

**MINUTES OF HARRISONBURG PLANNING COMMISSION**

**March 10, 2021**

The Harrisonburg Planning Commission held its regular meeting on Wednesday, March 10, 2021 at 6:00 p.m.

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

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.

Chair Finnegan called the meeting to order and said that there was a quorum with all 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.

Chair Finnegan asked if there were any corrections, comments or a motion regarding the February 10, 2021 Planning Commission minutes.

Commissioner Baugh moved to approve the minutes.

Commissioner Whitten seconded the motion.

All members voted in favor of approving the February 10, 2021 Planning Commission minutes (7-0).

**New Business**

***Consider recommendation of the FY2021-2022 through FY2025-2026 Capital Improvement Program to City Council***

Chair Finnegan read the request and asked staff to review.

Mr. Fletcher said that there is so much effort, behind the scenes, on the Capital Improvement Program (CIP). We condense it to summarize what the CIP is, and it feels like we are not providing enough information. I would like to express my appreciation to the numerous City employees that work to put this information together. This project officially kicks off in July every year. We try to have it in final form by the first part of the year. There are often complex issues that delay the release, but we always communicate and coordinate our efforts. There is more that goes into this

document from many other people other than the five CIP Committee members, which includes myself, the City Manager, the Deputy City Manager, the Assistant to the City Manager, and the Finance Director.

The CIP is a multi-year presentation of planned capital projects of \$50,000 or greater with an appropriate financing plan to fund the projects. The CIP is prepared annually to facilitate planning and to set priorities among capital improvement needs over a subsequent five-year period. The CIP is designed to identify projects for all City departments, as well as for Harrisonburg City Public Schools, for which funding has already been committed or is being sought for some time within the five-year planning period.

Planning Commission's objective is to review and evaluate the CIP and, once the document is in an acceptable format, recommend the document for approval to City Council. Remember that the CIP is not a budget and inclusion of projects in the document does not guarantee that such projects will be funded by the City or by any external sources in the year presented or at the level proposed. The actual commitment of funds by the City for any capital item comes with the approval of the annual budget for each fiscal year. However, the CIP serves as an important planning tool for formulating the capital portion of the annual budget.

As can be observed by reviewing previous CIP documents, the CIP is not a static plan. It is part of annual planning and programming, where after each passing year, another year is added to the planning period to maintain the five-year forecast. Each year costs, needs, and revenue sources are reevaluated.

Staff emailed Planning Commission draft project information sheets in December 2020 and January 2021 and requested that Commissioners submit comments and questions to staff. The full draft of the CIP was provided to Commissioners on February 25, 2021 in preparation of the review at the March 10<sup>th</sup> regular meeting. The document was uploaded to the City's website on February 26<sup>th</sup>. Commissioners had until March 3<sup>rd</sup> to submit comments and questions to staff.

Mr. Fletcher requested that the questions that were submitted by the Commissioners and the responses submitted by staff be entered into the minutes.

The questions below were submitted prior to the Planning Commission review of the CIP by Council Member Dent via email on Wednesday, March 3, 2021

1. QUESTION: Where's the solar? Given that we'll need to be putting solar panels on roofs of municipal buildings and schools, I'd like to see that factored into existing projects or added as new projects.

Examples of existing projects that need solar: Parking Decks and Lots; Parking decks especially lend themselves to having a solar roof on the top level; Elizabeth Street Deck p. 94 (Future); Downtown Parking Lot Improvement p. 95 (2022, 2023; mostly has to do with paving; why not add solar panels?); Downtown Parking Deck p. 96 (Future).

Schools – Roof Replacements; when we’re replacing or repairing a school roof seems like the opportune time to add solar panels; Thomas Harrison Middle School, Roof Replacement p. 106; Spotswood and Waterman Elementary Schools, Roof; Replacement/Repairs p. 110; Not listed here, but I believe Bluestone Elementary School – roof is solar-ready; when is that happening?

RESPONSE:

With regard to the parking decks and lots, it is anticipated that as the Environmental Action Plan (EAP) is further developed these types of improvements will be considered for inclusion with CIP projects.

With regard to school projects, the CIP is developed and approved by the School Board. The School Board is very supportive of installing solar panels at the division's buildings. Currently the plan is to first install solar panels on Bluestone Elementary School using a grant provided by HEC. We have begun the process and are in the planning stage to install PV's at BES.

The roof replacements in the CIP are placeholders since these roofs are nearing the end of their predicted lives. With that being said, we have a roof maintenance plan which has lengthened the lifespan of our roofs. Currently none of our roofs need a complete replacement. When a complete replacement is needed at any of our buildings, we presume the School Board would investigate the installation of PV's.

2. QUESTION:

Bridge maintenance, p. 19; MLK bridge, p. 19.  
Anything “green” to do?

RESPONSE:

No.

3. QUESTION:

HHS2 Road improvements, p. 64 – timing? To coincide with actual building of HHS2 (timeline unknown as of now)?

RESPONSE:

The project will only occur with the construction of HHS2, so its schedule is dependent on the HHS2 schedule.

4. QUESTION:

Purcell Park Phase 1a, p. 73. Wonder about the timing; can some be postponed for budgetary constraints? (Also Phase 1b, p. 84, for later. I’ve seen the plan and it looks great.)

RESPONSE:

The priority at Purcell Park is reconstruction of the playground, due to safety concerns. Funding for Phase 1a, which addresses the playground reconstruction, is

split over two fiscal years. The total cost for Phase 1a is assuming all work is being completed by an outside contractor. However, we know that there will be opportunity to lower this overall cost if some of the reconstruction work can be completed by City work crews. When funding is allocated to proceed with the project and we begin the process to complete construction drawings, we will determine which tasks of Phase 1a can be completed internally.

Additionally, I recently spoke to our representative at the VA Department of Conservation and Recreation. They anticipate development funds being available through the LWCF competitive grant process sometime this calendar year. Details have not yet been released.

5. QUESTION:

Downtown Park, p. 93. Yes, yaay. Only Future though? Any sooner possible?

RESPONSE:

This project was submitted within the full list of project priorities of the Harrisonburg Parks and Recreation Department. We have approximately \$12M in CIP requests for projects through FY27 based on our priorities to complete the needed improvements to our existing facilities and begin implementation of the master plans for Purcell Park, Ralph Sampson Park and Smithland Athletic Complex.

6. QUESTION:

Transit Buses, p. 140. What energy source are we planning to use when we replace the buses? Solar panels on buses?

RESPONSE:

Long term we are looking at electric buses for both Transit and School buses. For transit buses, we are looking at updating our transit development plan with a strategic plan (in Fiscal Year 23/24). The idea is to have a plan in place to start replacing some of our diesel buses with electric buses while taking into consideration infrastructure needs associated with the change to electric power. Our Transit bus provider has an electric bus that is going through Altoona testing in Pennsylvania.

The Larson Transportation Institute's Bus Research and Testing Center, located in Altoona, Pennsylvania tests buses for **maintainability, reliability, safety, performance, structural integrity and durability, fuel/energy economy, noise, and emissions**. In accordance with the 1991 Intermodal Surface Transportation Efficiency Act, the Center **tests brake performance, bus emissions, and buses using alternative fuels**. Once the Gillig electric bus passes the test the Harrisonburg Department of Public Transportation (HDPT) in line with our strategic plan will consider replacing some of our diesel buses with electric buses. Grants for the purchase of electric buses and related infrastructure needs will be pursued as they become available.

Electric School buses will be also be considered strategically and long term as grants for purchase of buses and related infrastructure needs become available.

7. QUESTION:

What about charging stations for electric vehicles? Not in the plan at the moment; needs to be added.

RESPONSE:

We are currently working on a feasibility study for a Transit/Transfer station and a park and ride lot in the City of Harrisonburg. If funded, the plan is/will include charging stations for electric vehicles and other multi-modal forms of transportation in the transit/transfer center and park and ride. Additionally, as we transition to an electric fleet per our strategic plan, we will consider costs related to having charging stations at HDPT and other suitable locations in the City while consulting with the Harrisonburg Electric Commission (HEC).

The questions below were submitted prior to the Planning Commission review of the CIP by Commissioner Finnegan via email on Wednesday, March 3, 2021.

General Fund Projects

8. QUESTION:

General question about public works project funding: is the property tax revenue from residential neighborhoods enough to pay for the construction and maintenance costs for roads, curb and gutter, and stormwater and sewer projects in those neighborhoods?

RESPONSE:

No. VDOT funds a majority of the maintenance activities on City streets. We receive funding based on the number of moving lanes miles of arterial and local/collector streets within the City. The City supplements those funds in order to maintain our roadways at the current level of service. Stormwater (specially items related to Water Quality) are funded through the Stormwater Utility fee.

9. QUESTION:

Pg. 30: How much more expensive are the "decorative black powder" poles than the regular ones?

RESPONSE:

It increases the cost of construction between \$50,000 and \$75,000 per intersection.

10. QUESTION:

Pg. 55: Curb and gutter was recently redone (in 2020) on that stretch of Virginia Ave. Is that part of this project, or will that have to be re-done again when this is implemented? If so, why not wait to re-do that curb and gutter?

RESPONSE:

The maintenance replacement of curb and gutter throughout the City is driven by our Annual Paving program. Yearly, we evaluate all City pavement and develop a 5-year replacement schedule. Once that list is created, we then review all of the curb & gutter and sidewalk along these streets to assess its condition. If it is found that the curb and gutter or sidewalk are in need of replacement, we schedule this replacement in advance of the paving.

This section of Virginia Avenue is in the CIP, but it does not have any funding dedicated to it as of yet, but the pavement along this segment is in need of repaving, which led to the curb and gutter replacement last summer. Any future project will potentially remove portions of this curb and gutter, however, since there is not a funding pathway established yet, we feel comfortable we will get as much of the useful life out of this new curb and gutter as possible.

11. QUESTION:

Pg. 61: I'm disappointed to see the Reservoir sidewalk moved to "Beyond" status. There are people without cars that live in the Holly Court and Dutch Mill Court neighborhood, and that guardrail creates a serious hazard for pedestrian safety. Has there ever been an attempt to count how many pedestrians use that area to walk? If so, what were the findings?

RESPONSE:

The primary reason for this project being moved to "Beyond" is funding. This is a very complex project when you consider the large retaining walls, railroad crossing, and very narrow existing right-of-way along the corridor. As a result, the cost is at the level that the City needs to seek grant funding; however, due to the various grant opportunities available to the City, none of them align perfectly with this project. Public Works continues to explore all avenues, but at this time, none exist.

12. QUESTION:

Pg. 63: I see grants listed in 2025 and 2026 for the University Blvd. relocation. Is JMU contributing to the funding of this project? Is this considered part of the same project to change the I-81 exit on Port?

RESPONSE:

The funding for this project is provided by both JMU and VDOT.

13. QUESTION:

Pg. 64: Is the timeline of this project impacted by the delays in the construction of the second high school?

RESPONSE:

Yes.

Water Fund Projects

14. QUESTION:

Pg. 112: Has the need for this been impacted by extension of city water hookups into county developments, or would this have been needed based on water use within the city alone? Are there additional measures the city can take to reduce city water consumption that are not currently being utilized?

RESPONSE:

The CIP fund 910161-48621 on pages 112-113 is for water mains and appurtenances within the City boundaries. It has an R&R component---assets that need to be retired. It also has an expansion component---this is for new asset installation to expand service area within the City boundaries.

The CIP fund 910161-48670 on pages 116-117 pertains to assets located outside the City Boundaries. This fund is highly R&R driven and very little expansion due to connections. Because our water system began with water from Dry River, infrastructure developed from Riven Rock to the City as early as 1898. Outside City customers (Rural) are generally along this infrastructure.

Transportation

15. QUESTION:

Pg. 140: What is the source of the enterprise revenue listed under funding sources?

RESPONSE:

Source of the enterprise revenue is City funds and/or commonly referred to as a local match. **The Federal government pays 80% for a transit bus, the State of Virginia pays/contributes 16% and the City pays 4% of the cost of a transit bus.**

Chair Finnegan asked if there were any questions for staff.

Councilmember Dent thanked staff for answering her questions.

Mr. Fletcher said that the departments like the questions because it shows that someone is looking through the information and that their efforts are for a good cause.

Chair Finnegan said that we are not voting on a budget. This is a budgeting tool. We do not have to agree with everything that is in here. These items reflect the needs and provide the numbers. I have registered in my email some of my questions and objections or disappointment that some things were downgraded to a lower priority.

Mr. Fletcher said that it is entirely within the Planning Commission's ability to express your preferences in your recommendation to City Council. It is not out of your authority. They may not agree with you, but it is not out of the question for you to emphasize particular projects or give

recommendation to move projects up. Your comment was on point about your concern that it was not given an opportunity to have a higher priority or to happen more quickly.

Commissioner Whitten said that especially this year, in these times, when we hear about cities whose water facilities are not functioning at all or are in demise with no real plan, it makes me happy to see the way our City does get things done. It is amazing that the money that comes in and that goes out is very well allocated. I know that is the hard work of the people who run the departments and the people who are doing their jobs within those departments. I appreciate that.

Commissioner Whitten moved to approve the CIP, as submitted.

