



# City of Harrisonburg

City Hall  
409 South Main Street  
Harrisonburg, VA 22801

## Meeting Minutes Planning Commission

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Wednesday, June 9, 2021

6:00 PM

Virtual

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### 1. Call To Order

The Harrisonburg Planning Commission held its regular meeting on Wednesday, June 9, 2021 at 6:00 p.m.

Chair Finnegan called the meeting to order and said that there was a quorum with six members present. This meeting will be held as an electronic meeting due to the emergency and disaster represented by the spread of COVID-19. This meeting will be conducted by the following electronic communication means: electronically through GoToMeeting and Granicus. The public had the opportunity to provide comments in advance via email and will have the opportunity to provide comments by phone at designated times during this meeting. Because calls are taken in the order that they are received, we ask that the public not call the comment line until the item you are interested in is being presented or discussed.

**Present** 6 - Brent Finnegan, Jim Orndoff, Adriel Byrd, Kathy Whitten, Richard Baugh, and Laura Dent

**Absent** 1 - Isaac Hull

### 2. Roll Call/Determination of Quorum

Members present by electronic, video communication: Jim Orndoff; Kathy Whitten; Richard Baugh; Laura Dent; Adriel Byrd, Vice Chair; and Brent Finnegan, Chair. Members absent: Isaac Hull

Also present: Thanh Dang, Assistant Director of Community Development; Alison Banks, Senior Planner; Adam Fletcher, Director of Community Development; Wesley Russ, Assistant City Attorney; and Nyrma Soffel, Office Manager/Secretary.

### 3. Approval of Minutes

All members voted in favor of approving the May 12, 2021, Planning Commission minutes (6-0).

#### 3.a.

### 4. New Business - Public Hearings

- 4.a.** Consider a request from Harman Realty Inc. and Stone Spring Holdings LLC for a special use permit to allow multi-family dwellings of more than 12 units per building at

**650 and 680 Stone Spring Road**

Chair Finnegan read the request and asked staff to review.

Ms. Banks said that the Comprehensive Plan designates this site as Medium Density Mixed Residential. These areas have been developed or are planned for small-lot single-family detached and single-family attached (duplexes and townhomes) neighborhoods, where commercial and service uses might be finely mixed within residential uses or located nearby along collector and arterial streets. Mixed-use buildings containing residential and non-residential uses and multi-family dwellings could be appropriate under special circumstances. Attractive green and open spaces are important for these areas and should be incorporated. Open space development (also known as cluster development) is encouraged, which provides for grouping of residential properties on a development site to use the extra land for open space or recreation. Like the Low Density Mixed Residential designation, the intent is to have innovative residential building types and allow creative subdivision designs that promote neighborhood cohesiveness, walkability, connected street grids, community green spaces, and the protection of environmental resources or sensitive areas (i.e. trees and floodplains). Residential building types such as zero lot-line development should be considered as well as other new single-family residential forms. The gross density of development in these areas could be around 20 dwelling units per acre. Commercial uses would be expected to have an intensity equivalent to a Floor Area Ratio of at least 0.4, although the City does not measure commercial intensity in that way.

The following land uses are located on and adjacent to the property:

Site: Vacant land, zoned R-5C  
North: Townhomes and apartments, zoned R-3  
East: Vacant land and detached single-family dwelling, zoned R-5C  
South: Apartments and vacant land, zoned R-5C  
West: Across Interstate 81, Industrial uses, zoned M-1; and a City park, zoned R-1

The applicant is requesting a special use permit (SUP) per Section 10-3-55.4(1) of the Zoning Ordinance to allow more than 12 dwelling units per building within the R-5, High Density Residential District. The subject property consists of portions of two separate parcels. The property owner and developer intend to subdivide these two parcels and eventually create a +/-17.05-acre parcel to be located at the end of Leland Circle. The applicant has provided a proposed site plan showing an apartment complex consisting of 265 dwelling units. If the SUP is approved, at least three of the apartment buildings will contain more than 12-dwelling units.

This site is a portion of a larger +/-72.6-acre area that was rezoned in February 2008 from R-3, Multiple Dwelling Residential District to R-5C, High Density Residential District Conditional. Specific proffers with the rezoning included a public street that would loop through the property and for it to be completed when 60 percent of total site development occurred. The proffers also included for the public street (now known as Leland Circle) to align with Ramblewood Road. Other proffers included green space, a bike/multi-use path, and limiting the total number of residential units to 1,054. The applicant also agreed to dedicate the necessary right-of-way and

easements for the Erickson Avenue/Stone Spring Road improvement project.

Currently, “The Overlook,” a 180-unit apartment complex situated on +/-14.4-acres of the original tract, is the only other development located on the R-5C site. In November 2008, The Overlook received favorable recommendations from staff and Planning Commission, and unanimous City Council approval to Section 10-3-55.4(1) in order to construct buildings with more than 12-dwelling units per building. However, The Overlook ultimately decided against that design for their development and instead has 15-buildings with 12-dwelling units in each. The SUP for that site has since expired.

The requested SUP does not change the allowed uses or proffered density for the area. Staff believes that the SUP requested is consistent with good zoning practice and will have no more adverse effect on the health, safety, or comfort of persons living and working in the area and will be no more injurious, economically, or otherwise, to property or improvements in the surrounding area. Staff recommends approval of the SUP.

Chair Finnegan asked if there were any questions for staff.

Chair Finnegan asked Commissioner Baugh if he was on the Planning Commission in 2008, and if so asked if he would add any context to the original SUP for The Overlook.

Commissioner Baugh said that he was on the Planning Commission at that time. To be precise, it is not that The Overlook was approved in 2008. It was the SUP.

Ms. Banks said that is correct. The SUP for The Overlook to construct buildings with more than 12 dwelling units was approved in November 2008. The entire 72-acre parcel was rezoned in February 2008 from R-3 Medium Density Residential to R-5 High Density Residential Conditional.

Commissioner Baugh said that his recollection was that it was not unanimous. The SUP at the end of the year was, but the original rezoning was not. I am pretty sure I was one of the people who voted against it. One of the things that was discussed that may have been one of the critical issues that allowed the majority to vote for the density being capped at the old R-3 level. The issue was that this came up not too long after the R-3 change. While I still did not support it, I could understand the R-5 Conditional wanting to keep pace with what they had had in the R-3. They were trying to argue that it was neutral, but they wanted increased density. This is one of those parcels that was part of that transition. It was an undeveloped R-3 tract and the owner was concerned about the R-3 change. The R-5 Conditional was an attempt to preserve that without having to develop it right then, which would have been the other option. When it came up later for the SUP, it was about adding flexibility to the rezoning that had already been approved. We all voted for that. That is the way that I remember it.

Chair Finnegan asked when did the Stone Spring-Erickson connector road open?

Commissioner Baugh said that was later, within a few years. When that first was done, that was a project that was in line for a number of years. The entire Erickson Avenue extension, like so many things, was subject to available funding. It was the recession era relief that got us the funding to do much of that. It went from a project that sat, to getting largely done in the 2009 forward era.

Chair Finnegan said that he was trying to contextualize when the density was increasing on that road, in that area.

