



# CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

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July 5, 2023

**TO THE MEMBERS OF CITY COUNCIL  
CITY OF HARRISONBURG, VIRGINIA**

**SUBJECT:** Consider a request from 130 Franklin Street LLC to rezone 130 Franklin Street

**EXTRACT FROM MINUTES OF HARRISONBURG PLANNING COMMISSION  
MEETING HELD ON:** June 14, 2023

Chair Finnegan read the request and asked staff to review.

Ms. Dang said around 1993 or 1994, the property, as it is today, was zoned B-2, General Business District. At that time, the site contained a nonconforming single-family detached dwelling but was illegally changed to an office use. While offices were (and still are) permitted by right in the B-2 district, there are many other considerations that must be taken in to account when changing the use of a building. As is the case with any “change of use” of a building, a building permit is required. During the review of the building permit application, Zoning staff would review for compliance with the Zoning Ordinance (ZO) while Building Inspections staff would review the application to ensure the structure meets the requirements of the Building Code for the planned new use. Once compliance is achieved, a certificate of occupancy (CO) can be issued for the building. The Department of Community Development has no records of a building permit or CO for the property. Among other things, when there is a change of use applied for, the ZO requires that the number of off-street parking spaces be provided based on the change. The property does not currently have the required number of parking spaces for the office use in the B-2 district. However, if a rezoning to the B-1, Central Business District is approved, then the property would have no off-street parking requirements and the use would be in compliance with the ZO’s off-street parking requirements. While the City has not issued a formal notice of violation letter to the property owner, they are aware the property is currently in violation of the ZO with a use violation as well as being in violation of the required minimum off-street parking requirements. The property owner is also aware that after rezoning approval and before any use other than single-family detached residential moves into the building, that the structure must be brought into compliance with Building Codes and will require permits and inspections. The property owner has been advised to discuss requirements with the Department of Community Development’s Building Inspections Division. The applicant is requesting to rezone a +/- 4,974 square foot property from B-2, General Business District to B-1, Central Business District. The property is located on Franklin Street between the intersections of Federal Street and South Mason Street.

### *Land Use*

The Comprehensive Plan designates this area as Mixed Use and states:

“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.”

While abutting parcels are zoned B-2, there are nearby parcels, within 100 feet, that are zoned B-1. In addition, the Mixed Use area extends to South Mason Street to the east of the subject property. The zoning district most closely associated with Mixed Use-designated properties located in the downtown area, such as the subject property, is the B-1 zoning district.

### *Transportation and Traffic*

Often staff has concerns with properties rezoning to the B-1 district without due consideration for the impact to how the downtown area might be impacted by parking demands. In this particular case, given the size of the parcel and the existing structure, staff has no concerns regarding transportation and traffic for the proposed rezoning.

### *Public Water and Sanitary Sewer*

Staff has no concerns regarding water and sanitary sewer service for the proposed rezoning.

### *Recommendation*

Staff has no concerns with the request and recommends approving rezoning the property from B-2 to B-1.

Chair Finnegan asked if there were any questions for staff. Hearing none, he opened he public hearing.

Suzanne Bothemley, representative of the owner and applicant, spoke on the request. She said I am just here to answer any questions or concerns that you might have.

Chair Finnegan asked if there were any questions for, can we call you the applicants representative?

Ms. Bothemley said you can call me Suzanne if you want.

Chair Finnegan asked any questions for Suzanne at this time?