Commissioner Baugh seconded the motion.

Chair Finnegan called for a roll call vote.

Commissioner Byrd	Aye
Councilmember Dent	Aye
Commissioner Hull	Aye
Commissioner Orndoff	Aye
Commissioner Whitten	Aye
Commissioner Baugh	Aye
Chair Finnegan	Aye

The motion to recommend approval of the CIP passed (7-0). The recommendation will move forward to City Council on April 13, 2021.

### **New Business – Public Hearings**

#### ***Consider a request from Margaret Sheridan to rezone a parcel addressed as 518 East Market Street***

Chair Finnegan read the request and asked staff to review.

Ms. Dang said that the Comprehensive Plan designates this site as Mixed Use. The Mixed Use designation includes both existing and proposed areas for mixed use. Mixed Use areas shown on the Land Use Guide map are intended to combine residential and non-residential uses in neighborhoods, where the different uses are finely mixed instead of separated. Mixed Use can take the form of a single building, a single parcel, a city block, or entire neighborhoods. Quality architectural design features and strategic placement of green spaces for large scale developments will ensure development compatibility of a mixed use neighborhood with the surrounding area. These areas are prime candidates for “live-work” and traditional neighborhood developments (TND). Live-work developments combine residential and commercial uses allowing people to both live and work in the same area. The scale and massing of buildings is an important consideration when developing in Mixed Use areas. 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.



Downtown is an existing area that exhibits and is planned to continue to contain a mix of land uses. The downtown Mixed Use area often has no maximum residential density, however, development should take into consideration the services and resources that are available (such as off-street parking) and plan accordingly. Residential density in Mixed Use areas outside of downtown should be around 24 dwelling units per acre, and all types of residential units are permitted: single-family detached, single-family attached (duplexes and townhomes), and multi-family buildings. Large scale developments, which include multi-family buildings are encouraged to include single-family detached and/or attached dwellings.

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

- Site: Mixed use building containing office use and a single-dwelling, zoned R-3
- North: Across Elizabeth Street, single-family detached dwellings, zoned R-2
- East: Multi-family dwelling units, zoned R-2
- South: Across East Market Street, duplexes and multi-family dwellings, zoned R-2
- West: Office and commercial uses, zoned R-3C

The applicant is requesting to rezone a +/- 16,624 square foot parcel from R-3C, Multiple Dwelling Residential Conditional to R-3C, Medium Density Residential District Conditional with amendments to existing proffers that were approved when the property was rezoned in 2005. If approved, the applicant plans to maintain the existing uses, which are a real estate office and a single dwelling unit making the structure a mixed use building. The proffer amendments would allow the applicant to increase occupancy within the dwelling from a family or not more than two persons to a family or not more than four people.

In 2005, the property was rezoned from R-2, Residential District to R-3C, Multiple Dwelling Residential District Conditional. At that time, the applicant lived in the 2-story frame building and when the rezoning to R-3C (Multiple) was approved, the applicant relocated their real estate office into a portion of the building. In 2005, the property was designated in the Comprehensive Plan as Professional, which was described as areas designated “for professional service oriented uses with consideration to the character of the area. These uses are found in the residential areas along major thoroughfares and adjacent to the Central Business District.” The property remained designated in the Comprehensive Plan as Professional until the 2018 Comprehensive Plan Update when the designation changed to Mixed Use.

The approved and existing proffers (from the 2005 rezoning) include the following (written verbatim):

1. Any use permitted by right in the R-1 and R-2, residential districts
2. Dwelling units may be occupied by a family or not more than 2 (two) persons, except that such occupancy may be superseded by building regulations;
3. Medical, convalescent or nursing homes, medical and professional offices as defined within the zoning ordinance;
4. Adult daycare

5. Uses permitted by special use permit.

It is important to know that in August 2007, City Council amended the Zoning Ordinance and created Article J.2 – R-3, Medium Density Residential District (City Code Sections 10-3-48.1 through 10-3-48.6). The existing Article J – R-3, Multiple Dwelling Residential District (City Code Sections 10-3-43 through 10-3-48) remained, and is now often referred to as “old R-3,” but was amended to apply only “to multifamily buildings constructed by or with Comprehensive Site Plans approved before August 14, 2010.” It also noted that “[e]ffective this date, all other construction must comply with Article J.2.” There are only two ways in which “old R-3” is recognized; the first is if multi-family units meet the 2010 parameters as noted, and the second is if an R-3 property was conditionally zoned prior to the 2010 date – such as the case herein. Properties cannot rezone to the “old R-3.” By default, properties become recognized as “new R-3,” which is officially the R-3, Medium Density Residential District, which does have different regulations than “old R-3.” The attachment titled “Excerpts of Uses permitted by right from the R-1, R-2, R-3 (Multiple), and R-3 (Medium) Districts” shows the similarities and differences between the by right uses within certain zoning districts.

In November 2020, the applicant contacted city staff with questions about their property and it was discovered that the property is in violation of the occupancy proffers as the applicant had been renting the dwelling to four individuals. After discussing options to correct the zoning violation, the applicant decided to request a rezoning to amend proffers to remove the restriction that limits dwelling units to be occupied by only a family or not more than two individuals. However, because of the “old R-3” and the “new R-3” zoning described above, the applicant could not simply request removal of the original proffer #2, but needs to rezone to R-3, Medium Density Residential. The applicant worked with staff to draft a new proffer statement that reflects what was proffered in 2005, translated to the R-3, Medium Density Residential regulations, and removes the occupancy restriction, which would allow the property to have the by right ability of having a family or not more than four individuals occupy the dwelling.

The new proffer statement includes the following (written verbatim):

In connection with the rezoning request for the property located at 518 E Market St and identified as tax map parcel 27-B-2 the following uses are proffered to be prohibited:

1. Attached townhomes.
2. Churches or other places of worship.
3. Public schools or a private school having a function substantially the same as a public school.
4. Other governmental uses, such as community centers, parks and playgrounds.
5. College and university buildings and functions.
6. Hospitals.
7. Child day care.
8. Private clubs and golf courses.
9. Cemeteries.
10. Public uses.
11. Community buildings for associated townhouse and multiple-family developments.

Special use permits shall be permitted as approved by City Council.

Note that instead of listing the uses that would be permitted, the uses that would be prohibited are listed in the new proffer statement. The reason for prohibiting churches, schools, and governmental uses is because the 2005 proffers references uses permitted by right in the R-1 district. The R-1 district only allows these uses within buildings located at least 50-feet from adjoining property lines. The subject property's dimensions would not make it possible to comply with this requirement.

The applicant is aware that they are currently not in compliance with off-street parking regulations. Regardless of whether the rezoning request is approved or not, they must comply with the off-street parking regulations by delineating six parking spaces; five for the office use and one for the single dwelling and must comply with handicap accessible parking requirements.

As noted above, the property remained designated in the Comprehensive Plan as Professional until the 2018 Comprehensive Plan Update when the designation changed to Mixed Use. The Mixed Use designation describes, among other things, that the areas "are intended to combine residential and non-residential uses in neighborhoods, where the different uses are finely mixed instead of separated. Mixed Use can take the form of a single building, a single parcel, a city block, or entire neighborhoods." The current use combines residential and non-residential uses in a single building. Combined with surrounding land uses that are professional offices, commercial, and multi-family dwellings, staff has no concerns with the applicant's request to amend the proffers to increase occupancy to the by right ability of a family or four persons.

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

Margaret Sheridan, 518 East Market Street, spoke in support of her request. I have Sheridan Real Estate on the first floor. I was renting to more than two people, so I was in violation. There are multi-family dwellings around me and business beside me. My usage of the property has been in harmony with the street and compatible with what the houses are used for here. I think that the housing that I supply to people benefits the City. The people to whom I rent are people who have been responsible, who need a way to go downtown or have access to City transit. I do not rent to fraternities, nor do I plan to. I think that would be disruptive to the community. I have had no complaints from any of my neighbors regarding my tenants. I look upon myself as an asset to this street. The people whom I served, the tenants, have benefitted from housing and from an atmosphere that they have enjoyed and feel safe in. Some have lifted themselves out of situations where perhaps they would not have had had they not had this place to come to. I do make an income and it is very reasonable. I will say proudly that I have helped people. I work with people who have had bumps in their life. One person who was on drugs is now a drug counselor. I was in violation. I do request the medium density designation for four people.

Chair Finnegan asked if there were any questions for the applicant. Hearing none, he invited the public to call. As there were no callers, he closed the public hearing and opened the matter for discussion.

Commissioner Whitten asked how long the violation was ongoing. There was one letter that was included in the packet and one letter that was received from a neighbor on Elizabeth Street with complaints about the property. How long did the violation occur?

Ms. Dang said that she would refer the question to the applicant.

Ms. Sheridan said that she cannot give a specific number, but it has been a number of years.

Chair Finnegan asked if the comments that were received should be read into the record.

Ms. Dang said that they are included in the agenda packet and will be forwarded to City Council as received public comment. I typically have not read items into the minutes unless somebody specifically requested that they be read into the minutes. There was one from Arthur Hamilton and a second letter that was received that was anonymous. The person did not identify who they are.

Commissioner Whitten said that person spoke as a nearby resident, correct?

Ms. Dang said that they said that they lived on East Elizabeth Street for five years.

Chair Finnegan said that some of the issues that are pointed out and that come up again and again when we do SUP and rezoning requests are that it is owner specific. If we vote to rezone this today, I encourage us to think of the next owner. The rezoning does not go away when the ownership of that building changes hands. I am not dismissing the letter from Mr. Hamilton, but this rezoning will continue on to the next owner of this property. That is something to keep in mind as we are discussing this.

Chair Finnegan continued, saying that he is generally in support of this request. Having more occupancy, particularly close to downtown, is something that we should encourage. This is next to several business along that corridor and that is one of the oldest parts of town. These are some old houses that were around before old town existed. Those are some big houses and increasing density there along that corridor makes a lot of sense to me. I would vote in favor of this.

Commissioner Whitten said that on its face, it is part of the problem that the adjoining neighborhood has with it. They have concerns about the noise, the cars and the lifestyle... *[inaudible recording]* ... probably would be just fine. That would be more than four people. Four unrelated people just lends themselves to another lifestyle. I can appreciate it, having lived in what was an R-2 and now a different zoning category with a lot of mixed uses surrounding. The difference between two and four may only be two in an arithmetic sense, but it certainly causes a lot of disruption in a neighborhood when there are four people that want to disrupt. I do have a true appreciation for the concern. I also have a concern for a landlord that, while honest, has already told us that she has been renting to more people than allowed and she is a realtor.

Councilmember Dent said that if it has already been functioning relatively harmoniously before, even though it was not in compliance, says to me that it can reasonably continue. I saw in one of the letters that people were concerned that this might become a frat house. It has not and it does have four people. Several doors down there is, in fact, a frat house. It has a lot more cars, a lot

more people and a lot more noise. I used to live in that neighborhood. Higher density is not unknown in that neighborhood and is not a danger in this case. My question for the applicant is in light of the other letter. What is the use of the two accessory buildings in the back? One looks like an old barn. The other like a newer, smaller, garage-type building.

Ms. Sheridan said that the two buildings need maintenance. The two story building might be worth talking with the historical society regarding the historical register. Maybe not. It is one of few in the City that have survived. I do not know what it was, a carriage house or a barn. I do not intend on demolishing it. I do intend on improving it in some form or fashion.

Councilmember Dent said that she did have the concern that it may be a historic building. The other concern was about the lower building. I noticed that it has a wreath on it. Does somebody live there? Is it storage?

Ms. Sheridan said that it is used for storage.

Commissioner Byrd moved to recommend approval of the request.

Councilmember Dent seconded the motion.

Commissioner Baugh said that there is a lot of relevance in this matter to some other things that we are going to be talking about later. I want to push back on almost everything that has been said here. When an applicant comes in and says that they want to do something that moves in the direction of what we have in our Land Use Guide, that is generally a reason to vote for it. Maybe it shifts burdens. If we have said in our Land Use Guide that we want particular development in a spot, and a property owner comes in wanting to do something consistent with that, it has been my understanding that the burden is on us to be able to articulate why not if we intend to oppose it. I think that courts would say that it is inherently assumed that the Land Use Guide reflects the public interest. We have a spot here where we changed the designation in the Land Use Guide in the last update of the Comprehensive Plan. We have had some requests for things like this in this corridor in the prior years when it was designated as professional buildings in the Land Use Guide. I think we always voted them down and I think they might have all been split votes, but we upheld the idea that the residential use of those buildings, when they had been planned for professional offices, was not consistent. I agreed with that and voted accordingly. Now, we have said that we want this type of mixed-use and staff has said that this is consistent with it. I find myself being concerned. It is relevant what goes on around these properties, but on some level if this is requesting to move in accordance with the Land Use Guide, then we should say yes. The reasons for not doing it would be extraordinary. It is interesting to see how we apply that logic to other items we have tonight. I appreciate Commissioner Whitten's thoughts on it. That position is consistent with views that she has expressed over the years. I appreciate that. I think that I am going to vote for this unless I hear more of an articulation that it is not consistent with planning. That is what would get my attention to vote against this, if we say that we goofed. We should not have called this mixed-use. It is not compatible with the adjoining neighborhood. We got carried away. If that is the case, I could vote no. You expect some people in the vicinity to be concerned about change. That is normal. If it is consistent with the planning, then the issues with neighbors is more about buffering the transition, not "can they do it?" If it is not consistent with the planning,

then the burden is higher for the applicant. I am happy to hear other arguments. Because it is consistent with what we have said we want for this area in the Land Use Guide, it seems to me that I should vote for this.