Commissioner Baugh said that down the road there are some single-family dwellings up the side of the hill. Those were developed on the old road. A lot of the stuff in there was developed before the road was improved.

Mr. Fletcher said that based on the City's website for the project history, it appears that Phase 2, which is the section we are talking about, was constructed between July 2010 and November 2012.

Commissioner Whitten asked if the City schools had any comment about this development.

Ms. Banks said that the City schools had no comment. They received the same information and provided no comment.

Chair Finnegan asked if there were any more questions for staff. Hearing none, he opened the public hearing and invited the applicant or applicant's representative to speak to their request.

Seth Roderick, Monteverde Engineering and Design Studio, spoke on behalf of the applicant. The developer of this project is Valeo Development LLC. We have a couple of representatives on the line with us tonight. The applicant as shown on the application is Harman Realty, Inc., the landowner. Valeo is the contract purchaser. The Harman's are not seeking to develop the property. They are seeking to sell the property. Valeo is seeking to develop. This is part of their due diligence process.

Staff did a great job explaining the project. This SUP is not to create or allow any of the uses presented or proposed. Those uses are already zoned by-right. What we are seeking to do is to allow for more than 12 units in a single building. We have three buildings that are designated for more than twelve units. Valeo has worked through a very successful model, recently, for Clemson University. This is seeking to build off of that model. What they have been successful with is to have and maintain a good portion of the property as open space. As you saw in the schematic presented earlier, we do have large central lawn that is a key feature for this development and will be a big benefit for the residents. In order to do that, we have to group. It is dependent on massing more than 12 units in a single building. The more units that go into a single building, the more of that space can be left open. It is important to note that the cap on that total property is 1,054 units. When that was rezoned and land was dedicated for Stone Spring Road, they

maintained the density that was on that parcel. That cap of 1,054, minus the further action of City Council, is not going to change. With a SUP application such as this, it allows for those units to be massed into single buildings and therefore preserve some of that finite mass of land area for open space.

Councilmember Dent asked what the difference between a cottage and a townhome is on the preliminary drawing. What is a cottage?

Mr. Roderick said that it is the nomenclature used by the developer. They are very similar in style. From a City's definition standpoint, they will all fall under the townhouse definition. It is more of a stylistic difference.

Hal Grayson, Valeo Development LLC, spoke regarding the request. The project is a combination of what we call cottages, townhomes, and apartments. We like to have a lot of green space. We have a dog park and amenities. By being able to group the density in the larger apartment buildings allows us to have a larger village green, which is a real focal point for the community. There is not much difference between cottages and townhomes. It is what we call it, internally. We like to mix up the look of the building, so that it looks more like a community. We have a streetscape and lots of landscaping.

Commissioner Whitten asked if there were photos from the Clemson development. I assume that has already been built.

Mr. Grayson said he does not believe that photos were provided. You can look EPOCH Clemson on the internet, you will find a website that can give you some pictures.

Commissioner Whitten asked how long the development in Clemson has been open.

Mr. Grayson said that it has been open for about two years. We are on the other side of the lake. We have a lot of lake frontage. We even built some boat docks and swim docks. It is a really cool community. We call it an academic village because we market it, not just to students, but to junior faculty and grad students. What we are seeing is that there are also a lot of companies that like to hire recent grads. They create special programs and the residents like this kind of academic village. We have a lot of features to it, including meeting rooms, study rooms, places that the residents can gather, a coffee shop with free coffee and tea, and the regular amenities that you see in most apartment communities with a pool, and so on.

Commissioner Whitten asked how many bedrooms are in a cottage versus a townhouse versus an apartment.

Mr. Roderick said that there are anywhere from one to four bedrooms across the board. The average was about three. I do not recall the exact mix.

Mr. Grayson said that sounds accurate.

Councilmember Dent said that the Clemson development has four or six bedroom cottages. That is different from what we have here.

Mr. Roderick said that the City of Harrisonburg caps the number of bedrooms at four. There are no more than four with this project.

Ms. Dang said that, to clarify, we cap the number of individuals who can occupy the space. If the desire is to have one individual per bedroom, then in effect it is a cap of four bedrooms, but we do not cap the number of bedrooms.

Chair Finnegan said that it is how the leases are structured, correct? You are leasing one bedroom at a time?

Mr. Grayson said that it is by the bed. In Clemson, there was no cap on the number of bedrooms, so we did some six bedroom cottages. Here we had to modify that to comply with the code in Harrisonburg.

Commissioner Whitten said that it sounds more like undergrad and an opportunity for fraternities.

Ms. Dang added a point of clarification regarding definitions in the Zoning Ordinance. When Mr. Grayson and Mr. Roderick are talking about townhomes, we consider those townhouse-style apartments because they are not on individual subdivided lots. The style that they are describing would look like a townhouse.

Chair Finnegan asked if there were any questions for the applicant's representative. Hearing none, he asked for the next caller. As there were no more callers, he closed the public hearing and opened the matter for discussion.

Chair Finnegan asked Commissioner Whitten if she is opposed to the four-bedroom, four leases per unit, cottage style apartments anywhere in Harrisonburg or just in this location.

Commissioner Whitten said that she is not necessarily against them. I do have concern that we have single-family homes and a school that are in proximity to this property. I know that we did get a letter from a family that lived in Woodland and moved away from there because of noise issues and other issues related to student housing. I do not think that we currently have a need for student housing. We have a need for housing, but it is not for student housing. Clemson and Harrisonburg compare fairly well. It sounds like Clemson zoning is a little lacking, perhaps. That would have been my comment in 1987 when we lived there, too. I do think that more and more we are seeing fraternities move away from campus; I do not really know if fraternities are existing on campus now. I know there are certainly a multitude of problems related to fraternities as we all read in our newspapers, with alcohol, and fraternities are looking for places to exist. That usually

is places that have a large number of bedrooms where people can cohabitate. We need to be aware that it can be a concern for lifestyle issues for people who would like to have a more stable lifestyle than a student lifestyle. I do have a concern about approving large numbers of apartments for students when we do not have a need that exists in our community. I believe that we are probably over-built by just about anybody's standards for student housing.

Commissioner Baugh said that the layout is conceptual, correct? It is not proffered.

Ms. Banks said that is correct.

Commissioner Baugh said that is not unusual. Does that mean that the SUP as it is right now... Am I reading it right that while they presented the conceptual drawing with three buildings that could have an increased number of units, they are not limited to that, right?

Ms. Banks said that they are demonstrating three buildings on the layout, but the SUP is with the property. Unless there is a condition that limits it, you are correct.

Commissioner Baugh said that the limit here is the limit that was placed on the entire tract, right? My point is that they could actually put a whole lot here and the issue of limits on the existing proffers does not come up because they still have a lot of room to go because roughly half of this tract remains undeveloped. Is that right?

Mr. Fletcher said that he needs to understand the context of the question. When we are talking about limits and units and numbers, the SUP is for the number of units in buildings. The proffer is limiting the number of units on the entire parent tract. What has been discussed is that it is sort of a first come first served kind of deal where however many units are constructed on portions of the property as it evolves, the last piece will get whatever is left. Of course, as we all know, we are writing a new Zoning and Subdivision Ordinance. Depending on what you and City Council decide as to what uses are applied to which parcels, it could change in the next six months.