Grant Penrod, resident at 171 Franklin Street, came forward to speak on the request. He said I have lived there with my family for more than a decade and I work just across the street here at 342 South Main Street. 130 Franklin Street has been an office building for as long as I have lived there. They have generally been a good neighbor. I have some concerns with moving this property from B-2 to B-1. One of the concerns is parking. Currently parking between Federal Street and Mason Street on Franklin is a red zone. You have got to be a resident and have a red zone sticker to park there. The business that was operating there until the pandemic, Responsive Management, was generally open between 5 and 9 pm, I think they were a call center of some kind. During those hours parking on Franklin Street right there was very tight. It was after the red zone hours. The employees were parking there. There were times where I could not park in front of my house between 5 and 9 pm. I would have to go and park at my office or other places. One concern that I have is that the City does not change that part of the street from the red zone to 2-hour parking. We want it to remain red zoned so that residents could still park there. I do not have concern with them running an office building there without the parking spaces that are required in the B-2 zone. There is adequate public parking available on Main Street and on Franklin Street, I think between Federal and Main, and of course the lot behind this building. If they wanted to put an office building, a counseling office, or something there would be plenty of parking there for them to do that with a B-2 zoning requires some type of an exception I assume. By moving it from B-2 to B-1, I think you are going to solve a parking problem and potentially create a much larger problem because of the much expanded permitted uses that you would have in a B-1 over a B-2. That neighborhood is primarily residential from about that building east. All three buildings on the opposite side of the street between Federal Street and Mason Street are residences and I am including First Step in there because it is primarily a residence even though it is a domestic violence shelter. On the 130 side of Franklin Street, beginning at Federal, you have a residence and office building, a museum that has some counseling offices upstairs, and another residence. If you open this one property up to B-1 and they want to put a restaurant or anything else in there, it is going to change the character of the neighborhood. It is not going to be consistent with what is around it. I would like to see them be able to continue to use their building as an office. I think that is a great use of the space and they have been a good neighbor for the decade plus that I have been there. I do not think changing the property from B-2 to B-1 is a good solution because, while it would solve the immediate parking problem, it is going to open the neighborhood up to all kinds of other problems. If the next owner wants to do whatever they want to do there. Thanks.

Jim Jenkins, a resident of 166 Franklin Street, came forward regarding this request. He said basically what Mr. Penrod said is correct in my opinion. If the Responsive Management people could run a low volume style business, why does it need to be changed to B-2? Nobody wants to

tell you what is going to happen, I mean to B-1. They are not here to talk and say well I am in B-2. We bought [our home] as a single-family home from the Moffet(?) -Zerkle Estate and now are we going to have problems because there is a single family residence on the corner of Franklin and Mason Street. But the parking is the problem and it should be left, as Mr. Penrod said, from Federal Street up as residential red zone. If not, it would be like what happened, as he said, with Responsive Management. They would swarm in and you could not get near your property with all the employees. Now they say the employees are supposed to park somewhere else, but that did not happen. Then they tried to get some red stickers for the back of their cars, which was not legal and they got called on that and they probably did not like it. Anyway, they also use to raise Cain a lot about so called spot zoning and it is just one little lot. What did they want to do that requires B-1 as opposed to B-2, which it already is? Mr. Childstone's next door that single family residence he owns it. Why the hot to trot to change it to B-1? Is it going to change the parking? Other than that it is no problem if they run a business in there. The real kicker is, if we discover that they are going to be parking all over Franklin Street and if you live there, it should stay red zoned is what I am saying. Okay, I appreciate it, thank you very much.

Lauren Penrod, also a resident of 171 Franklin Street, came forward to speak to this request. She said I have the same concerns that have already been spoken to. I also have two questions that either staff or you could potentially answer that I am a little confused about. One is that I do not understand why, as the business is currently, it would need to change from B-2 to B-1. Maybe I am missing something. I know that they did not apply for something specifically maybe, but I do not know why they would have to change just that one building. The other thing is that, my understanding is that the business closed and that the house itself is for sale pending since, I think, March 30<sup>th</sup> of this year. So, why does that even matter to 130 Franklin LLC, I guess? I do not know if I should wait for that to be answered or just continue on with my..., that is my bigger question is that according to the City Real Estate records at least, the property is for sale pending something since March 30<sup>th</sup>. If I had to guess, I would say it was pending this rezoning thing. That kind of makes me wonder why this has not come up at all during this session. Like is this actually for 130 Franklin or is this for a different business entirely? And if it is for a different business, why have we not heard anything about this during this session? Then the bigger issue to that is that we know what Responsive Management was like and their hours. Which again, I think they closed sometime during the pandemic and have not reopened. That was one particular business. It was easy to work with for the most part. Once they realized "oh people have moved in across the street, we cannot park in front of their house anymore" generally it was fine. But that is one business and we do not know what the next business is going to be like. We do not even know what it is because we have not heard anything about it yet. First Step being across the street from them... we really value our neighbors at First Step. They are great neighbors. We love having them there and we are kind of protective of them as well. So, opening this up to B-1, even if the next business that goes in there is like a law office or something like that, if we kind of open that ability for a different business to go in, like a Jack Browns or something like that, what sort of scenario are we looking at in the future. Where we have victims of domestic violence living across the street from a bar. What does that do to our little block? It is a nice little block. I know it is not as cool as upper Franklin Street, which is definitely all just residential, but we like our block. We like our neighbors, businesses, and nonbusiness alike. We like that Franklin Street Apartments, down at the end of the road. Like my husband said, it would be a shame to sort of mess with the character of the existing neighborhood. That's all I have to say. Thank you for listening.