Chair Finnegan called for a roll call vote.

Councilmember Dent	Aye
Commissioner Hull	Aye
Commissioner Orndoff	Aye
Commissioner Whitten	Aye
Commissioner Baugh	Aye
Commissioner Byrd	Aye
Chair Finnegan	Aye

The motion to recommend approval of the request to rezone a parcel addressed as 518 East Market Street passed (7-0). The recommendation will move forward to City Council on April 13, 2021.

***Consider a request from Bridgewater College Properties, LLC to rezone a parcel addressed as 486 West Market Street***

Commissioner Baugh read the following statement into the record:

The Virginia State and Local Government Conflict of Interests Act requires that I make disclosure, to be recorded in the City records, in any matter in which I am prohibited by law from participating. Therefore, I make the following disclosure.

1. The transaction involved is the item taken up on the March 10, 2021 Planning Commission Agenda as Item 5(b), a request for a rezoning.
2. My personal interest in this transaction is that I presently serve as adjunct faculty at Bridgewater College, which is the applicant for this agenda item.
3. I affirmatively state that I will not vote or in any manner act on behalf of the Harrisonburg Planning Commission in this matter

Chair Finnegan read the request and asked staff to review.

Ms. Banks said that the Comprehensive Plan designates this site as Neighborhood Residential. These areas are typically older residential neighborhoods, which contain a mixture of densities and a mixture of housing types but should have more single-family detached homes than other types of housing. This type of land use highlights those neighborhoods in which existing conditions dictate the need for careful consideration of the types and densities of future residential development. Infill development and redevelopment must be designed so as to be compatible with the desired character of the neighborhood.

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

Site: Vacant building, formerly the Spitzer Fine Arts Center; zoned R-3C

- North: Single-family detached dwellings and duplexes fronting North Willow Street; zoned R-2
- East: Single-family detached dwellings fronting West Market Street; zoned R-2
- South: Across West Market Street, single-family detached dwellings and duplexes; zoned R-2
- West: Across North Willow Street, single-family detached dwellings; zoned R-2

The applicant is requesting to rezone a +/- 22,075 square foot parcel from R-3C, Multiple-Dwelling Residential District Conditional to R-2C, Residential District Conditional. The subject property was rezoned from R-2, Residential to R-3C, Multiple-Dwelling Residential Conditional in January 2004 to allow for a non-profit fine arts group to utilize the structure for organizational uses including a gallery, studios, meetings, and lecture and classroom space. As part of the 2004 rezoning request, the applicant proffered that the site would only be used for a non-profit community art center. If the requested rezoning is approved, the applicant desires to sell the property and may seek to subdivide the parcel prior to selling. The subject property is large enough that under the R-2 zoning regulations it could be subdivided for an additional single-family detached dwelling lot or to create two duplex dwelling lots.

The applicant has been informed that prior to residentially occupying the existing structure on the site, a building permit will be required to change the certificate of occupancy back to a residential use.

With the requested rezoning the applicant has proffered the following (written verbatim):

1. There shall be no driveway entrances on West Market Street; and
2. If the property is subdivided or redeveloped,
  - a) The two existing driveway entrances along North Willow Street may remain if the existing 30-ft. commercial entrance is reconstructed to meet all City standards for the type of driveway entrance required for the use(s), which may result in reducing the width of the existing entrance; or
  - b) The driveway entrances along North Willow Street shall be modified or removed so that there is only one shared entrance serving all parcels and uses. No new driveway entrances can be located within 50-feet of West Market Street.

For traffic safety purposes, direct property access along arterial and collector streets should be limited whenever reasonable access can be provided to a lower class (local) street. Proffer #1 accomplishes this by restricting entrances on West Market Street, which is a principal arterial street.

Currently, there are two existing driveway entrances along North Willow Street into the subject parcel; one is a +/- 15-foot Entrance, which leads directly into a garage, the second is a 30-foot commercial entrance installed when the parking lot was constructed for the arts center. Section

3.10.2.3 of the Design & Construction Standards Manual (DCSM) requires a 50-foot minimum distance between an entrance and street intersections for local streets. The two existing driveway entrances meet this requirement. Staff, however, has concern regarding the size of the existing commercial entrance with the proposed residential use and allowing additional entrances if the property is subdivided. Proffer #2 addresses staff's concern by limiting driveway entrances for the subject site to the two existing entrances along North Willow Street or combining all driveway entrances as one shared entrance for all parcels (if subdivided), reducing the size of the commercial entrance, and not permitting any driveway entrance within 50 feet of West Market Street.

The requested rezoning to R-2C is supported by the Comprehensive Plan, which designates this area as Neighborhood Residential and staff recommends approval.

Commissioner Byrd asked if the parking garage is significantly more than 50 feet or is it relatively close to 50 feet from the intersection?

Ms. Banks said that the entrance where the garage is significantly more than 50 feet from that 50-foot requirement. It was about 100 feet.

Councilmember Dent asked what will happen to the garage if they subdivide it? Would that be demolished and replaced with two separate driveways? They can do whatever they want, right?

Ms. Banks said yes. That would be up to them when they subdivide. These are conversations we can have should they decide to subdivide.

Chair Finnegan said that there are several houses in his neighborhood with shared driveways. That is the most land-efficient use of a driveway. That is really up to the applicant.

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.

Anne Keeler, Vice President for Finance at Bridgewater College, spoke in support of the request. I appreciate all the work and assistance from staff. We are in receipt of this property as a gift. It is our policy and practice to sell such property for the benefit of the college. In order to do that, we are requesting this rezoning so that it can be sold for a purpose applicable to that neighborhood.

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

Chair Finnegan said that he is in favor of the request. This may or not be related to COVID. This week marks one year that we have been dealing with the pandemic. Public gathering places have been shut down. Offices have been shut down. I think that the art gallery is a sad loss. It is a place that I have enjoyed visiting several times. We may be seeing more requests like this, time will tell, where places that are non-residential being turned into residential places as a result of COVID or the business decisions that get made about office space rent after this pandemic is over. This is one



such request and I am in support of this request. There is a gravel parking lot back there that could be turned into housing. I hope that is what happens to it.

Councilmember Dent said that she seconds that sadness at the closure of the Spitzer Art Gallery. I agree with the observation that it could be a trend. It is a good adaptation of the situation. I would be in favor of it as well.

Commissioner Byrd said that this is a request to bring this piece of property back into the zoning of the surrounding area as opposed to be different from the surrounding area. If it is unable to be occupied by a non-profit, then it would be better for there to be more housing available to residents of the City in that location. I would be in favor of this type of request.

Commissioner Orndoff moved to recommend approval of the rezoning request.

Commissioner Whitten seconded the motion.

Chair Finnegan called for a roll call vote.

Commissioner Hull	Aye
Commissioner Orndoff	Aye
Commissioner Whitten	Aye
Commissioner Baugh	Abstain
Commissioner Byrd	Aye
Councilmember Dent	Aye
Chair Finnegan	Aye

The motion to recommend approval of the request to rezone a parcel addressed as 486 West Market Street passed, with Commissioner Baugh abstaining (6-0). The recommendation will move forward to City Council on April 13, 2021.

***Consider amendments to the Zoning Ordinance by modifying or removing regulations contained in Section 10-3-55.6 (e) within the R-5 district***

Ms. Dang said that in the R-5 residential district, among other available special uses that can be applied for, the Zoning Ordinance allows for property owners to receive a special use permit (SUP) to construct multi-family buildings containing more than the by-right maximum of 12 units per building. Another SUP allows for multi-family structures to be taller than 52 feet in height and/or have more than four stories. Approval of either SUP requires that City Council evaluate and determine that specific criteria has been met to decide whether either of those SUPs should be approved. The criteria are listed within Section 10-3-55.6 (e).

The Zoning Ordinance amendments proposed herein originate from a project proposal that was presented to City Council on February 9, 2021. The proposal was for properties addressed at 161 and 241 Blue Ridge Drive and included two separate applications. The first request was to rezone two parcels from R-1, Single-Family Residential District to R-5C, High Density Residential District Conditional. Because the applicant's plan was to construct buildings with more than 12

multi-family units per building, the second request was a SUP per Section 10-3-55.4 (1), which allows for multi-family dwellings of more than 12 units per building in the R-5 district. Both of those requests were presented to Planning Commission on December 9, 2020. Staff and Planning Commission (4-2) recommended denial of the rezoning and the special use permit.

The staff memorandum prepared for the rezoning and SUP stated that staff believed the applicant had adequately addressed conditions #2 and #4 within Section 10-3-55.6 (e), but found it difficult to believe that conditions #1 and #3 were met. Staff also stated that “consideration should be given to whether or not the regulatory controls within Section 10-3-55.6 (e) should be alleviated or removed. These regulations were created in 2007 and could no longer be relevant or needed. Additionally, if Planning Commission desires, staff can also review the Land Use Guide and evaluate whether amendments should be made for this site. This may be appropriate to do after the housing study is completed in January 2021.”

During the February City Council meeting, the rezoning and SUP requests were tabled and referred back to the Planning Commission for review noting that the applicant had offered a new proffer and because the Comprehensive Housing Study & Market Assessment was completed since Planning Commission’s December 9<sup>th</sup> review. In addition, City Council directed staff to draft Zoning Ordinance amendments to remove conditions (1) and (3) and to draft any alternative recommendation staff might believe is necessary for Section 10-3-55.6 (e). Staff’s review and recommendation of the Zoning Ordinance amendment is explained below.

The R-5, High Density Residential District was drafted after approval of the 2004 Comprehensive Plan and ultimately approved and added to the Zoning Ordinance in 2007. The only residential housing types permitted in the R-5 district are townhomes and multi-family units. As noted above, the R-5 district allows for property owners to receive a SUP to construct multi-family buildings containing more than the by-right maximum of 12 units per building while a separate SUP allows for multi-family structures to be taller than 52 feet in height and/or have more than four stories. Both SUPs, however, require that conditions listed in Section 10-3-55.6 (e) be met as determined by City Council. The conditions outlined in Section 10-3-55.6 (e) consist of the following:

- 1) Existing multiple-family development, or land planned for multiple-family development according to the Land Use Guide in the Comprehensive Plan, is located adjacent to, across the street from, or in close proximity to the proposed multiple-family development.
- 2) The applicant has demonstrated that adequate vehicular, transit, pedestrian and bicycle facilities:
  - Currently serve the site; or
  - Are planned to serve the site according to a city or state plan with reasonable expectation of construction within the timeframe of the need created by the development; or
  - Will be provided by the applicant at the time of development; or
  - Are not needed because of the circumstances of the proposal.
- 3) The applicant has demonstrated that the proposed multiple-family development's design is compatible with adjacent existing and planned single-family, duplex and

townhouse development. Compatibility may be achieved through architectural design, site planning, landscaping and/or other measures that ensure that views from adjacent single-family, duplex and townhouse development and public streets are not dominated by large buildings, mechanical/electrical and utility equipment, service/refuse functions and parking lots or garages.

- 4) The applicant has shown that the site is environmentally suitable for multiple-family development. There shall be adequate area within the site, or the development shall be designed, to accommodate buildings, roads and parking areas with minimal impact on steep slopes and floodplains.

Staff has drafted two amendment options for consideration. The first option (Option #1) removes conditions (1) and (3), which was the option directed by City Council to draft. Option #2 removes all of regulatory controls of Section 10-3-55.6 (e). In other words, Option #2 removes all four conditions and amends Section 10-3-55.4 (1) and (2) to remove the references to Section 10-3-55.6 (e) because they would no longer apply. After much consideration and review of 10-3-55.6 (e), staff recommends approving Option #2 for the following reasons:

- 1) Regarding the application of all four conditions, staff questions why these conditions are only triggered when special use permits are requested for multi-family dwellings of more than 12 units per building and for multi-family buildings greater than four stories and/or 52 feet in height. For example, a developer could build a 60 dwelling unit complex with five buildings at four-stories in height by right and the four conditions of Section 10-3-55.6 (e) would not be triggered or relevant as to whether such a development should occur. But if a developer wanted to build one building with 60 dwelling units at four-stories, then these conditions must be considered. At this time, staff does not believe that there should be additional scrutiny for such differences in development types.
- 2) Concerning the recommended removal of conditions (1) and (3), with any rezoning or special use permit request, staff, Planning Commission, and City Council should consider existing conditions, surrounding land uses, and any planned future uses as envisioned in the Comprehensive Plan. These considerations are not limited to special use permits that are requested for multi-family dwellings of more than 12 units per building and for multi-family buildings greater than four stories and/or 52 feet in height.
- 3) With regard to condition (2), consideration whether a proposed project demonstrates adequate vehicular, transit, pedestrian, and bicycle facilities should not be limited to when special use permits are requested for multi-family dwellings of more than 12 units per building and for multi-family buildings greater than four stories and/or 52 feet in height. Staff, Planning Commission, and City Council should consider this with any rezoning or special use permit request, or could consider changes to other regulations (i.e. City Code and design standards) to support or require vehicular, transit, pedestrian, and bicycle facilities for all development proposals.