Commissioner Baugh said that if we approve the SUP as it is right now, we are saying that they can put however many units in the buildings that they can otherwise fit in on the rolls. They are not limited to three buildings. They are not limited to 14 as opposed to 12. They can put six buildings with more than 12 units if they can otherwise fit that into the tract. You are nodding your head like I am correct, Mr. Fletcher.

Mr. Fletcher said that he would add that ultimately, the entity that owns the property is going to perform a subdivision to purchase the property. The area in which they purchase will still have density limitation based on the square footage that they purchase.

Commissioner Baugh said that is what he meant by- there are other rules that apply. It is not just that they can build as many 865s as they can cram in the place. I am not saying that. Nonetheless, as to the number of buildings, they can creep it up. The thought that I have had, and I know that

we have discussed this some years ago on some other developments, is the concern that: I have a large tract, I proffer that I will never have more than 1,000 units on that tract, I develop it in five stages, by the time I have completed four, I have 980 units of that 1,000, and a substantial amount of undeveloped land left. I wonder what kind of request we are going to get then? Is it going to be to move that cap? I am mindful of that. The other thing that I want to mention alludes somewhat to what Commissioner Whitten is talking about from a different direction. This tract is zoned and planned medium density residential. It was planned and zoned that in 2008 when we voted for the R-5 Conditional. It was an old R-3 parcel. It was already medium density. A big chunk of it has already been developed consistent with that. I have a little bit of pause about fighting back too much when it looks so much like a proposal that is consistent with what is there and consistent with the planning. Where I think the disconnect is sometimes, is that when we are asked to approve other projects like this in other places of the City... Another way of looking at this, for instance, is when you say that whatever is driving this is not the need for new student beds. We do not need new student beds. Maybe other reasons are driving this, but it is not a need for new student beds. In a weird way, one of the reasons that I think that we ought to at times be more conservative about how we look at those types of developments in other parts of the City is that you have places like this that were already kind of planned for. It illustrates this point that I think we need to be mindful of all the time, and that is that the pressures to allow this type of increased density come at us from twelve directions all the time. There is a tendency to view these things in isolation because they come to us piece meal. None of which changes the fact that this is a piece of property that is already planned and zoned for medium density residential. In many respects, I wonder whether there may be a basis for approving the SUP because it does look like in the general sense it is consistent with the planning, but we can put additional conditions on it. For example, they have done a conceptual drawing and we can say that it is three buildings on the property.

Chair Finnegan clarified that without the SUP, with the property zoned as it is, they would be able to put those quad unit apartments like you see on Port Republic Road and Hunter's Ridge. They would be able to put those there by right. This is more about massing, more like 865 on Port Republic Road, lumping more of these buildings together. I know that the conceptual design is not proffered. Given what is all along Port Republic Road and what is all along Devon Lane, townhouses or quad apartments, I like that this is something different. The layout is different. Looking at some of the items from Epoch in Clemson, it is set up in a way that is not all parking lot and has shared use spaces. I would be in favor of this, given what they can build there by right versus this different massing of buildings. I prefer this to more of the same of what we already have on Port Republic Road.

Commissioner Baugh said I agree with almost everything Chair Finnegan said. That is largely why the SUP was approved in November 2008. There is that aspect that we like getting away from that uniform three story, twelve units per building. We were trying to get away from this. This proposal moves in that direction. The issue is that there are no limits that are proffered. The other issue is that the SUP is not particular to the property owner. We might think that Epoch is doing well, but they end up selling and the next developer that buys it gets the level of flexibility that we



may have assumed was not going to get applied to this parcel. I agree with this idea of getting away from that uniformity and look. For those of us who opposed the original rezoning from R-3 to R-5, it was because we recognized where the property is. We recognized that the other side of the hill is Devon Lane and Port Republic Road. We knew that it made sense to go there whether you were crazy about it or not. Where we butted heads was for those of us who wanted to see even more of what already existed. It never got zoned or planned that way, but this would have been a great mixed use property if it had not been zoned like that, if you really had a lot of flexibility with it.

Councilmember Dent said that she likes the massing of density to clear out a larger greenspace. Looking at the map, the property backs up to Devon Lane, but is on Stone Spring Road. That makes it somewhat less convenient to JMU. You cannot go directly to Port Republic Road. You have to go around to Peach Grove Road up to Port Republic Road. I saw in the description that there was an offer of shuttle buses to JMU, is that is right?

Ms. Banks said that they discussed the possibility of shuttle buses.

Councilmember Dent said that it is a shame that you cannot cut through from Leland Circle to Devon Lane.

Commissioner Baugh asked whether the Devon Lane development put buildings in the spots where you could do that?

Ms. Banks said yes.

Commissioner Byrd said that if we consider approving the SUP that would enable that particular part of the main tract to add on a number of units more, getting closer to the cap limit. That issue is more for the property owner who would be responsible for finishing off the circle. Staff presented in the discussion that once there are a certain number of units on the main tract, the circle is finished. Correct?

Ms. Banks said, yes, once the overall density reaches 60 percent. When the current property owners subdivide and carve out the 17 acres for this particular development, the developer will be held to what that density is for those 17 acres. They cannot build all of the remaining 900 dwelling units that are permitted.

Commissioner Byrd said that he sees no reason why the property owners would want to sell to someone who would put too many units on one portion of the land, when they know that, in the future, they are going to have to finish that circle with a finite set number of units, unless they plan on coming back to us.

Commissioner Byrd moved to recommend approval of the SUP, as submitted.

Commissioner Orndoff seconded the motion.

Commissioner Whitten said that she would be happier if this development was mixed use that might include housing for families or single persons looking for a place to live. I know that is not what this is. If the developer's representative is still listening in, since they brought up Clemson, I am wondering about the litigation against the developer in Clemson over this particular development. It seems like they were not fulfilling all their obligations to build the development or to pay the people who were building the development. That gives me some concern. Could you comment on that?

Mr. Grayson said that when it was being built there were a lot of weather delays. Our lender stopped our funding. We did work out finishing and we are 100 percent leased for this fall. We resolved all that.

Mr. Fletcher said that he recalls that there was discussion regarding getting bicycle paths over to Devon Lane through the private properties, cutting through different sections where there was some open space, recognizing the difficulty of two private entities trying to figure that component out. Knowing that what we are talking about is a SUP to a building where there are by right abilities, the overall big picture of trying to connect multiple transportation options.

Mr. Roderick said that the bike and pedestrian plan shows a connection between this property and Devon Lane hugging I-81. It is probably not the best location for a sidewalk or shared-use trail. The way it was left was for that item to be followed up on during the site plan review process. There will be a connection that will be necessary through there. We do have some topographic challenges that we will have to work around and try to figure out how to best apply for that. So, yes, that is the case due to the existing notation within the bike and pedestrian plan.

Mr. Fletcher said that he wanted to bring that up because there is always a lot of conversation behind the scenes about things that we try to help make the presentation of whatever gets developed there the best that it can be from all the different components of the things that we are trying to do for the community. Commissioner Baugh, was some of your conversation earlier about whether or not Planning Commission is interested in conditioning the SUP to a certain number of units per building? If there was concern that what you are looking at seems to be okay from an aesthetic of the layout, but would the Commissioners feel differently if it was two buildings where the 265 units were made up between the two buildings? Planning Commission has the authority to put a cap on the number of units per building, if you so desire. Mr. Roderick, can you say how many units is the maximum amount of units you plan to have in one particular large building?