Ms. Bothemley said I think that when we talked, there were a lot of things to consider. First to answer the lady's question, actually the people who purchased the property, they are a counseling service and they have very low employment. So, we are not talking about tons of cars. Eventually what they are going to probably do is tear down that garage that is in the back to allow a little bit more parking space for the staff. There has to be parking for the staff, but they also want to be able to have people park in the front of the house for when they are there for counseling or whatever needs to be done. Yes, there are parking areas around, but it is not all that convenient. The backyard is not conducive to anything really. It is pretty shallow in the back, so what they are trying to do is create, eventually maybe even, a parking area back there for the staff, which is very minimal. I think they only have like five or six people working there. It is a 9-5 operation and I think a counseling group is very appropriate to live across to be across the street from what she was talking about. We are still wondering too, a little bit, about the rezoning. But I think that maybe our Assistant Director could elaborate on that a little bit.

Ms. Dang asked do you want to say anything else?

Chair Finnegan said I guess it sounds like there is a concern. I am not doubting what you are saying, but the zoning remains if new owners come. So, I think that is a part of the concern.

Ms. Bothemley said right, and also I think the major concern to is just the red zone in front of that can get pretty...it can be distracting for people that really need to be there. It is important that they have at least a few parking spaces to come in for the clients, to come in, rather than find parking spaces around. That is, I think, the major reason why we had to rezone it from what it is to B-1. If that makes sense. Does anybody have any questions about that?

Chair Finnegan asked if anyone else wanted to speak to the request? Hearing none, he closed the public hearing.

Chair Finnegan said so, if this gets rezoned, that necessitates that red zone in front of it getting changed. Are they married together in that way? So, this request has nothing to do with the red zone? For the record Mr. Fletcher is shaking his head no.

Ms. Dang said the red zone, if it was proposed by whomever to change the permit parking, it would require a decision by City Council. It is not administratively done by staff. Just want to put that out there.

Commissioner Baugh said it would have to come back and...

Ms. Dang said and amend the ordinance.

Commissioner Baugh said am I right in thinking that we were just talking up here that visions as presented notwithstanding then if you did it and they had parking in the back? They would either have to be handing parking passes to their patients/customers, or those guys would park in the back, and they could use the spaces in the front. Based on whatever permits they could get.

Ms. Dang said the tricky thing with the site is the amount of space that is on it. If I may Chair Finnegan, answer the question that both Ms. Penrod and Ms. Bothemley had asked me. I did not want to interrupt the public hearing, but I can address that too. There is a single driveway that enters through here. I suppose they could, whoever moves into the building later, could remove

that and construct the parking spaces back there. I have not evaluated the amount of space back there and I cannot use the GIS right now so perhaps they could. However, with its current zoning of B-2, the history with that is, we are...I do not know if catch 22 is the right word, but it is just like if there was a nonconforming residential use and then an illegal conversion to an office use that should have never occurred. The office use would not have met, at the time in 1993 or 94 or at present time, the parking requirements. It should have never been allowed. It never was allowed. They just moved in and nobody complained, and we never investigated whatever that might have been. So, the rezoning to B-1 is being requested because it was thought that is a solution to address the off-street parking requirements.

Chair Finnegan said just to ask a clarifying question on what you said, so because it is not clear whether they could put a parking lot in the back?

Mr. Fletcher said no, what Thanh was saying was two different things. I do not want to speak for you [Thanh], I knew what she was thinking there. What she was talking about was that we had not yet heard about anybody developing any parking in the back. She was, I think, dimensionally trying to figure out if anybody could do it physically. Then she jumped to the topic of, okay explaining that the property was zoned and is zoned B-2. There was a conversion to an office space that the City would not have signed off on had they gone through the proper channels because they could not have met the required off street parking spaces for the B-2 district. When the property owners got into contract for a future use, and socially people were looking at this space, saying "oh, it has always been an office building I would like to put a counseling business or whatever type of office use in this space" seems reasonable. It then came to our attention when all of these questions were asked during...

Ms. Dang said a potential buyer asked questions about the property.

Mr. Fletcher said all of this stuff came out oh there is an office building in there. There is an office use. They never got building permits. They are not meeting any handicap accessibility, likely because we never knew that they were in there. And then it was well you cannot establish a counseling business in there because the use there is actually illegal. So, then it was what are our options? An option was, the only option was, to allow an office use there would be to rezone to B-1 and that led us here.