- 4) Regarding condition (4), there are minimum regulatory requirements to meet erosion and sediment control, stormwater management, and floodplain regulations that all development must comply with that would not rely on this condition.

Ms. Dang said that as staff reviewed files associated with the changes to the R-3 district and creation of the R-5 district, we observed that the way our community thought about housing and development is different than where we are today. For example, in a February 2006 memo from staff for a Planning Commission work session, the memo identified topics brought up during the 2004 Comprehensive Plan's public input meetings, which included:

- Desire to reduce the amount of land zoned R-2, R-3, and R-4 in favor of R-1,
- And interest to explore options to limit the number of new apartments constructed in the City

We interpreted this to mean that there was desire in 2006 to reduce the opportunities for duplexes, townhomes, and multifamily housing and to increase single-family detached housing in the City and possibly to have more single-family detached homes on ¼-acre or larger sized parcels.

It appears now after the adoption of the 2018 Comprehensive Plan and recent discussions and input received for the Zoning and Subdivision Ordinance rewrite that there is more interest in creating opportunities so that we can reduce minimum required lot sizes and also get more housing units and mix different housing types.

Chair Finnegan asked if there any questions for staff.

Councilmember Dent said that she was impressed. We asked you to remove a couple of things and you took them all out. I appreciate your reasoning, that these are things we would have to go through in any case. They should not be triggered by the special use permit. Good work. Thank you.

Chair Finnegan said that he would like to echo that. Ms. Dang pointed out the 2004 comments. When we were doing this in the 2000s in favor of R-1. This is an important Planning Commission meeting. It feels like a major shift in direction in response to the Comprehensive Housing Assessment and Market Study that was done in the City. I commend staff for your work on this. I also favor Option #2. We are learning, collectively as a City, that the things that we did 10, 20, 30 years ago have long-term consequences. Now we are slowly going to turn that ship in a different direction. Good work.

Commissioner Byrd asked if items two, three and four are already in current regulations to perform these types of tasks, or is this in general practice?

Ms. Dang said that two, three and four are in general practice, but there are some items in number two that are triggered by subdivisions that might trigger requirements for constructing sidewalks, for example, but not in all cases is it required.

Commissioner Byrd said that number one seems to be an attempt to prevent extremely large complexes. Would there be a use in having something like that, if someone were to propose building a very large structure, like the example of one building with 60 units in it?

Commissioner Baugh said that this is important. I am not necessarily opposed to it. I think that staff's report about how we got here is incomplete. Commissioner Byrd's point is well taken. One of the things that has happened since we created R-5, Harrisonburg had nothing called a high density residential district. This is when that was created. It was created a little bit out of whole cloth, a little bit by looking at what other jurisdictions were doing. What you are seeing here are the concerns that people thought about it when they were writing it, not just the ones that have been expressed so far. One of them, going to the point of Commissioner Byrd, is that you are opening the door for eight story structures in a place where there is nothing around it that looks like an eight story structure or even rental units. And is that something that you ought to consider? That is what was driving that.

There were a couple of technical things with this. One of them is that we created R-5 before we amended R-3. It was commented on indirectly in the oral report, but it was in the written report, the seeming confusion about why that limit was there. The answer is because that is where the line was for what was of right under old R-3. When R-5 was created, there was no old R-3 and new R-3. That was still to come. What it was and was meant to do is a recognition that this is a high density category, meaning that it would be more dense than the medium density. The cap of medium density was that traditional 12 units, four story business. You can still, under new R-3, apply for it as a special use permit. The thinking on it was that R-5, by definition, would be for things that were beyond what could have been done under R-3. Whether we need to keep that or not, that is what we are going to discuss.

To me it ties into some of the points that were made before. In my ideal world, I am voting for or against things by first looking to see what our planning says. That is what I ought to be doing, not focusing on whether I like the applicant, whether I know the applicant or the neighbors. Those things are relevant, but presumably they are relevant in extreme cases. If we said, in planning, that the property is suitable for a particular use, then that is what we do. Some of these things that were put in for R-5, now in hindsight has people asking why the bar is a bit higher for R-5. Some of it was the mechanics of intermingling with the R-3 as it existed and as we did not know how it was going to evolve.

I will say this, as someone who was around when this happened. When the R-3 change originally went to City Council, it was kicked back to Planning Commission in the hopes that it would die. The only instruction that Planning Commission got from City Council was whether we should proactively recommend certain properties for rezoning to R-5. The point being was that R-5 was a major expansion of anything that we had allowed up to that point and the use of a word like "privilege" is probably too strong, but the R-5 was something where you needed to come in and make your case as to why you needed to go R-5 because we were taking on buildings of a scope beyond what the City had ever had. We saw that the future was in that direction. We were also trying to recognize that there were going to be some rough spots and transition if you went to that adjacent in an existing, established development.

This was a high density district and it was envisioned that this would be used for big buildings. What we have 15 years later is that we do not have a lot of those buildings. Most of our R-5 applications seem to be people who need flexibility and that is zoning category that we used. That is what R-5 has been, in fact, rather than building big buildings. That it was intended for and that is what people were shooting for. Things were said about liking R-1, but there were discussions about how we can create this in a way that makes sense. As we are going to these larger buildings, since this is the category that allows it, maybe we think now that it is sufficient to leave it to the discretion of Planning Commission and City Council to weigh all the pros and cons, but there was concern about that when it started. That is where these extra conditions for R-5 come from.

Chair Finnegan asked if staff knows how many R-5 requests have been approved or denied in the past several years. To Commissioner Baugh's point, we do not have a lot of R-5 buildings. I wonder how many of them got denied versus how many were requested. I realize this is a complex question and you might have to get back to me.

Mr. Fletcher said that he can think of one R-5 proposal that was denied. It was on Lucy Drive. That was in the past two years. I do not recall many R-5 proposals in general. Looking at the map, I see six or seven.

Ms. Dang said maybe closer to ten. Recently, we have had rezonings on Reservoir Street, Stone Suites, the one on Peach Grove Avenue and a couple of others. It is not a lot.

Mr. Fletcher said that he was trying to recall how many ideas came to staff in a preliminary or conceptual fashion that never got off the ground because they were not comfortable moving forward or they could not bring their ideas to fruition. There are lots of people who come to City staff and get feedback and general guidance. Either we never hear from them again or they let us know that they are no longer interested and move on to different properties. Out of the ones that have come to Planning Commission for a vote, I can only think of one that was not approved.

Commissioner Baugh said that if we want to consider that the thinking on this is evolving, that is the type of thing we are supposed to consider. Look at your Land Use Guide. What was originally thought on this is that the area that we have designated for High Density is Port Republic Road. The original thinking is that was it. That was the area where we wanted to see redevelopment in that direction. That is still our plan. Our Land Use Guide still says that. The other spots are the ones that have come into it. The idea was that anybody else who wanted to do something like R-5, we knew that we were comfortable with it in the Port Republic Road area, but anywhere else, we would look at on a case by case basis. We were not encouraging people to do that. That is the way that I remember it.

Mr. Fletcher said that Commissioner Baugh is correct about what our Land Use Guide calls high density. I try to remind people that when you look at the Land Use Guide, do not just focus on the word "residential." Mixed use means a lot. The density in Mixed Use is equivalent to High Density Residential. If you were to compare our current Land Use Guide map, which was last approved in 2018, with the 2011 Comprehensive Plan, it looks very different. The Land Use Guide in the Comprehensive Plan in 2011 did not have as many Mixed Use categories along our major thoroughfares. In our major thoroughfares, when you focus in on it, we are pushing for quite a

number of properties to go high density even though it is not actually called High Density. I always enjoy the conversations with people about what the maximum density is downtown because they are always thinking that high density is in Port Republic Road. It is not. Our downtown district is our most dense because there is no maximum density. When we talk about 24 dwelling units an acre, that is not a high density category when compared with other localities. We have come a long way from where we were in 2004 about what density means. Twenty-four units an acre is not considerably high. Urban Exchange is almost 100 units an acre. When you look at that building, it is big, a large massing, but it is downtown. The density is four times what our high density is. We have to keep it in perspective where we are pushing for mixed use. We are looking for mixed use adjacent to the Port Republic Road corridor, adjacent to the Peach Grove Avenue corridor, Reservoir Street, Country Club Road. We were just talking about mixed use at 518 East Market Street. We are capturing that mixed use near the intersection by the Sheetz at Vine Street. We are starting to push for high density there, along the entire corridor, all the way downtown, up North Main Street, down South Main Street. In 2018, we talked about how we are being quite aggressive. I do not know that people picked up on it because they saw mixed use and were not thinking about density. We were. We knew that. We knew what the numbers were. Still, it is not really high density. It is 24 units an acre.

Commissioner Baugh said that is really the last point to this. I gave the history of how it started. If you want to look at the most recent iteration of the Comprehensive Plan, and say “What is the biggest change between it and the prior one?”, it is the point you just made. We proactively moved a lot of property into the Mixed Use category in the Land Use Guide. I understood what we were doing when we did that. I wonder sometimes in my conversations whether others understood, too. Your planning and your Land Use Guide has opened the door for some of these things that right now the only zoning category that allows some of it is R-5. In some respect, I cannot help but wonder, if there is pushback on this, whether the pushback is more properly stated as have we gone too far with what we have said is Mixed Use in the Land Use Guide. If you do not think that, we have said that these developments belong here and they do have some of these characteristics to them.

Commissioner Byrd said that he is trying to see the difference between option one and option two, functionally. In option two, if we are removing that whole section, these are still required a special use permit and therefore the Planning Commission is still going to hear these applications, correct? Something that would be more than 12 units per building or greater than 52 feet in height, correct?

Ms. Dang said yes, you are correct. The special use permits that have to be requested in order to do those two things would not go away. What would go away, what is proposed to be removed, is the list of conditions that must be determined by City Council as being met. If someone wanted to have a multifamily dwelling that is greater than 12 units per building or greater height, they would have to request a special use permit and it would have to go through a public hearing process through Planning Commission and City Council.

Commissioner Byrd said that then, functionally, Planning Commission and staff are still going to be doing the things that are being removed anyway. They are listed here to encourage people to do that beforehand.

Commissioner Baugh said that the concern back then was that if it was not spelled out, then people might not do it. The one on transportation is a great example. It shows how we have evolved in the time period because at that point, even though we were already doing this, the public did not think we were. That was put in there to let everybody know that we are looking on that and the burden would be on somebody else to change that. Those were things that people were concerned about then. Except for the few places that are already R-5 because they have rezoned, everybody who wants R-5 has to come in for a rezoning, as well. There is a good chance that you are going to take a look at it.

Chair Finnegan asked if there were any questions for staff. Hearing none, he opened the public hearing. There were no callers, so he closed the public hearing and opened the matter for discussion.

Commissioner Byrd said that it sounds like Option #2 is recognizing that members that have joined the Planning Commission in recent years have gotten accustomed to following a lot of the items that are suggested to be removed. I would see no harm to future generations operating under these ordinances to consider these items without having to be told in the ordinance. I would be in favor of Option #2. I move to recommend approval of Option #2.

Councilmember Dent seconded the motion.

Chair Finnegan called for a roll call vote.

Commissioner Orndoff	Aye
Commissioner Whitten	Aye
Commissioner Baugh	Aye
Commissioner Byrd	Aye
Councilmember Dent	Aye
Commissioner Hull	Aye
Chair Finnegan	Aye

The motion to recommend approval of the Zoning Ordinance amendment passed (7-0). The recommendation will move forward to City Council on April 13, 2021.

### **New Business – Other Items**

The items in this portion of the agenda are not public hearings; however, the Planning Commission will allow the applicants, and then the public, to speak to the requests.

***Consider a request from Martha E. Grover, Trustee and MG Harrisonburg LLC with representatives Bluestone Land LLC to rezone two parcels at 161 and 241 Blue Ridge Drive***

***Consider a request from Martha E. Grover, Trustee and MG Harrisonburg LLC with representatives Bluestone Land LLC for a special use permit to allow multi-family dwellings of more than twelve units per building at 161 and 241 Blue Ridge Drive***



Chair Finnegan read the request and asked staff to review.

Ms. Dang said that on February 9, 2021, City Council received two separate applications from Martha E. Grover, Trustee and MG Harrisonburg LLC with representatives Bluestone Land LLC. The first was to rezone two parcels from R-1, Single-Family Residential District to R-5C, High Density Residential District Conditional. Because the applicant would like to construct buildings with more than 12 multi-family units per building, the second request was for a special use permit (SUP) per Section 10-3-55.4 (1) to allow multi-family dwellings of more than 12 units per building in the R-5, High Density Residential District. Both of these requests were presented to Planning Commission on December 9, 2020. Staff and Planning Commission (4-2) recommended denial of the rezoning and the special use permit.