Mr. Roderick said that he would have to look for the number. It will have to be changed slightly because it has to do with the amenity spaces that go into each building. There are going to be some architectural modifications to the buildings footprints that have not been finalized. We do not have an architect on staff yet to be able to say officially. Placing a very specific cap would be a

possible concern. I will try to find that number.

Mr. Fletcher said that he was doing an approximation based on an image that he saw. Based on that image, it looked like the larger buildings may have about 30 to 32 or so units. If Planning Commission desires, if you have concerns about the massing of the building or a certain size of the building is too large, knowing that there is the reality that this developer buys it but then chooses to sell to someone else and that somebody else comes in with a different plan, you could put a cap on it. If it is 40 units, there could be no more than 40 units within one particular building, for example. Is that what you were trying to get at, Mr. Baugh?

Mr. Roderick said that he found information in the Traffic Impact Analysis (TIA). On the TIA, we were showing 50 unit buildings. The three large scale buildings were 50 units each.

Mr. Grayson said that he thinks that is correct. We got 150 total units in the three apartment buildings. I do not know if they are all equal. We prefer not to have a cap, so that we have the flexibility to make it fit the site. We have a lot of topography to work with and we want to have as much open space as we can.

Councilmember Dent said that if we want to explore the idea of a cap, whether it is more than something like “no more than three large buildings” however we define that or “no more than X number of units per large building.” I hear you say that you would rather not have a cap for the flexibility, for example the land layout turned out that you wanted a 60 unit building. I do not know how much good it would do to have those caps or what we would be trying to protect against. I hear that it is in case there is some revision that suddenly someone is stacking in six 50 unit buildings. That is much more density than we are looking for.

Commissioner Whitten said that is the point. That is the concern that we have. It is certainly legitimate for us to say that we would like a cap. I do not know any developer that would ever say that they want a cap, unless it is a baseball cap. That is why we are here, to look after the best interests of the residents of our City. I would be in favor of exploring what would be a reasonable ask. I think that there is a lot of vagueness about what possibly could happen here. Mr. Fletcher, is that fair?

Mr. Fletcher said that it is entirely within your authority to decide whether or not you want to give control to the size of the building.

Chair Finnegan asked Mr. Russ what language would be necessary. It is too vague to say “the three large buildings...” If we were to put conditions on this, what words would need to be used? The drawing that I am looking at shows three large buildings.

Mr. Russ said that the SUP is to allow for more than 12 units per building. You could say “no more than three buildings with more than 12 units.” You could set a cap on the number of units in each of those buildings. It would still leave them the option of buildings that had eight or ten units.

Mr. Fletcher said that another option would be to say that no single building shall have more than X number of units.

Mr. Russ said that you could go with one or both of those, if you wanted to hold them to three buildings with no more than 50 units in any single building.

Commissioner Byrd said that The Outlook is the highest portion of land, of the topography. This tract is going downward. Its neighbors would be The Outlook and the properties on Devon Lane and the highway. The size of those buildings would matter to whom? That is the part that I am not understanding. Unless they built one tower, I am not following why capping any building in particular. What neighbors would be concerned is the part that I am struggling with in this conversation. That is why I presented the motion as is in the first place. The other neighbors, having driven on that road, there are no neighbors. The circle is not even finished yet. It is just wilderness, currently.

Commissioner Whitten said that is wilderness, undeveloped land. At this point, in the City of Harrisonburg it is very rare to have undeveloped land. You are casting the die for future development of whatever undeveloped land that there is. Look at it that way.

Commissioner Byrd said that he is looking at this that way. The main tract has a cap on units. Unless we, in the future, are going to change that cap...

Chair Finnegan said that what this request is about is the massing. We are not increasing the density. We are increasing the massing of the buildings, the arrangement of the units. I do not think that there is a concern from the neighbors of it blocking the view. I do not think that is the issue here.

Mr. Roderick said that, referring to Ms. Dang's definition point earlier, if these townhouses, which we have been calling cottages or townhouses, are to be grouped as and deemed as apartments, we have several five bay cottages. That is townhouses that are lumped together. If those five have more than twelve total units, which they would, depending on how it is defined. We want to make sure that our requests and the layout that we presented is not going to be significantly deterred based on upon a condition. We are not trying to go for more than what we have shown, but we want to make sure that a condition is not applied that would hinder that. I want to make sure that we are on the same page as to what constitutes a unit and what type of limitations are being presented to where we are not unintentionally further restricting.

Chair Finnegan said that we have a motion and a second. We can put this to a vote, as presented. Procedurally, do we need to go ahead and vo

**A motion was made by Byrd, seconded by Orndoff, that this PH-Special Use Permit be recommended to full council to the City Council, due back on 7/13/2021. The motion carried with a recorded roll call vote taken as follows:**

**Yes:** 4 - Finnegan, Orndoff, Byrd and Dent

**No:** 2 - Whitten and Baugh

**Absent:** 1 - Hull

## 5. New Business - Other Items

### 5.a. Consider a request from Henry T. McBride Jr. and Lola H. McBride to preliminarily subdivide two parcels addressed as 1255 Greendale Road

Chair Finnegan read the request and asked staff to review.

Ms. Dang said that the Comprehensive Plan designates this site as Low Density Mixed Residential. These areas have been developed or are planned for residential development containing a mix of large and small-lot single-family detached dwellings, where commercial and service uses might be finely mixed within residential uses or located nearby along collector and arterial streets. Duplexes may be appropriate in certain circumstances. Mixed use buildings containing residential and non-residential uses might be appropriate with residential dwelling units limited to one or two dwelling units per building. Attractive green and open spaces are important for these areas and should be incorporated. Open space development (also known as cluster development) is encouraged, which provides for grouping of residential properties on a development site to use the extra land for open space or recreation. The intent is to have innovative residential building types and allow creative subdivision designs that promote neighborhood cohesiveness, walkability, connected street grids, community green spaces, and the protection of environmental resources or sensitive areas (i.e. trees and floodplains). Residential building types such as zero lot-line development should be considered as well as other new single-family residential forms. The gross density of development in these areas should be around 7 dwelling units per acre and commercial uses would be expected to have an intensity equivalent to a Floor Area Ratio of at least 0.4, although the City does not measure commercial intensity in that way.

The following land uses are located on and adjacent to the property:

Site: Vacant land; zoned R-1

North: Vacant land; zoned R-1

East: Agricultural land with single-family dwelling in Rockingham County; zoned A2

South: Land under development for single-family dwellings in Rockingham County; zoned A2 and PSF

West: Single-family detached dwellings; zoned R-2C and vacant land in Rockingham County, zoned PSF

The applicant is requesting to preliminarily subdivide two parcels in the City that are bisected by Greendale Road into 11 parcels for single family detached dwellings and two residual parcels that

would be +/- 1.31-acres and +/- 5.86-acres. The +/- 9.19-acre site is part of a larger +/- 91-acre property, of which +/- 81.81 acres is located in Rockingham County.

