comfortable with by-right permission due to the intensity of use that is generally permitted in this zone.

Staff would support a recommendation by the Planning Commission to allow amusement centers in the HW – Highway Corridor zone.

Appropriate Motions

1. “I move to recommend approval of this zoning text amendment to amend and re-ordain Section 34-796 of the Code of The City of Charlottesville, 1990, as amended (Zoning Ordinance), to permit amusement centers as a by-right use in the Highway Corridor on the basis that the changes would serve the interests of (*public necessity, convenience, general public welfare and/or good zoning practice*).”
2. “I move to recommend approval of this zoning text amendment to amend and re-ordain Section 34-796 of the Code of The City of Charlottesville, 1990, as amended (Zoning Ordinance), to permit amusement centers as a by-right use in the Highway Corridor on the basis that the changes would serve the interests of (*public necessity, convenience, general public welfare and/or good zoning practice*) with the following additions, modifications:
 - a.
 - b.

on the basis that the changes would serve the interests of public necessity, convenience, general public welfare and good zoning practice.”

3. “I move to recommend denial of this zoning text amendment to amend and re- ordain Section 34-796 of the Code of The City of Charlottesville, 1990, as amended (Zoning Ordinance), to permit amusement centers as a by-right use in the Highway Corridor on the basis that the changes would not serve the interests of (*public necessity, convenience, general public welfare and/or good zoning practice*) for the following reasons:”

Enclosures

Initiation request letter

Bounce N Play description narrative