The staff memorandum for the rezoning and SUP stated that staff believed the applicant had adequately addressed conditions #2 and #4 within Section 10-3-55.6 (e), but found it difficult to believe that conditions #1 and #3 were met. Staff also stated that “consideration should be given to whether or not the regulatory controls within Section 10-3-55.6 (e) should be alleviated or removed. These regulations were created in 2007 and could no longer be relevant or needed. Additionally, if Planning Commission desires, staff can also review the Land Use Guide and evaluate whether amendments should be made for this site. This may be appropriate to do after the housing study is completed in January 2021.”

During the February City Council meeting, the rezoning and SUP requests were tabled and referred back to the Planning Commission for review noting that the applicant had offered a new proffer and because the Comprehensive Housing Assessment & Market Study was completed since Planning Commission’s December 9<sup>th</sup> review. In addition, City Council directed staff to draft Zoning Ordinance amendments to remove conditions (1) and (3) and to draft any alternative recommendation staff might believe is necessary for Section 10-3-55.6 (e). Staff’s review and recommendation of the Zoning Ordinance amendment is explained in a separate memorandum.

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: A nonconforming, nonoperating commercial truck terminal and undeveloped land, zoned R-1
- North: Across Blue Ridge Drive, single-family detached dwellings, zoned R-1
- East: Across Country Club Road, single-family detached dwellings, zoned R-1
- South: Across Country Club Court, vacant parcel, zoned R-3; and across Chesapeake Western Railroad tracks and Country Club Court, townhomes, zoned R-3
- West: Across East Market Street, commercial properties, zoned B-2

The applicant has submitted two separate applications. The first is to rezone two parcels from R-1, Single Family Residential District to R-5C, High Density Residential District Conditional. Because the applicant would like to construct buildings with more than 12 multi-family units per building, the second request is for a special use permit (SUP) per Section 10-3-55.4 (1) to allow multi-family dwellings of more than 12 units per building in the R-5, High Density Residential District. (Note: Constructing multi-family dwellings of not more than 12 units per building is a by right ability in the R-5 district.) If both requests are approved, Bluestone Land LLC plans to construct 142 multi-family dwelling units within four, 3 and 4-story multi-family buildings as illustrated in the attached conceptual site layout (Exhibit A).

The applicant has offered the following proffers (written verbatim):

1. Occupancy Restrictions and Parking: Dwelling units may be occupied by a single family or no more than three (3) unrelated persons. A minimum of 1.5 parking spaces per dwelling unit shall be provided.
2. Bicycle and Pedestrian Connection: The owner will design and construct a 10-ft wide shared use path connection from the western terminus of Blue Ridge Drive to the western boundary of 919 Oakland Street (Tax Map Parcel # 028 F 1) as general shown on Exhibit A. In the event the City obtains necessary easement or right-of-way prior to final paving of the development, then the owner will also construct the shared use path connection to East Market Street. The final alignment of the connection will be determined and eventually agreed to at the site plan review stage of the project.
3. Road and Sidewalk Improvements: The following improvements will be constructed as part of this development:
  - a. Blue Ridge Drive shall be improved to include 2.5' curb and gutter, 6' planting strip, and 5' sidewalk along the project frontage. The face of the proposed curb shall be located 13' from the centerline of Blue Ridge Drive.
  - b. Country Club Road shall be improved to include 2.5' curb and gutter, 6' planting strip, 10' shared use path, and 2' path shoulder. The face of the proposed curb shall be located 6' from the existing edge of pavement.
  - c. A 5' wide sidewalk with a 2' planting strip shall be installed along the project frontage of Country Club Court.
4. Donation of Right-of-Way: For the purpose of road improvements to the intersection of Blue Ridge Drive and Country Club Road, the Owners shall provide a right-of-way to the

- City across 028 G 1 and 028 G 2 as generally shown on the Concept Plan dated 11-25-20, attached as Exhibit A, within 90 days of the issuance of building permits.
5. Donation of Additional Parcels: For the purpose of future improvements to Blue Ridge Drive, MG Harrisonburg LLC has entered into a Development Agreement with the City of Harrisonburg regarding donation of Tax Map Parcels 028 F 1 and 028 F 2 to the City. Those parcels are not included in this Rezoning Application.
  6. Density and Unit Mix: The development shall contain a maximum of 142 units. Units shall be limited to 1, 2, and 3 bedroom units, of which a minimum of 75% shall be 2 bedroom units or less.
  7. Parking Lot Placement- Parking shall not be located between the proposed apartment buildings and Blue Ridge Drive or Country Club Road. This proffer does not apply to amenity structures, maintenance facilities, and/or other accessory structures.
  8. Bus Shelter- The Owner will coordinate with the City to identify and provide a location for a bus shelter if requested during the site plan review phase of the project. Owner shall provide a concrete pad for City-provided shelter at a mutually agreeable location.
  9. Playground-A playground will be provided within the development.
  10. Street Trees- Street Trees will be provided along Blue Ridge Drive and Country Club Road frontages. Tree spacing will average 60 ft on center for medium or large maturing trees and 30 ft on center for small maturing trees. Location of street trees to be in the proposed planting strip or behind the sidewalk, depending on the location of above or below grade utilities.
  11. Affordable Housing – The Owner shall provide affordable housing equal to five percent (5%) of the total residential dwelling units within the Project in the form of for-lease affordable dwelling units. The Owner shall convey responsibility of constructing the affordable units to any subsequent purchaser of the Property. The Owner shall create units affordable to households with incomes at or less than 80% of the area median family income at the time of initial move-in (the “Affordable Unit Qualifying Income”). This requirement shall apply for a period of fifteen (15) years following the date the final Certificate of Occupancy for the Project is issued by the City of Harrisonburg (the “Affordable Term”). During the Affordable Term, each January, the Owner shall provide to the City of Harrisonburg a Compliance Report for the prior year to demonstrate that 5% of the units were rented in accordance with this proffer.

While the proffers refer to elements within Exhibit A, the conceptual site layout is not specifically proffered.

The R-5 district allows by right dwellings to be occupied by a family or not more than four unrelated persons. Proffer #1 reduces the allowable occupancy of dwelling units to either a family or not more than three unrelated persons. With this proffer, because the minimum off-street parking requirements of Section 10-3-25 (7) allow for reduced parking when occupancy is restricted, the development does not require as much parking as would have been required under the standard R-5 district. Although the applicant could have been allowed the flexibility of providing only one parking space per unit, they proffered that they would provide a minimum of 1.5 parking spaces per unit. If the maximum number of 142 dwelling units (Proffer #6) were constructed, then 213 off-street parking spaces would be required. In the conceptual site layout, the applicant has shown a scenario in how they might organize off-street parking spaces. The

applicant understands that parking requirements, among other details, would be reviewed during the engineered comprehensive site plan phase of development to ensure that all regulations are met.

With Proffer #2, the applicant has proffered design and construction of a 10-foot wide shared use path connection from the western terminus of Blue Ridge Drive to the western boundary of 919 Oakland Street. Because the full connection to the intersection of East Market Street and Martin Luther King, Jr. Way will require that the City obtain easements or right-of-way from tax map parcel 28-G-11, which is parallel to East Market Street and not owned by the applicant, the applicant has described in the proffer that “[i]n the event the City obtains necessary easement or right-of-way prior to final paving of the development, then the owner will also construct the shared use path connection to East Market Street.” It is unknown at this time whether easements or right-of-way will be needed from 28-F-1 (919 Oakland Street) or if the shared use path can be constructed entirely on public right-of-way and 28-G-11. It is understood that if the full connection is not made by the owner, then the City will later complete the connection. Right-of-way acquisition and new crosswalks at the intersection of East Market Street and Martin Luther King Jr. Way will be included with the Virginia Department of Transportation’s (VDOT) Exit 247 project, which is scheduled for construction advertisement in November 2022.

Proffer #3 addresses frontage improvements along Blue Ridge Drive, Country Club Road, and Country Club Court. Staff requested the applicant’s consideration to construct a 10-foot wide shared use path along the Blue Ridge Drive frontage to connect the future shared use path connection to East Market Street and the future shared use path on Country Club Road that would be constructed with the development. At this time, the applicant explained that they are not comfortable committing to a shared use path along Blue Ridge Drive because there are many unknowns still to coordinate with utilities, greenspace, and building setbacks.

Proffers #4 and #5 address dedication of land to the City for right-of-way associated with the Martin Luther King Jr. Way Extension to Country Club Road identified in the 2018 Comprehensive Plan’s Street Improvement Plan as project NE-17. The description within the Street Improvement Plan includes:

“... [c]onstruct new three lane road extension of Martin Luther King Jr Way from East Market Street to Country Club Road, with sidewalk on one side and a shared use path on the other side. Construct transit transfer center and park and ride lot near to East Market Street and the I-81 interchange, accessed by Martin Luther King Jr Way extension...”

While the Martin Luther King, Jr. Way extension project has been in the Comprehensive Plan’s Street Improvement Plan since 2011, when the most recent Comprehensive Plan was adopted in 2018, the addition of a planned transit transfer center on the subject property was added. Included in the packet is an excerpt from the March 2018 “Harrisonburg Downtown Transit Center Conceptual Design Report” that describes and illustrates the proposed Martin Luther King Jr. Way extension. It should be noted that while the City still has interest in the road extension project to improve connectivity, the transit transfer center project is no longer being pursued by the City at this location.

With Proffer #4, the applicant would donate right-of-way for future road improvements by the City at the intersection of Blue Ridge Drive and Country Club Road as conceptually illustrated in Exhibit A within 90 days of building permit issuance. If the rezoning request is approved, but the proposed, conceptual development does not come to fruition, a building permit for any new construction, addition, or renovation on the site would trigger the requirement to dedicate land for public street right-of-way.

Proffer #5 includes donation of properties identified as tax map parcels 28-F-1 and 2 located between Oakland Street and tax map parcel 28-G-11 (which is the parcel that is parallel to East Market Street and stretches the entire block length from Blue Ridge Drive to North Carlton Street) for the future connection between Martin Luther King Jr. Way and Blue Ridge Drive. The two parcels are not part of the proposed development and are not included as part of the rezoning request, but they are owned by the same property owner at this time. Those parcels would remain zoned R-1. Details for the land donation are described in the attached Development Agreement entered between the applicant and the City. The Development Agreement describes that if the City has funding in place to advertise for construction of the connection between Martin Luther King Jr. Way and Blue Ridge Drive within 15 years of rezoning approval, then the owner of 28-F-1 and 2 would donate those parcels to the City.

Proffer #6 restricts the development to a maximum of 142 dwelling units that are limited to 1, 2, and 3-bedroom units, and of the 142 units, a minimum of 75 percent of them shall be 2-bedroom units or less. This means that at least 107 units will be either one or two bedroom units.

Proffer #7 is intended to promote pedestrian friendly design by placing buildings close to the street by prohibiting parking between the multi-family buildings and Blue Ridge Drive and Country Club Road. Concentrating people and places along the public street creates an environment that is more accessible, interesting, and safer for pedestrians, which are designs and environments that staff promotes.

Proffer #8 would require a bus shelter be installed if requested by the City during the engineered comprehensive site plan phase of the project, while Proffer #9 would require a playground within the development.

If the conceptual layout shown was developed, the City's Parking Lot Landscaping regulations would require street trees along Country Club Court because there is a parking lot adjacent to the public street. However, along Blue Ridge Drive and Country Club Road there is no parking lot adjacent to the public street so no street trees would be required. Proffer #10 would require street trees along the Blue Ridge Drive and Country Club Road frontages. The specific location of the trees and whether they would be within the 6-foot planting strip within public street right-of-way or on private property behind the sidewalk will be determined during the engineered comprehensive site plan phase.

Proffer #11 was added by the applicant between the December 2020 Planning Commission meeting and February 2021 City Council meeting. The proffer states that for 15 years after the final certificate of occupancy is issued, 5 percent of the total number of units will be in the form of for-lease affordable dwelling units for households with incomes at or below 80 percent area

median income (AMI). It should be noted that family size will not be considered for thresholds. In FY2020, the US Department and Urban Development reported that the Harrisonburg area's AMI was \$71,900 and 80-percent AMI is \$57,500. If 142 dwelling units were constructed, then 5 percent of those units or 7.1 dwelling units rounded up to 8 dwelling units would be reserved for households with incomes at or below the 80-percent AMI.

As demonstrated in the Determination of Need for a Traffic Impact Analysis (attached), the development did not meet the 100-trip peak-hour threshold that gives City staff the ability to require a Traffic Impact Analysis. When a development reaches or exceeds 100-trips in the peak hour, this threshold is what typically causes concern for traffic safety and delays. The development is estimated to generate only 51 additional trips in the PM peak hour. The development is estimated to generate approximately 760 trips per day, on both weekdays and weekends, according to the Institute of Transportation Engineers' Trip Generation Manual, 10<sup>th</sup> Edition. Distributing the traffic between two entrances, both located on side streets, and not on a primary thoroughfare, further reduces these concerns, as does the provision of multimodal options for the residents. Any increased traffic at the Blue Ridge Drive/Country Club Road and East Market Street/North Carlton Street intersections can be accommodated by signal timing modifications. The overall Level of Service (LOS) (a measure of delay) should not be significantly impacted. Spotswood Drive, Oakland Street, and Country Club Court can absorb additional traffic within an acceptable LOS at these unsignalized intersections. Staff acknowledges that the proposed development will cause an increase in traffic volume on surrounding streets, especially Oakland Street and Spotswood Drive, and that while small lot single-family detached, duplex, or townhome development on the subject site may not result in as many dwelling units, those types of developments would also cause an increase in traffic volume.