A 12-inch public water main and an 8-inch public sanitary sewer main are located within the Greendale Road right-of-way to the west of the proposed lots. Both water and sewer will be extended by the developer as part of the proposed subdivision.

The preliminary plat describes the required 10-foot public general utility easement along the front lot lines and centered on all other lot lines. The preliminary plat also illustrates the location of the proposed stormwater best management practice (BMP) area.

As described in Note #5 and illustrated on the preliminary plat, as part of the subdivision, the applicant will dedicate right-of-way for Greendale Road to achieve 56-feet of public right-of-way width, which will allow for a street cross section that matches the existing cross section to the east with the addition of a future sidewalk on the north side of Greendale Road with a 4-foot grass buffer strip.

Recently, staff has been discussing the City's authority to require improvements by developers to the City's existing roads. For the subject section of Greendale Road, the developer will be required to construct sidewalk along the south side of Greendale Road or bond the improvements prior to final platting. Section 10-2-61(c) of the City's Subdivision Ordinance does not require sidewalk construction on the north side of Greendale Road because there is not existing sidewalk adjacent to the subject site. Other potential improvements, if any, will be determined at the engineered comprehensive site plan phase, depending on the specific needs of the site.

The preliminary plat meets requirements of the Subdivision Ordinance and Zoning Ordinance, and staff recommends approval.

Chair Finnegan asked if there were any questions for staff. Hearing none, he invited the applicant or applicant's representative to speak to their request.

Ed Blackwell, Blackwell Engineering, spoke on behalf of the applicant. This is a by right subdivision. We are not asking for a rezoning. We are keeping it R-1, at the R-1 lot size minimum or larger. We think it is straightforward. We are working with the City on water and sewer and right-of-way. We will work with staff on all the improvements we need to do according to Code. We are extending the recently passed subdivision in town to the west and providing 11 lots for the landowner to sell. I can answer questions regarding utilities, traffic. One of the owners is on the phone for any questions regarding the property. We will work out all the details with staff for the construction and that will reflect easements and other things for the final plat.

Chair Finnegan asked if there were any questions for the applicant's representative. Hearing none, he opened the matter for discussion.

Commissioner Whitten moved to approve the preliminary plat, as requested.

Commissioner Byrd seconded the motion.

Commissioner Baugh said that he supports the preliminary plat. This is one of the issues that I know was red-flagged in the Zoning and Subdivision Ordinance rewrite. We talk about all of this that can be affected by the Ordinance change. One of them is whether this review of preliminary plats on these larger tracts that we do at the Planning Commission level is something we are going to keep. I am not saying that we are resolving that right now. If this were a smaller lot, we would not be hearing this. It would be routinely approved.

Chair Finnegan said that he agrees. This is a straightforward request. We are not increasing traffic or density with this. I would be in favor.

Councilmember Dent said that she is in favor of it, as it stands. I am curious about what is happening with the larger site extending into the County. Does it become a full-scale development and does that have indirect effects on increasing traffic in the City? This is one of those straddling the City-County borders and I wonder if there are implications that we ought to think about.

Mr. Blackwell said that there are no plans for a housing development in the county portion at this time, or even on the radar by the owner. We are looking at another parallel street to Greendale Road that dead-ends on the property. We may come back in a year or so to extend that street with a few lots. At this time, it is not being pursued. There was a development that started going to the County on the Daly property, which is north of the McBride property. It went to the County for some preliminary discussions with the County staff about rezoning part of that and came to the City for a portion that was in the City limits along Ridgedale Road. That has not gone very far either. I assume that whatever we do, or if we extend that parallel road, we may have to tie into the Daly property. If it starts going up there and the Daly's start to develop, there may be some inter-parcel connectivity, but we are not planning on doing that for the County portion of the McBride property at this time.

Commissioner Byrd said that he would vote in favor. I have noticed that when we have had preliminary plats coming before us, there has been a lot of discussion about sidewalks. There was one recently with a long discussion about the sidewalk and its position.

Chair Finnegan said that if we are not talking about parking, we are talking about sidewalks. This is the Harrisonburg Planning Commission; we take our sidewalks seriously.

Chair Finnegan asked for roll call vote.

Councilmember Dent	Aye
Commissioner Byrd	Aye
Commissioner Orndoff	Aye

Commissioner Whitten Aye  
Commissioner Baugh Aye  
Chair Finnegan Aye

The motion to approve the preliminary plat passed (6-0).

**A motion was made by Whitten, seconded by Byrd, that this Action Item be recommended to full council to the City Council, due back on 7/13/2021. The motion carried with a recorded roll call vote taken as follows:**

**Yes:** 6 - Finnegan, Orndoff, Byrd, Whitten, Baugh and Dent

**No:** 0

**Absent:** 1 - Hull

## **6. Unfinished Business**

None.

## **7. Public Comment**

None.

## **8. Report of Secretary & Committees**

### **8.a. Proactive Code Enforcement**

On hold.

### **8.b. Rockingham County Planning Commission Liaison Report**

Commissioner Whitten said that the County had about a 30 minute meeting. The meeting took place on June 1, 2021. The first item was a renewal of an agricultural-forestral district. The renewal is a time where people who would like to withdraw from the agricultural-forestral district can. They did have seven parcels that did not wish to renew.

The second item was an ordinance amendment pertaining to the size of utility buildings. It is a situation in the County where you can build a utility building on a property that does not have a main structure, but the limit for that was 200 square feet, which is pretty small. They increased the definition of utility building from 200 square feet to 580 square feet. That passed unanimously.

They have a pending ordinance amendment that will be coming up in another couple of meetings. It is a new zoning district that will be for interstate interchanges.

Their Solar Facilities Study Committee is going to be making final recommendations. They are planning for a joint meeting of their Planning Commission and their Board of Supervisors.



**8.c. Board of Zoning Appeals Report**

There was no meeting.

**8.d. City Council Report**

Councilmember Dent said several items that we have addressed went before City Council last night. On the Consent Agenda was closing the undeveloped alley on Washington Street. The junkyard, which City Council ultimately denied, had some lively discussion, especially from Councilmember Jones. He said that if we are going to be evaluating things on an aesthetic basis, then we need to be up front about that. I was raising that there were other issues. Commissioner Whitten and I had talked about the environmental and safety threats. Councilmember Jones wanted to know if there was actually evidence of that, versus something that could happen. I found in one of the emailed public comments, that there is always oil, grease and antifreeze at a junkyard. Again, that is a general comment, but it was from the next door neighbor who was objecting to the place. We talked about the issues about it having been cited for non-compliance in 2019. They applied for the permits now. One question, from Vice-Mayor Romero, was, if they were cited for non-compliance in 2019, why have they been allowed to continue growing and operating. The City Attorney explained that when they applied for the permit, the court process was put on hold to see if they would receive the permit. Now that they have not, it goes back to the courts. We voted in favor of denying the request.

Other items passed, such as the short-term rental at Crescent Drive, with our parking conditions, the taco truck at T&E Meats and the three interlocking request for the townhomes on Pleasant Hill Road. The developer said that they had been challenged unfairly because of “affordable” being a buzz-word. I explained that City Council in general should address what we mean by affordable, what proffers we are expecting, or what incentives the City can offer. I did not mean to be picking on them. I realize that they are up against increasing costs and, in general building more higher density housing increases the affordability of housing overall in the City. It is something that we need to address, but having more housing is a good thing.