As previously mentioned, City Council directed staff to draft Zoning Ordinance amendments to remove conditions (1) and (3) and to draft any alternative recommendation staff might believe is necessary for Section 10-3-55.6 (e). Staff's review and recommendation of the Zoning Ordinance amendment is explained in a separate memorandum, and staff has recommended that all four conditions be removed and to amend Section 10-3-55.4 (1) and (2) by removing the references to Section 10-3-55.6 (e) as the references would no longer apply. Since staff is recommending to remove the four conditions within Section, 10-3-55.6 (e), the remainder of this staff report and recommendation is under the presumption that the amendment is approved.

From a design and site layout perspective, staff likes the applicant's proposal to mass buildings close to the public street with off-street parking relegated behind buildings and to create multi-family structures with more than 12-dwelling units. Staff believes that massing buildings close to the public street with parking behind the buildings is more compatible with existing single-family detached development along Blue Ridge Drive than smaller multi-family buildings with parking lots surrounding the buildings and adjacent to public streets.

Staff acknowledges adjacent neighbors' concerns about the height of the proposed multi-family buildings along Blue Ridge Drive. The views from adjacent residential uses and from the public street will have views to large buildings (including a 66-unit building, two 24-unit buildings, and a 28-unit building). As illustrated in the attached conceptual site development layout, Building Type 1 is proposed to be 3-stories tall at a height of 48'-8" and Building Type 2 is proposed to be

4-stories tall at a height of 47'-3", which is 13'-8" and 12'-8" taller, respectively, than the maximum height allowed in the R-1 district of 35-feet. Know that the R-5 district allows up to 52-feet in height for multi-family buildings and that the conceptual building heights are not proffered.

With regard to the height of the planned structures, staff believes that on the Country Club Road frontage, the railroad and Country Club Court frontage, and the East Market Street frontage, that there is little or no issues with incompatibility. Country Club Road is a relatively busy road and by constructing taller buildings and potentially closer to the street along with the construction of the multi-use path and the proffered street trees, the proposed development could create an environment that could slow traffic due to the visual aesthetic and to create a more pedestrian friendly area. Proffer #7 will likely push most structures to be located near the public streets, and given the necessary setback along the property line of the railroad tracks and the existing layout of the townhouse development within Country Club Court, taller structures adjacent to the railroad tracks and the townhouses should be insignificant. With regard to East Market Street, the elevation drawing of the subject site provided in the attached conceptual site layout shows that the planned buildings will sit about 14-feet lower than East Market Street, and thus there is negligible impact with regard to height. The impact on Blue Ridge Drive is the main focus of contention. There is no doubt that for the existing single-family homes along Blue Ridge Drive, the built environment will be different, but it does not mean the residential structure will be entirely incompatible. The proffered street trees will help soften the visual impact while the minimum setback of 10-feet in the R-5 district and the six-foot planting strip with a five-foot sidewalk will create a pedestrian environment that staff believes will establish a pleasing community setting.

Staff agrees with the applicant that a multi-family residential development on this site is more compatible with surrounding land uses than a nonconforming truck terminal. The applicant describes that several existing conditions, including overhead electric transmission lines and easements, proximity of the Chesapeake Western Railway, and the floodplain present obstacles for development of small lot single-family detached and attached homes, and staff believes that these are some of the contributing reasons that could support the "special circumstances" referred to in the Comprehensive Plan's Land Use Guide description for Medium Density Mixed Residential, as to where multi-family dwellings could be appropriate. Additionally, with the proposed layout for the development, the multi-family structures are located mostly outside of the floodplain and away from the railway. It should also be understood that the Medium Density Residential designation that is identified for the Country Club Court townhome community, which is adjacent to the subject site, also specifies that multi-family development could also be appropriate in special circumstances for properties having that designation as well.

Staff believes that the proposed development consisting of one, two, and three-bedroom units, where at least 75-percent of the units will be one and two-bedroom units will benefit the City. The City's Comprehensive Housing Assessment and Market Study (housing study), which was completed in January 2021 identified a shortage of rental housing units that are affordable to the lowest and highest income renter households (0-30% and above 80% AMI) and found that "[t]here is significant mismatch with many higher income households residing in more affordable units and lower income households residing in more costly units." Among renters, the study noted several key findings of the housing mismatch, which included:

- “There are significantly more households than units in the 0-30% AMI tier. This tier includes most student households (including dependent and independent students), persons needing supportive housing, elderly households, and other household types that are non-student, non-elderly households.
- The vast majority of rental units are naturally occurring affordable housing, meaning that the unit is affordable to a household earning up to 80% AMI without public subsidy; 81% of all rental units are affordable to households with incomes up to 80% AMI.
- Because there are many more households with incomes above 80% AMI but few available for this income tier, these higher income households occupy rental units that cost less, therefore increasing competition among lower income households for the affordable units.
- The vacancy rate is low; CHAS data identified that only 2% of rental units were vacant.”

The housing study explained that when the rental vacancy rate is low at 2%, it indicates “a very tight market with an inadequate inventory. This creates high levels of competition within the market as renters compete for scarce units and where the lowest income households have the fewest options.”

The housing study also identified that “[o]nly 10% of all [rental] units are affordable to 0-30% AMI households, most of which are large units” and “[t]here are only 230 studio and one-bedroom units affordable to 0-30% AMI households, which is a critical unit type needed to meet the needs of households consisting of 1-2 persons and single persons needing supportive housing.” The proposed development could contribute to help to address the need for more one-bedroom units in the City. Even if there were more two-bedroom units rather than one-bedroom units constructed, overall, this project could help the City with the current housing situation because it would add more units to the market.

Lastly, the housing study places the subject site within Market Type A and notes that “priorities and policies that are appropriate to market Type A areas include an emphasis on increasing density through zoning changes, infill development and housing rehabilitation to maintain the quality of housing.” Staff believes that the proposal utilizes two parts of the recommendation by increasing density with the zoning change and that this project is a larger-scale, infill development.

Staff recommends approval of the rezoning and special use permit requests.

Chair Finnegan asked if there were any questions for staff.

Chair Finnegan said that he hopes that those Planning Commissioners who were not on the Planning Commission at the time in December have had time to read the full report.

Commissioner Baugh said that medium density mixed residential is the name of R-7. Was there any consideration to pushing harder for this to be an R-7 type development, rather than R-5 conditional? You would not get the same level of density with R-7, but it would increase density over R-1. To what extent did that come up?

Ms. Dang said that the R-7 district was not considered because the R-7 district requires a minimum of two contiguous acres.



Mr. Fletcher said that the site is larger than two acres in size, so it would meet that requirement. R-7 is a zoning district that would blend in there because of the opportunity for someone to be able to build single-family detached dwellings on small lots, duplexes, townhomes, and multi-family. While we are hopeful for a certain type of development, we never get the perfect proposal. When someone comes to us, they have a product in mind. They have a development in mind. They have a density that they are hoping to achieve. All of those things come into play. We did not discuss R-7 because their idea was apartments. They wanted apartment units. Trying to develop single-family detached dwellings was not on the radar. That is not what they do. That is not what this developer proposed. Was R-7 discussed? I cannot recall what those early conversations were. It was last summer when we first started talking with them about this and what the options might be. I would not be surprised if we did not bring up the topic of hoping for small lot single-family development. We are always looking to find opportunities to develop more single-family detached homes. Recently, it has been rare. I think the last single-family detached subdivision that we entertained was The Crossings on the south end of the City off of Ramblewood Road near Greendale Road where there are duplexes and single-family homes. That was probably in 2009 or 2009. The context is that when people bring us projects, right off the bat we might look at the Land Use Guide and say that they have an uphill battle because the Comprehensive Plan calls for different things. The Medium Density Mixed category is across the board different types of residential dwelling units. It specifically says single-family, duplex, townhomes and, in special circumstances, multi-family. It was designed, in 2004, as the R-7. The position we find ourselves in, as a community, is very different from that time period. Was R-7 specifically discussed? I do not recall, but we would have likely pointed out that for the apartments you would have to figure out if there were components of it that are in compliance. They knew that coming in. They asked if this is going to work. We said that we have to evaluate it. We have to look at it. There is a Housing Study that we are in the midst of. There is so much going to figure out all of those things. It was in line to be heard in City Council at the same time that the Comprehensive Housing Assessment and Market Study was set to be heard. I cannot say why the applicant tabled it, but they tabled it. The Housing Study was presented to City Council, then their proposal was presented one month later.

Ms. Dang thanked Mr. Fletcher for the correction and stated that the property, the two parcels together, totals seven acres.

Councilmember Dent thanked staff for the presentation. I heard Mr. Fletcher say that they do not know why the applicant tabled the requests. Whether or not this was their stated reason, it was brilliant on their part to wait until the Housing Study was out there so that they could respond with the affordable housing proffer. Several members of City Council, enough of us to pass this, were ready to go with it and then decided to send it back to staff. I am glad that we did for the staff's in-depth rethinking of the revisions to the ordinance and coming around to recommending something that I was in favor of all along. I listened in on the previous Planning Commission meeting and saw the contention about it. It was frustrating to see something that we need so much being turned down because it did not meet these technicalities, so wipe out the technicalities. It is a great solution. I will reiterate what I said in City Council. We are a City, so we need to grow inward and upward to some degree, or we will keep spilling out into the County. It was interesting to hear that the originally intent of the R-5 was to grow up or grow, period. We now see how far out of control

that has gone that the fancy new apartment buildings are in the County. We need to pull some of that growth into the City. I am glad to see the recommendation to go ahead with this.

Commissioner Whitten said that we do not like wiping out technicalities. I want to be clear about that. We are still concerned about all four of these conditions. We are just saying, they exist already, we do not need to use a two-by-four, to use a country term. They are still important. The one that I am having a difficult time squaring is the one about surrounding land use and incompatibility. It is easy to say, "Look at this picture. It is going to be fine for the people who live across the street." I think that neighborhoods that exist have to get consideration. I am very concerned for people that are coming, people that are here that need housing. I really am very concerned about that and I want to find solutions. I do not want to find them by way of the detriment of an existing neighborhood. I think that we have to look very hard at that verbiage about surrounding land use and planned future uses as envisioned in the Comprehensive Plan. I think it is a high calling to look for housing where it seems that it does not exist. Using infill is wonderful but I do not want it to be to the detriment of people who have poured their life savings into a home.

Chair Finnegan asked if there were any more questions for staff. Hearing none, he invited the applicant to speak to the request.

William Park, Manager of Bluestone Land, LLC, called in support of his request. Staff did a very good job going over our proposal. I am sure you are all familiar with it. The one thing that we did not have back in December is the benefit of the Comprehensive Housing Assessment and Market Study. From what we are seeing, we certainly meet the area of the housing mismatch. We felt it was important to address some of the affordability under the 80% AMI. We decided to proffer five percent of the units at 80% or below. Although that particular area did not show a mismatch what we find in many areas that we work in is that it does not take into account substandard housing and the conditions of what some people are living in at 80% and below. This would guarantee that there be at least five percent of the units set aside for the first 15 years for those that are at 80% AMI or below. I am available to answer any questions. We feel like the project is in accordance with the Comprehensive Plan, as it does suggest up to 20 units per acre, which is where we are. That was the proffer that added in addition to the other ten.

Chair Finnegan asked if there were any questions for the applicant. Hearing none, he closed the public comment portion and opened the matter for discussion.

Chair Finnegan said that, as someone who voted against denial in December, I hope that Harrisonburg is getting to a tipping point on some of these things. It was referenced earlier that the City is thinking differently now about density and growth than we were 10, 20 or 30 years ago. The comments that will go into the public record, that we received in opposition, many mentioned traffic. I do share that concern about traffic at this location because it is very close to the intersection of Vine Street, Country Club Road and East Market Street. That is probably the worst intersection in the City. I do not want to dismiss those concerns. I know that the traffic analysis was mentioned in the report. Does staff or Public Works have any concerns about the issue that might create.

Mr. Fletcher said that he would like to make sure that people understand what a Traffic Impact Analysis (TIA) is. It is an evaluation of the level of service that a particular development might have on the existing traffic. There are realities to human behavior for traffic. We talked about some of the concerns that were pointed out about where traffic would flow. What the TIA is telling you is that the streets would still function at an acceptable level of service. It does not say that traffic is going to double or triple. It is very likely that Oakland Street and Spotswood Drive would have more traffic from this as people are trying to go to Carlton Street. Human behavior will learn that it will be more difficult to turn left at the intersection of Oakland Street and Carlton Street because of the stacking queues of the traffic signal. I think human behavior will end up dispersing between Spotswood Drive and Blue Ridge Drive to turn left on Carlton. There is a reality to adding density that is going to add traffic. A lot of the conversations about this project at the staff level, or when we are sharing comments and going over different points of view and the interpretations, is that we talk about the “what ifs.” We can hypothetically talk about the “what ifs” for a long time, and we do that. We try to evaluate everything and think through all the different scenarios. We talked about that. Oakland Street and Spotswood Drive are going to see an increase in traffic, whether it is apartments or townhomes. You are going to have an increase in traffic. The TIA is about the level of service that they find acceptable. The TIA does not tell you all of the answers. It is a software program where you decide the distributions of where traffic will go. What are the units? Where are the entrances? What type of streets is the development connecting into? It gives an evaluation based on the software’s ability to interpret that data. There are human behaviors that are not going to be able to be known. That is the reality of it. It is not a perfect science. It is a complex thing to do.

Ms. Dang said that a TIA was not required for this proposal because it did not meet the threshold. Nonetheless, the things that Mr. Fletcher mentioned about level of service, Public Works did do an evaluation without a TIA, which is described in the staff report. We included their comments in the staff report about the level of service, as follows:

Any increased traffic at the Blue Ridge Drive/Country Club Road and East Market Street/North Carlton Street intersections can be accommodated by signal timing modifications. The overall Level of Service (LOS) (a measure of delay) should not be significantly impacted. Spotswood Drive, Oakland Street, and Country Club Court can absorb additional traffic within an acceptable LOS at these unsignalized intersections.

We went on to acknowledge that any development is going to increase traffic in this area regardless of the type of development.

Chair Finnegan asked what the process is for people who live in that neighborhood if they want traffic calming measures installed in their neighborhood?

Ms. Dang said that the City has a process for enrolling in the Neighborhood Traffic Calming Program. That program is overseen by the Department of Public Works. To address traffic concerns does not always mean that the neighborhood has to go through the process of enrolling in that program. There may be other things that Public Works can assist with, depending on what the issue is. I encourage neighbors to contact the Public Works Department for a discussion of traffic calming measures. The Police Department can assist with enforcement issues.

Chair Finnegan said that is the concern that he acknowledges and shares. I do have a hard time agreeing with the issue of the height of the buildings. It is currently an empty truck parking lot. If we are talking about views, we are not cutting down a redwood forest or replacing a lake. There are some concerns that we received from the public that I am more sympathetic to than others.

Commissioner Byrd noted that current operations at that site are non-conforming. For some reason that area is R-1 even though the last time we discussed this, it sounded like most people were in agreement that it was unlikely to ever be used as R-1 due to all the flooding, train tracks and other issues that make it unlikely that someone would want to put a single-family house on those parcels. The extension of Martin Luther King, Jr. Way is no longer being pursued, but it is an idea that remains with the City. If it ever came to fruition, it would change everyone's view of the traffic in that area completely. I mention that because there are still proffers that enable that to happen, if the City decides to pursue that. I keep that project and that planned future use in my mind. If they extend Martin Luther King, Jr. Way it changes the whole traffic profile of that neighborhood. We should keep that in mind.

The difference between the R-3 across the train tracks and this proposed R-5 would be slightly higher buildings which are already lower relative to Market Street. The main concern that I see for residents is the R-1 residents who are directly across the street. If there is going to be shrubbery and the distance of those buildings from the streets, I do not see what concern about the height of the buildings would play into their residences. I have lived in neighborhoods and grew up in neighborhoods where there are houses right beside four-story apartment buildings and no one was considering selling those houses. In my years of living in those neighborhoods, I did not see that having any effect on what their portion of the neighborhood is.

As far as the affordable housing proffer, that is in additional thing. I have had more time to think about these things, such as the traffic. I would be more in favor of this in its current state at this time than I was in the past.

Commissioner Baugh said that he agrees with Commissioner Byrd's point that when you have lived elsewhere, some of the things that you hear sometimes about how the world is going to come to an end if this building is close to that building, when you have lived in other places and seen other things, you smile and acknowledge it. It bothers me that an opportunity was missed here to look at R-7. As I imagine an R-7 development in this spot, I can also imagine that the neighbors would still be concerned about it anyway because they will always be concerned. An R-7 would be consistent with the Planning and Land Use Guide. It would be consistent with the Housing Study. It would be a little less intrusive on the surrounding neighborhood and it is what it was designed for. This is a part of the larger issue of, when we created R-6 and R-7, we are certainly disappointed that more people have not gone to it, but this illustrates the point that one of the reasons people do not go to it is because we do not push people to go to it. When is the last time that an applicant came in and volunteered to do something that was less dense? It is going to be a little more dense, a little more in that direction. I feel that an opportunity was missed here to at least engage with some dialogue on that and flesh out the possibility that maybe was missed here.

Commissioner Byrd asked staff if the maximum height of R-7 is 50 feet or 40 feet. I think that there is a 50 foot option for multi-family units, but most of them are 40 feet.

Ms. Dang said that there is a maximum building height of 40 feet and three stories for all uses, except that multi-family dwellings can go up to 50 feet and four stories.

Commissioner Byrd said that he is mentioning it because we have been talking about building heights. Their proposed buildings are all under 50 feet. I thought it was interesting.

Chair Finnegan said that the City can do certain things through HRHA to address housing needs and affordable housing. In terms of our role and City Council's role, in approving these we are relying on the market to provide housing. We are asking the invisible hand to please build housing for us. As I was thinking about this, I remembered a parable that I heard when I was a kid. A man was on a roof during a flood. He was praying that God would save him from the flood waters. A rowboat came by and asked if needed help. He said, "No, thank you. I am waiting for God to save me." You get the idea. It happens two or three more times, and he drowns. He goes to heaven and he asks God, "Why did not save me?" God answered, "I sent you a boat, a motorboat and a helicopter and you did not take them." I do think that there is an element of truth in that when it comes to the market based proposals that we either approve or deny. The City, contrary to common belief, does not have total control over what gets built. We have partial control over what gets built. Mostly the control that we have is to say no. I am in favor of this request. I have stated my concerns about traffic. I hope that those can be addressed. This comes at a time that we need more housing in the City.

Commissioner Byrd moved to recommend approval of the request to rezone two parcels at 161 and 241 Blue Ridge Drive.

Commissioner Orndoff seconded the motion.

Chair Finnegan called for a roll call vote.

Commissioner Whitten	No, because I believe that this rezoning is inconsistent with good zoning practice in terms of the surrounding neighborhood and the density.
Commissioner Baugh	No
Commissioner Byrd	Aye
Councilmember Dent	Aye
Commissioner Hull	Aye
Commissioner Orndoff	Aye
Chair Finnegan	Aye

The motion to recommend approval of the request to rezone two parcels at 161 and 241 Blue Ridge Drive passed (5-2). The recommendation will move forward to City Council on April 13, 2021.

Commissioner Byrd moved to recommend approval of the request for a special use permit to allow multi-family dwellings of more than twelve units per building at 161 and 241 Blue Ridge Drive.

Commissioner Orndoff seconded the motion.

Chair Finnegan called for a roll call vote.

Commissioner Baugh	No
Commissioner Byrd	Aye
Councilmember Dent	Aye
Commissioner Hull	Aye
Commissioner Orndoff	Aye
Commissioner Whitten	No
Chair Finnegan	Aye

The motion to recommend approval of the request for a special use permit to allow multi-family dwellings of more than twelve units per building at 161 and 241 Blue Ridge Drive passed (5-2). The recommendation will move forward to City Council on April 13, 2021.

***Consider a request from Shenandoah Valley Organic LLC per Section 7-2-4 of the City Code for the City to provide water and sanitary sewer service within Rockingham County***

Chair Finnegan read the request and asked staff to review.

Ms. Dang said that the subject parcel is addressed as 350 Acorn Drive and has portions located within the City of Harrisonburg and within Rockingham County. The City portion is +/- 36.51-acres, is identified as tax map parcel 44-C-2, and is zoned M-1, General Industrial District. The Rockingham County portion is +/- 30.97-acres, is identified as tax map parcel 94-(A)-132, and is zoned I-1, Industrial District. If the applicant's request to connect to City water and sanitary sewer infrastructure is approved, the applicant intends to construct a weigh station office measuring approximately 165 sq. ft. and restroom/bath house building that includes two shower stalls, and a live haul shed containing ten mist spray bays in Rockingham County to support a +/- 76,574 square foot chicken packaging plant approved to be constructed within City limits.

When reviewing previous public utility application requests, staff has discussed that the City needs to be careful about extending more utilities into the County, as it may contribute to using the City's available water and sanitary sewer capacity, which could be detrimental to future development within the City and it may indirectly lead to development around the edge of the City that we do not desire. The Department of Public Utilities has completed the preliminary review of the request and has offered technical approval for extending City water and sanitary sewer service to the weigh station offices and live haul shed located in Rockingham County. Overall, the County portion of the project has a small impact and demand on the City's water and sanitary sewer systems. Also, the weigh station offices and live haul shed support the main facility (the packaging plant), which is located within the City. From a land use perspective, the operation is consistent with the City's long term plans for the adjacent area in the City.

Staff recommends approval of the request.

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

Seth Roderick, Monteverde Engineering and Design Studio, spoke in support of the request. As Ms. Dang indicated, this is a relatively small application for services. We are tying onto a public main that was extended through the site for the packaging plant. The portion of water that comes off of this is somewhere in the neighborhood of 8,000 gallons per day. That is on the hottest of summer days, when the misters are in full action. It is not an average annual daily usage. It is a small amount of water, tying onto existing mains that the applicant has installed themselves. If there are any other questions, we are here to answer them.

Chair Finnegan asked if there were any questions for the applicant. Hearing none, he asked if there were any callers for public comment. There were no callers.

Chair Finnegan opened the matter for discussion.

Commissioner Whitten moved to recommend approval of the request.

Commissioner Baugh seconded the motion.

Chair Finnegan called for a roll call vote.

Commissioner Byrd	Aye
Commissioner Whitten	Aye
Commissioner Hull	Aye
Commissioner Orndoff	Aye
Councilmember Dent	Aye
Commissioner Baugh	Aye
Chair Finnegan	Aye

The motion to recommend approval of the request to provide water and sanitary sewer service within Rockingham County passed (7-0). The recommendation will move forward to City Council on April 13, 2021.

### **Unfinished Business**

***Consider requests from Christopher and Susan Versen and from Jeffery and Bonnie Fergusson to close portions of undeveloped right-of-way between Myers Avenue and Monticello Avenue***

Chair Finnegan read the request and asked staff to review.

Ms. Dang said that the undeveloped public alley right-of-way is adjacent to property that the Comprehensive Plan designates as Low Density Residential. These areas consist of single-family detached dwellings in and around well-established neighborhoods with a target density of around 4 dwelling units per acre. The low density residential areas are designed to maintain the character

of existing neighborhoods. It should be understood that established neighborhoods in this designation could already be above 4 dwelling units per acre.

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

- Site: Undeveloped public right-of-way adjacent to tax map parcel 26-V-1, 27-T-1, and 26-S-15, zoned R-1
- North: Single-family detached dwellings, zoned R-1
- East: Across Myers Avenue, single-family detached dwellings and Spotswood Elementary School, zoned R-1 and R-2
- South: Single-family detached dwellings, zoned R-1
- West: Continuation of the undeveloped public right-of-way to Monticello Avenue and single-family detached dwellings, zoned R-1

The applicants' original requests were presented to Planning Commission on August 12, 2020. Planning Commission tabled the requests (7-0) and requested applicants and staff to provide information on where the existing property boundaries are, as well as, where the center or the edges of the future path would be located. Provided as an attachment is the Extract of Minutes from the August 12, 2020 meeting.

Since the August 2020 Planning Commission meeting, staff from the Departments of Public Works and Community Development worked to survey the undeveloped right-of-way between Myers Avenue and Monticello Avenue and to design the future trail project. Provided as an attachment is "Exhibit D. 60% Engineering Plans for Mountain View Drive Trail." Sixty-percent plans represent enough engineering design to confirm that the project can be constructed and that the plans and specifications will meet the objectives of the project without significant design changes. Considering the expected volume of pedestrian and bicyclist traffic on this trail, existing trees near Monticello Avenue that staff wishes to preserve, a shed that encroaches into the right-of-way, and utility constraints at both ends of the trail, staff determined that a 5-foot wide gravel trail between Myers Avenue and Monticello Avenue was appropriate. Know that in 1995, a 20-foot portion of the right-of-way adjacent to and for the entire length of the property at 410 Monticello Avenue (tax map parcel 26-S-15) was approved for closure and the remaining 15-foot in width undeveloped right-of-way was reserved as a pedestrian access. While the section of undeveloped right-of-way between 374 and 410 Monticello Avenue is only 15-feet wide, staff has proposed to reserve 20-feet of width of right-of-way between 445 Myers Avenue (26-V-1) and 371 Myers Avenue (27-T-1) should the City later desire to construct a wider 10-foot wide path and require additional width for construction and maintenance. At this time, the City has no plans or schedule for constructing any trail or path at this location.

The Department of Public Utilities and Columbia Gas of Virginia have commented that there is a public water main and gas main within the undeveloped public right-of-way. The approximate locations of the public water main and gas main relative to the area the applicants desire to close are illustrated in "Exhibit A. Right-of-Way Exhibit." It is believed that the water main may extend further west before turning southbound. If the City approves the closure of the alley, the exact location of the water main and gas mains will be determined and easements would need to be established for each utility.