Tom Hartman, Director of Public Works, introduced something about access management and entrances. It was informational and we may be hearing about it in Planning Commission.

**9. Other Matters****9.a.**

Ms. Dang said that you all have received notice of the upcoming virtual public meeting on Monday, June 14, 2021 at 6pm. I hope you have been able to register for the meeting which will be taking place using Zoom. The draft of the first of three parts of the Ordinances, called Module 1, was made available online yesterday, which began the public comment period. The comment period will conclude on July 5.

At the public meeting, we will share and overview of Module 1 and take questions from

community members.

Community members can review the draft Module 1 using enCodePlus, an interactive web-based software, or by downloading a PDF or Word document version. Comments can be submitted through enCodePlus or in writing and anyone with questions is welcome to contact me by phone or email.

The next Ordinance Advisory Committee meeting has not been set yet and I hope to have a date to share with committee members soon.

Councilmember Dent asked if OAC members need to register themselves for the meeting.

Ms. Dang said yes. Please register for the Zoom meeting. You will be sent a unique link.

Commissioner Whitten asked if there were printed versions of the module.

Ms. Dang agreed to print copies for those in the Planning Commission who requested them.

#### **Affordable Housing**

Chair Finnegan said that he has received questions from the community about affordable housing. There seems to be some confusion over what happened at 241 Central , which was the Blue Ridge Drive and Country Club Road apartment development that had set aside units for people who earned 80 percent area median income (AMI). I would like to get staff to clarify. That is not what is known in other cities as inclusionary zoning, and it is not proffered that those units will be offered at lower monthly rental. Is that correct? The question is, as it pertains to other things that we have been signing off on, the question is, “Why is the City not requiring more units to be set aside for affordable housing as these new developments go up?” I would like to get staff’s clarification as to what that was at 241 Central and what is within our purview, as the Planning Commission, in getting units set aside for below market rate apartments.

Mr. Fletcher said that the 241 Central proffer did not guarantee certain rental rates at all. It reserved five percent of the total number of units, which would be eight units if they had the maximum density that they proffered. Eight units would be reserved, every year for 15 years, for individuals or families that earn 80% AMI or below. It had nothing to do with the amount of money that they would spend on rent. In fact, I believe it was clarified that that they would pay market rate. It provided an opportunity for people who earned 80% AMI and below an ability to find a unit, or a unit would be available to them. It was a very small step in a positive direction. It made no reduction in rent. To your other comment or question about why is the City not doing more, there are many things that staff is trying to do to help strategize on what the Housing Study has put out for us. It was just completed at the end of January. We are five months removed. We have had quite a bit going on behind the scenes. We have talked with developers who have talked about opportunities. Under the current zoning districts, we cannot require affordable housing unless someone wants to offer a proffer that does it, we cannot require it under the current zoning

regulations. What people are beginning to learn, and I am grateful that people are educating themselves on the process and its complexities, is that unless incentives are offered it does make it quite difficult for individual developers to offer such low rental rates without giving up on quality and things like that. We are doing multiple things, and you are as well. By you rezoning properties like 241 Central, by adding more units to the market... You have a rezoning, a SUP and a preliminary plat for two townhome communities off of Vine Street and off of Pleasant Hill Road. People have to take a step back and look at the big picture of what is going on. While those units were not set aside for affordable housing, they do add more units to the market. There have been many discussions in our office, and outside of Community Development that are likely happening at the City Manager's office level about people who are trying to figure out ways that they can partner for these different things. They are trying to figure out what opportunities there may be for City assets. The City has allocated funds to hire a Housing Coordinator. The Housing Coordinator hopefully comes on board with a multitude of experience to help guide us through these processes. I think that it will likely end up going down the path of putting out RFPs for particular City owned properties so that we can get the best bang for the buck for opportunities for affordable housing. There are so many things that I am not sure what I can say in the public realm about things that have been discussed and ideas for different things to continue these positive steps moving forward. I want people to remember that there are a lot of good people working for the City that are wanting the same things that you are wanting and for activity and action to occur. I am grateful that there is this rush and desire and demand to want action and see action. We feel the same way. We not only want to do it, we have that anxiety to get moving and get some action going, and not let it sit on the shelf. I meet on Monday for a strategy discussion for affordable housing.

Chair Finnegan said that under state law, Dillon's rule, we cannot, as a body say that we are not going to approve something unless the applicant provides some set asides, without some financial incentives. We cannot legally say that, correct?

Mr. Russ said that is correct.

Mr. Fletcher said that unless there is a specific district that has a density bonus, which other localities might have. With a density bonus, a jurisdiction may have a base district with a certain density, if the applicant sets aside a certain number of units for a certain percentage of AMI, they might get a density bonus for having more units on the property that might make it economically feasible for a developer to provide that. The other big thing is the Zoning Ordinance rewrite. That is a huge tool. I hope that people have begun to read through and see some of the aggressiveness that is in the zoning proposal. We need to know whether it is too aggressive or not aggressive enough. You need to look at that and see what is being proposed.

Chair Finnegan said that another way of wording is that the market does what the market does. The market plays under the rules that the government sets. The market is going to make as much money as they can. They will charge as high a rent as they can charge and have people pay it. Part of what I am asking is in terms of inclusionary zoning and density bonuses, we are currently not

offering any of that. Is that something that Harrisonburg would have to ask the General Assembly for?

Mr. Russ said that the density bonus is something that we can go ahead and do. There are only a handful of localities that can make it mandatory- if you want to build, you have to set aside a certain percentage of units. Harrisonburg is not one of those localities. If that were a direction that we wanted to go, action from the General Assembly would be required.

Councilmember Dent asked if the Planning Commission is in effect granting a density bonus when we approve these SUPs to say more units allowed? What is the difference?

Mr. Fletcher said that, for example, tonight you did not grant a density bonus. You allowed more units in a building, not more units on a property.

Councilmember Dent said that City Council needs to get together to define what we mean by affordable housing- what we require and what we are willing to offer. Some of the recommendation in the Housing Study had incentives that the City can offer to developers, such as fee waivers, tax incentives and such. We have not come together to decide which ones we are willing to offer consistently. The problem is that those kinds of incentives cut into City revenues slightly, and we have to address them consistently to be fair to the developers. That is why we need to huddle and decide what we are willing to offer. Sometimes, it might come down to voting no if they do not have affordable housing. That would mean that we would have to set a precedent by rejecting non-affordable housing in order to encourage affordable. That seems backwards to me, rather than being clear up front.

Commissioner Whitten said that over the last few weeks I have been doing my own research about affordable housing. In medicine, often we talk about how important it is to try to know what it is you do not know. You want your doctor or clinician to always be the one that knows what they do not know and knows where to go to find what is needed. I have written something that I want to read. I emailed it to Ms. Dang and asked her to email to you after the meeting. I will read:

In light of the Subdivision and Zoning Ordinance Review and Rewrite, I feel that we must consider incentives to encourage affordable housing starts. We can continue to talk about it at every meeting, but until we take action, we will remain on square one. Because of Dillon Rule restrictions, I propose that we as a city appeal to the state legislature for relief from state law in order to provide housing opportunities for our residents. Waiting for developers to do this for us is futile. They must consider their own "bottom line" and cannot be expected to give away housing without some considerations. Let us look for the solutions to the issues that led to the lack of affordable housing and offer developers incentives to build or redevelop existing housing to meet the needs of our city.