The applicants are requesting to close a total of +/- 2,536 square feet of an undeveloped public right-of-way as illustrated in “Exhibit A. Right-of-Way Exhibit.” Should City Council vote to approve the closing of portions of the public street right-of-way (first reading at City Council), the applicants will be responsible for hiring a surveyor to prepare a plat in order for the City Attorney to draft the ordinance to finalize the closure (second reading). The plat shall illustrate the location of the water main and gas main within the undeveloped right-of-way and shall show the location in which easements shall be reserved by the City, if applicable. Lastly, the plat shall demonstrate how the closed undeveloped public right-of-way will be divided among the applicant’s existing parcel(s).

With the necessary width and easements reserved, staff recommends approval of the closing request for the undeveloped public right-of-way.

Shown on Exhibit A is +/- 275 sq. ft. section of property at the southeast corner of tax map parcel 27-T-1 (371 Myers Avenue) that the owner has expressed willingness to sell to the City, which City staff desires obtaining should a 10-foot wide path be desired in the future. While the sale of +/- 275 sq. ft. should not be considered as part of the decision to approve or deny the request to close portions of the undeveloped street right-of-way, when the price for purchasing +/- 1,288 sq. ft. from the City is determined, the City will consider an exchange of +/- 275 sq. ft. of property and deduct the cost of +/- 275 sq. ft. from the total cost of purchasing the +/- 1,288 sq. ft.

During the August 2020 Planning Commission meeting, Commissioners expressed concern that vegetation is encroaching into the section of undeveloped right-of-way closest to Monticello Avenue. The Department of Public Works has clarified that it is their policy not to maintain undeveloped rights-of-ways or alleys where there is no public facility. While a wood chipped path exists in this area, it was not constructed and is not maintained by the City. Therefore, neither the City or adjacent property owners are responsible for keeping the undeveloped right-of-way clear of vegetation until a trail or path is constructed by the City. Staff with the Department of Public Works has discussed the possibility of a Safe Routes to School Transportation Alternatives Program grant application.

Lastly, on March 3, 2021, the City Surveyor flagged the location of existing and proposed right-of-way and painted the location of the centerline of the proposed 5-foot wide path. Planning Commissioners and members of the public are encouraged to visit the site to see the flagging and paint. Photos of the area taken on March 3, 2021 are provided as Exhibit C.

Chair Finnegan said that the visual markers were helpful.

Chair Finnegan asked if there were any questions for staff. Hearing none, he noted this item is not a public hearing; however, the Planning Commission will allow the applicants, and then the public, to speak to the requests, and invited the applicants to speak to their request.

Christopher Versen, 445 Myers Avenue, called to speak to his request. I have nothing to add to what City staff has done. They put together a really nice package. If you have any questions for me, I would be happy to answer.

Chair Finnegan asked if he wanted to speak to the concerns from the neighbors.

Mr. Versen said once the flags went up and everyone was able to see how clearly the path is laid out, it has been the opposite of concerns. Everyone I have talked to is happy that is going clearly marked for use.

Tracy Stover, called on behalf of her father who lives at 410 Monticello Avenue in opposition to the request. The path that you are talking about goes within about a foot of my father's property, as it has been measured around the tree. As a property owner, he is very worried about the impact that a path that is within a foot of his driveway will have on his property. It cannot help but impact in a negative way. As you all mentioned, there are two old, healthy trees that are there. I appreciate the fact that they are going to try to go around. They are very big trees with very big roots. I find it hard to imagine that they can do that safely. You are talking about four inches of gravel. That four inches of gravel is going to end up elsewhere on property that is being mowed and in driveways. Who does the upkeep with this? It has been an undeveloped right of way for citizens. There have been no issues with this. None. Why now, after 30 years, does gravel need to be placed there to devalue our property? I assume we are going to have higher traffic and dogs. I would imagine that you, as property owners, would not appreciate having this within a foot of your property. I am opposed to this. He is opposed to this. I do not see the reason for this change. It is being used properly right now, undeveloped, with no issues.

Jeff Ferguson, 371 Myers Avenue, called in support of his request. I think that staff did a very good job with the presentation. I am available for any questions.

Heidi Klin, 418 Monticello Ave, called regarding the request. I sat through this marathon of a meeting. So many issues that were brought forward tonight were about density, height, closeness, and how tight spaces are. That brings forward to me how important these few green spaces that we have left in this town are. Instead of being less valuable, it tells me how more valuable they are. That little walking path between Monticello Avenue and Myers Avenue is this little quiet harbor for children and people who walk their dogs to have a respite from the paved world that is around us. My concerns are that a five foot wide path is not very wide. If I were a child riding a bike to school, it would be tight. If I had a child in a stroller and I was walking my older children to school, it would be tight. Could we go nine? Also, gravel is harsh. It is a form of pavement. The City would be better served to use mulch for the path. Mulch is so much more organic, quiet. It does not seem as managed. I also think that mulch might be easier to spread and maintain than gravel. If gravel spreads out into people's yards it could get caught in lawn mowers when people are mowing their lawns and cause damage. Also, children might pick up gravel and throw it. Mulch would be so much kinder. I would like a little bit wider than five feet and I would like mulch. I think that keeping the trees, I applaud that. We can walk around them and we can narrow the path at the Monticello Avenue end to keep the trees. People need green space. I think that path makes our neighborhood safer.

Lindsey Monger, 424 Monticello Ave, called regarding the request. I think that one of the applicants mentioned that the was nice that the pathway was clearly marked now, with the dotted lines and the white flags. Except for someone that uses the pathway, I have noticed very quickly that people are taking the flags down. To comment that it is being well received and everybody is

for it, I have trouble understanding that or feeling that it is the truth when the flags have been taken down. I do not believe that the flags would be taken down if the neighbors were potentially in agreement with where the flags were going. I think Mr. Ferguson is the other neighbor who called in as the other applicant. I do not feel that there has been any discussion about the driveway that was put on the land that they did not own and what happens to that driveway. It is a little bit confusing to me. I feel like it has not been mentioned at all. I also agree with the other neighbor that called, gravel seems like a very odd choice. There was a comment that it was not set in stone, but there are so many other materials to preserve the nature around the path. The path right now is being used as it is supposed to. People walk through there, but there are driveways, detached storage sheds and all kinds of things. The path is not marked but people do use it. It is also concerning and confusing that you are talking about selling portions of the land to the homeowners and then in the same breath you are talking about widening. Why would you sell some of the path then talk about trying to widen it or make sure that it has enough space. It seems logical that you would just keep it. Those are my comments. I appreciate your time.

William Lilly, 378 Monticello Ave, called regarding the request. The path is going to be within ten feet of our home. My house is closer to where the path is going to be than any other house. The gravel is going to run down. Thunderstorms are going to wash that gravel into my yard and into the other side's yard. You said four inches over the roots of the trees. It is going to bring it up four inches above where my driveway is. Gravity is going to pull it down into the driveway. I do not understand why, after so long, anything has to happen at all. The traffic on the path is annoying to us as homeowners as it is. When you add the clear, defined pathway it is going to increase the traffic. Currently, as it sits, only the residents of the neighborhood know about it. Children go back and forth to school and that is fine. When you put in a clearly defined path, any passersby through the area see it and take it. I do not understand why, if the reason for the path is for school safety, then why a clear a path needs to happen after so long of it working the way it is. I hope you understand what it would be like to live here, if it was you. Would you want a path within feet of your house?

Mr. Ferguson called back into the meeting to respond to some of the previous phone calls. First of all, concerning our driveway, we met with a person from the City and had permission to put the driveway in to connect it to the asphalt driveway that was their previously, the partial right of way that the City had put in prior to our moving here 23 years ago. We did get permission from the City to do that. I am also listening to the comments about the gravel. I would concur with that. Perhaps there is another alternative, such as the woodchips rather than gravel. I think some very valid remarks were made. Even now, with the mulch that is there, when we mow, we do our best to avoid it but it has a way of scattering. I can see where that could be a problem. Also, for the kids, if they were running and trip and skin their knees. I would ask you to take look at that. I did want to address the driveway situation. We did not just go ahead and do that without getting permission from the City. I can give the name of the individual if you need it. We did get permission before we did that.

Chair Finnegan asked if there were any more callers, hearing none, he closed the public portion and opened the matter for discussion.

Chair Finnegan said that the Planning Commission has heard from the neighbors and the applicants. There seems to be a common thread among the people who are opposed and the people who want it do not love the gravel idea. Could staff speak to that?

Ms. Dang said that the item of discussion today is about the closure of portions of the undeveloped right of way and whether you would recommend approval or denial of that. With regard to gravel or what type surface it is or what width it will be, I would encourage the members of the public to contact Public Works. They would be the ones leading the community engagements or conversations with the public about the design of the trail. I would encourage them to reach out to Erin Yancey at the Public Works Department. She has spoken with some neighbors already, in the last week or so. This project for the trail is not funded. We do not have a schedule for it. It is very conceptual. Staff developed a 60% plan at the request of Planning Commission to ensure that the City did not sell property that we would end up using. We are confident that what we have proposed to keep would accommodate either a five foot path or a ten foot path in the future, whichever option might be chosen.

Commissioner Whitten said that she remembers this conversation very well. I remember saying that we are creating something that is going to spin out of control. That is exactly what has happened. I do not have a problem with the work that has been done towards creating a path, but the path is not the point of why we are here. The point of why we are here is that these homeowners wanted to purchase part of this property. We have ensured, while upsetting an entire neighborhood, that there is plenty of land to meet the need of getting kids or people with dogs across that small area. I do not know what the expenditure is to this point, but I know that Public Works has no plan for this trail. They do not have any plan. They do not have any money. I spoke with Ms. Yancey this afternoon because when I saw gravel, I thought the same way as everyone else who has commented. Why in the world would you feel like you need to put gravel here. She said that was because that is what we would use in many cases. It is no way what we are recommending. We do not have a budget for it. We need to get back to why we are here to decide whether this property should be sold or not. I am favor of it, just like I was months ago when we dealt with it. It is not going to hurt anybody, and it is not going to take enough land away that we lose that access.

Commissioner Byrd said that as he was listening, he was reviewing the packet. It was clearly reported to us that the City has no plan or a schedule for construction of any trail or path at this location. For the public listening, this request is not about a trail. The concern is closing portions of the current right of way. Those flags were to clarify to all parties concerns where the current right of way existed so that we knew, physically, in the real world, what we were discussing was to be purchased. That is the reason for all these markers. All these details about trails, I am not sure where all the came from, even though I enjoyed reading those things. That is not what this was concerned about, nor was that what all the little flags were for. They were for people like me to come over and see where the property is, where the new property line would be, where the right of way is. That being said, I would be in favor of this particular purchase.

Commissioner Byrd moved to recommend approval of closing portions of the undeveloped right of way.

Commissioner Whitten seconded the motion.

Chair Finnegan called for a roll call vote.

Commissioner Whitten	Aye
Commissioner Hull	Aye
Commissioner Orndoff	Aye
Councilmember Dent	Aye
Commissioner Baugh	Aye
Commissioner Byrd	Aye
Chair Finnegan	Aye

The motion to recommend approval of closing portions of the undeveloped right of way passed (7-0). The recommendation will move forward to City Council on April 13, 2021.

### **Public Comment**

None.

### **Report of the Secretary & Committees**

#### ***Proactive Code Enforcement***

On hold.

#### ***Rockingham County Planning Commission Liaison Report***

Commissioner Orndoff said that the remote broadcast for the Rockingham Counting Planning Commission was not working. I contacted the Planning Director the next day and he gave me a summary of what was covered. He sent a complete packet. Most of the items were brief updates, including a report from their Solar Facilities Study Committee. The Committee intends to conclude its work this month and prepare a recommendation to the Board of Supervisors and Planning Commission. The only action item was a unanimous recommendation for approval of the Western Rockingham Agricultural Forestall district's to the Board of Supervisors, as presented.

#### ***Board of Zoning Appeals Report***

Commissioner Orndoff said that the Board of Zoning Appeals met on March 1, 2021 to examine a request from Packaging Corporation of America for a variance from the required 30-foot front setback to construct a canopy over a loading dock. After much discussion, the Board agreed, with one negative vote, to grant the variance so that they could use the forklifts to get in and out of that particular part of their loading dock in inclement weather.

#### ***City Council Report***

Councilmember Dent said that there were two items that were forwarded from Planning Commission to City Council. The Virginia Mennonite Retirement Community rezoning to add

more density and less setback passed. The Valley Mall to subdivide the Popeye's and Wells Fargo passed.

**Other Matters**

***Planning & Zoning Projects Update***

Ms. Dang said the staff project team, Mr. Fletcher, Mr. Russ, the consultant and I, have been very busy working on Part 1 of 3, Module one of the Draft Ordinance Updates. As you can imagine there has been a lot a lot of back and forth between the consultants and the city staff Project Team on Module 1 and we are not ready to present it to the public yet. Those of you serving on the Ordinances Advisory Committee (OAC) will receive an email from me this week to reschedule the April 5 OAC meeting to sometime the week of May 3. We are tentatively planning to reschedule the virtual public open house to April 29. We will keep you updated.

The meeting adjourned at 9:50 p.m.