Some examples:

- Expedited permitting and fee waivers...Fees can be deferred leaving \$ to cover development costs, and the deferred portion of the fee can be paid as rents begin to be paid. Fees can also be reduced if certain, agreed upon targets are reached for affordable units for the market.
- Density bonuses
- London plan...60% of all new build housing must be affordable, by formula...60% would be too high in our market, but what might be reasonable?
- We should look closely at what property is available in our city. What apartments are under-utilized and dilapidated?

Our legislators are here in our area for most of the year. We must speak with them and make our concerns known before they go to Richmond. This gives them the opportunity to network with those from other parts of the state with similar concerns and interests. There are also areas that have already addressed these problems that could shed light on what works and what may not. Could we please agree to arrange a meeting to discuss the needs that we have discovered in our city and explore options to move forward through the process of change?

Chair Finnegan said thank you for reading that into the public record. I agree with most of the things that you said. I am hopeful that we can do that. Is that something that City Council can request, Councilwoman Dent?

Councilmember Dent said yes. That sounds excellent. Since I will be getting a copy of it, I will forward it to my fellow councilmembers. We are planning a retreat in July. Affordable housing is one of the items on the agenda. That is good set of talking points, as well as what we have from the Housing Study. Thank you, Commissioner Whitten.

Commissioner Whitten said I would love it if we could, as a body, endorse these ideas going forward to City Council. I do not know, procedurally, what is the best way to do that. I do not know if it needs to be in the form of a motion.

Chair Finnegan asked Mr. Russ if there is something that is not on the agenda, and we would like to bring it to City Council, can we make a motion for that now, to consider these items?

Mr. Russ said that he does not know. It is not something that has come up.

Mr. Fletcher said that, in years past when Commissioner Baugh's tenure and mine have overlapped in the past 17 years, we were involved in two or three times that Planning Commission officially wrote some type of statement which was voted on and then sent to City Council for action or opinion on a particular matter. I would have to go back to the minutes to look. It has been done before.

Commissioner Whitten said that if everyone agrees, it would be nice to voice agreement.

Chair Finnegan said that he does not know that he agrees with every single word that Commissioner Whitten wrote, but I agree with the general sentiment of what you are saying, that we need to look at every tool in the toolbox because the market will not do so. We are functionally hoping and wishing and praying that the market will do something that the market was not designed to do.

Commissioner Whitten said that when we talk about density, we talk about the development that was just passed this evening. If you think for one minute that putting more density into that development is going to cause those kids to pay less rent, you are wrong. It is not going to happen. Those are going to be the most expensive apartments in the City, I predict.

Commissioner Baugh said that he would like to see it before I take a vote on it. Otherwise, I agree with the Chair's assessment of it. Mr. Fletcher, I can only think of two instances, one that we actually did which was the R-3 that I was talking about. It had that element. It went to City Council. City Council kicked it back to Planning Commission with some vague instructions. We formulated a response and sent it back to City Council and said that our recommendation was to act on it one way or the other. The only one that I can think of, and this goes back to when I first came on 16 or 17 years ago, was that there was a time when the School Board had communicated to Planning Commission. The Superintendent wrote a letter to the Chair of the Planning Commission saying that the Planning Commission was not taking increased density into consideration enough in planning. I do not think that led to a formal request to City Council, but there were discussions and communications about that. They are the two that I can remember. Procedurally, there is no reason that we cannot do this. If we decide that we want to talk about something and take a vote on it, particularly if it is a recommendation to City Council. I cannot imagine that there is any technical reason that we cannot do that.

Commissioner Orndoff said that since a copy is going to come out with the minutes of this meeting, we will have a chance to look at it and perhaps it would appear on the next month's agenda under other matters, and we can decide whether to endorse it or not.

Chair Finnegan asked Commissioner Whitten if she would be open to input, edits, or amendments. If we are going to get a statement from all of us, that it would be a collective statement.

Commissioner Whitten said of course. I would want that. It will come as an email. You do not have to wait for the minutes. The email will come from Thanh.

Chair Finnegan said that we can take that up at the next meeting under Other Matters.

Councilmember Dent asked if this was a case where we cannot comment in email to each other because that would constitute a meeting. In City Council, I can send a spreadsheet as a one-way

information, but we cannot talk about it in email. It has to be done in public. I believe the same applies to the Planning Commission.

Ms. Dang said that she believes that is correct.

Mr. Russ said that there has been an open question with the Freedom of Information Act and what constitutes a meeting. In virtual communication, if people are emailing back and forth in quick succession, at what point are they essentially having a meeting over email that the public was unaware of. Ideally, we try to avoid that. We can individually collect all of our thoughts and send them out. The back and forth can take place at the meeting.

Mr. Fletcher said that to facilitate the communication, staff can assist in taking the lead. We have the information that Commissioner Whitten wrote. You all can take a look at it and send your suggestions to staff. We can combine the suggestions into one document for you.

Councilmember Dent asked if our comments are a public document the way it was with the Capital Improvement Plan.

Mr. Fletcher said that is very good way to think about it. We are not trying to hide anything but making it simpler for people to share their opinions so that it can be made into a document.

Commissioner Byrd said that sounds great. I would be willing to put my name to it. Since it was just read to me, I would need to reread it to make sure that I am fine with all the points.

Chair Finnegan said that we will take this up under Unfinished Business next month.

#### **Watershed Discussion**

Commissioner Whitten said that she thinks City Council approved or endorsed the George Washington... I am struggling with the wording.

Mr. Fletcher said that Mike Collins, Director of Public Utilities, presented for the watershed in that area. Is that what you are referring to?

Commissioner Whitten said yes. I think that Lynn Cameron presented it to City Council and it was unanimously endorsed. I talked about it about two years ago at Planning Commission and it did not get much traction. I was very happy about City Council endorsing that plan. It is a good plan. [Note: In March 2021, City Council endorsed a resolution in support of Congressional Designation for the Proposed Shenandoah Mountain National Scenic Area.]

Councilmember Dent said that it was great. I spearheaded it this time with Lynn Cameron. It was Mike Collins who did have some reservations about giving up rights to adjust the water supply. We addressed that with a caveat that Rockingham County had added in, that if the local government needs to go into the wilderness area to drill for more water, for instance, we can do

that. That made it possible to pass it.

Commissioner Whitten said that what it effectively does is protect our water supply. That is a much bigger idea and bigger cause than just being able to drill for water. If you can drill for water, but the water has been spoiled, it does not do much good.

Councilmember Dent said that is what I said to Mike Collins. One of the main purposes of this is to protect us from fracking. What would that do to our water supply? The next step is getting final approval from some of the stakeholders, such as the timber industry, who have already been working with them on it. Then it goes to Congress.

Commissioner Whitten said that she is very happy about it. It will be very hard for them to vote against it.

Chair Finnegan thanked Commissioner Whitten and Councilmember Dent for their work on the watershed.

#### **Resuming In-Person Meetings Discussion**

Ms. Dang said that last evening, at the City Council meeting under Other Matters, City Attorney Brown and City Council members discussed plans to resume in-person Council meetings. City Council decided to begin meeting in person on July 13th and also have meetings open to the general public to attend. They will continue to allow community members to call in during the public hearings and comment periods.

Staff has stated previously that Planning Commission follow City Council's lead. We believe that the appropriate action is for Planning Commission to resume in person meetings in August. This would allow other city staff and Council members to work out the details and determine protocols and we can learn from and implement the same procedures as they do.

As for how Council Chambers would be set up, City Council members and Planning Commissioners would sit at the dais and plastic barriers would be available between seats. City staff would present from the podium and sit either at the side table or in the audience. Know that given the number of Planning Commissioners, it is not possible to sit 6-ft apart at the dais.

For the audience seating, City Attorney Brown described that the first row of seating would be removed and then every other row of seats. He also described the capacity of the room from 200 people to below 40.

Are there any concerns, suggestions or feedback on resuming in-person meetings?

Chair Finnegan asked if staff looked into what other cities in Virginia are doing. Is this being done elsewhere? For people who have been vaccinated, the plastic barriers might be overkill. Obviously, I want to do it in a safe way, but I do not know if that would hinder interaction.



Commissioner Baugh said that he is inclined to do whatever the group wanted to do. I cannot imagine that this group would come up with something that I would not find acceptable. Maybe that illustrates the wisdom of what staff is suggesting. City Council is going to start doing it and City Council is going to control the space. Whether or not there are plastic guards there, it is City Council's decision. They will not put them up for them and take them down for us. Looking at the calendar and your choice between July and August, City Council has three meetings to get the kinks out and establish how the space is going to work, in an environment where we get more and more relaxed about this. Or we could do the July meeting the night after City Council has had their first meeting. Staff would have 24 hours to deal with whatever bugs they came across.

Commissioner Whitten said those are good points. It makes the August date sound good. I agree with your point that if they put the plastic up, we have to live with the plastic. The truth is that if you go to the grocery store, you do not have the plastic between you and the people in the line, but you are not there very long. We do tend to meet for a long time and have a longer exposure to each other and whoever is in the room. The plastic cannot hurt.

Commissioner Byrd said that, as a vaccinated person, whatever the people who have concerns, I am fine with.

#### ***Start time for Planning Commission meetings***

Ms. Dang said that last year, we began meeting at 6:00 p.m. instead of the previous 7:00 p.m. start time. What do Planning Commissioners think about the start time - should we go back to starting at 7:00 p.m. or continue to meet at 6:00 p.m.? If we meet at any other time that is not 7:00 p.m., we would have to make an amendment to the bylaws.

To compare to other meetings and localities: City Council begins meeting at 7:00 p.m. Rockingham County's Planning Commission begins at 6:30 p.m. Charlottesville's Planning Commission starts at 5:30 p.m. Staunton's Planning Commission starts at 5:30 p.m. Winchester's Planning Commission starts at 3:00 p.m. The town of Dayton starts at 6:00 p.m. I am interested in your feedback.

Chair Finnegan said that our meetings tend to go long. I would not want to do it any earlier to 6:00 p.m., but I do hesitate to push it back to 7:00 p.m. We have had meetings go to midnight if they are contentious.

The other commissioners agreed that they prefer 6:00 p.m.

Councilmember Dent said that she completed her Planning Commissioners Certification course. I learned a lot. One thing that I wanted to raise here, that I recognize that I learned from in this course. There was one development where I went next door and introduced myself to the owner. I learned that is generally frowned upon due to a possible perception of bias. Mr. Russ said that if

I were negotiating or was perceived to be negotiation with them it could be a problem. It was an ex parte contact, where any one of us has an individual contact with someone who was applying to or coming before Planning Commission. Usually, it is the other way around, where we might be approached.

Commissioner Whitten said that she is not sure that you cannot discuss it. If you are going to their place of business, it is different. If someone wants to call and talk about it, it is like a member of the public wanting to talk about it. I do not think that you have to refuse to discuss it. You cannot draw conclusions or make any promises. Am I wrong about that?

Commissioner Byrd said that most of that was correct. If there were particular points discussed, you would want to write out what that was and send it to staff, so that staff could send it to the rest of the Planning Commissioners, so that all knew what happened at the meeting with the individual.

Councilmember Dent said that when I spoke with the applicant, I came back and told everyone about the conversation I had. It was in good faith and not negotiating behind the scenes. It could be a caution, to be raising expectations. What if we then denied it? What would they say?

Commissioner Baugh said that he agrees with Commissioner Whitten. If there is some level where there has been some change where we need to be more circumspect about this, than I have always understood to be the rules, then I probably need to get some more education on that. You do not want to making promises, but it is just one of us. It is not a meeting. It takes four of us to make a decision. This body's primary function is to vet these issues for City Council and the best way to vet things is to have the most communication with the most interested people you can. In my experience, commissioners have taken views on this, but it did not have to be a one-size fits all. It could be on your own personal comfort level. Some people feel more comfortable with getting the information at the meeting and get it all at one time. Some of us, the more people I can talk to, my door is always open. I would certainly not talk to one group and not talk to anybody else. If you thought that I was going to vote one way and I voted another, that is why I talked at the meeting and said why I voted the way that I did.

Mr. Russ said that it is not necessarily a legal issue. It is a best practice. There are some communities where there are set up in districts, where you get a veto right if it is your district, and you wind up negotiating with a developer. I can see how it can devolve. It really does come down to your personal comfort. As requests get more complicated, Planning Commissioners will have more personalized things that they want to know about. If everyone was asking questions, it might take hours, where individual meetings might each take ten minutes to get the information that they want to share out of the way. It is a personal choice, as long as you are not demanding that they make an unreasonable proffer.

Chair Finnegan said that when he joined the Planning Commission, he was overly cautious. I recused myself from things that I did not have to recuse myself from. I think that when in doubt,

disclose it. There are a handful of times where I have heard from a developer, and I disclose it. Disclosure is always a good way to approach it if you are not completely sure.

## **10. Adjournment**

The meeting adjourned at 8:26 p.m.

### **NOTE TO THE PUBLIC**

In accordance with the Emergency Ordinance to effectuate temporary changes in certain deadlines and to modify public meeting and public hearing practices and procedures to address continuity of operations associated with the pandemic disaster, readopted on February 23, 2021, the public will not be able to physically attend the Planning Commission meeting.

However, a phone line will be live where community members will be allowed to call in and speak with Planning Commission during the Public Hearings and the Public Comments portion of the night's meeting. We ask those that wish to speak during the public comment period to not call in until after all the public hearings and public comment on those items have been heard. This will avoid anyone calling on any other item from holding up the queue and then being asked to call back at a later time.

The telephone number to call in is: (540) 437-2687

Community members also may provide comment prior to the meeting by emailing:  
Thanh.Dang@harrisonburgva.gov.

Community members will be able to watch the meeting live on:

- The City's website, <https://harrisonburg-va.legistar.com/Calendar.aspx>
- Public Education Government Channel 3