Commissioner Armstrong said I mean that is not the only option. We had this earlier application and big discussion about parking. The other option is they have to develop off street parking there and so that needs to be evaluated.

Mr. Fletcher said and the other thing that I knew that Thanh was thinking was, because the way our current Zoning Ordinance is enforced, that whole structure would have to be taken into account for office space. Now, off-street parking requirements for offices is the minimum. It is 1 space per 300 square feet of gross floor area. That is a big building, and I do not know the number I would have to do the calculation, but I would be surprised if they could meet the off-street parking requirements in the rear of the building.

Chair Finnegan said there is not enough...

Mr. Fletcher said there is not enough area. The site is just too small.

Commissioner Armstrong asked if the entire square footage has to be allocated to the business? You cannot do an upper floor or something?

Mr. Fletcher said unfortunately, under our current ordinances, the answer to that is no. We have pondered that. This has come up many times, but then you have this “dead space” that somebody is going to be like “I want to use that for something” and then you are back to square one.

Ms. Dang said the building, I think it was off of the real estate record, is 2,500 square feet at a requirement of one parking space for every 300 square feet of gross floor area for an office use. Nine parking spaces would be required. It would not fit. It has not been discussed, and this is not something that the applicant needs to decide, but I just want to put it out there. It sounds like there are concerns about uses. You could talk with your client about proffering out uses to address the concerns that you are hearing this evening.

Vice Mayor Dent said well, Thanh’s idea now just addressed some of my concerns potentially. It seems sort of backwards, or tail wagging the dog or something, to have the parking requirements force it into B-1, which opens up all sorts of potential unwanted uses. What are other solutions? One is to proffer out businesses that would be parking intensive or traffic intensive such as a restaurant or a bar or whatever. Still keep it B-1 but proffer out those things and the B-1 just gets you the lower [parking] requirement. What is it? Lower requirement, zero requirement for off street [parking] because it is downtown. It is just confusing with the solution too, the existing problem is...

Chair Finnegan said just to clarify, is it accurate to say, if this were to get denied this evening, they could come back and say here is a different proposal with...

Ms. Dang said right, they could decide to offer a proffer statement. Mr. Russ and Mr. Fletcher remind me if they are making it more restrictive does it have to come back to Planning Commission by restricting uses? Can Council consider that without Planning Commission or is that Council’s discretion ultimately?

Mr. Russ said I think we are both trying to pull up the text.

Mr. Fletcher said actually, I am looking at something a little bit different. I would answer your question by stating that I think that technically, legally, and confirm with me Wesley, it can proceed forward if it is more restrictive. In years past there was this sort of unwritten sort of feeling that if City Council was evaluating something that Planning Commission never talked about they might send it back to Planning Commission to be reevaluated. I do not think legally they have to. Commissioner Baugh said I will say I was always a big advocate of that. Mr. Fletcher said is that so...

Commissioner Baugh said I always found that sending it back aspect of it, and again you do not like it being a hard and fast rule, because sometimes it sort of depends on what you are doing. Sometimes at the Council level you are smoothing out a rough edge and you are coming up with a better solution and sure let’s not send it back. I can think of one example in particular years ago where, heck this is when we hammered out at Planning Commission, and I lost the vote at Planning Commission to get them to come back because they were amending their proffers. My argument

was why did I spend my time studying the packet and having staff evaluate it if we are then, on the fly, vote on something that is not what staff evaluated and was not a part of my packet that I had some time to think about. It is ultimately up to the discretion of the bodies particularly. What were you just saying when it is something less restrictive or more restrictive?

Mr. Fletcher said there is potentially one other option, and correct me if I am wrong, if you spoke about this, Thanh, when staff met with the applicant about this idea, but there is a provision in the Zoning Ordinance that allows for business and professional offices to accommodate the required off street parking spaces within a quarter mile of the site in a certain boundary and this is in the boundary.

Ms. Dang said I do recall discussing it with...if it is the same contract buyer. I do not recall if I spoke about that with you and Luke or not.

Mr. Fletcher said so there is another solution potentially, but it obviously could not get worked out tonight, but specifically in the code it allows, under section 10-3-26 this is titled "Location in relation to building or use served," it is talking about parking space locations in relation, and specifically business and professional offices, to any parcel within the area bounded by, walk with me here, Gay Street to the north, Mason Street to the east, Martin Luther King Jr Way to the south, and High Street to the west. What you are capturing here is a boundary that is in that Downtown Zone. That allows for business and professional office uses to then go into basically a common co-op agreement with an adjoining property owner that is in there somewhere as well, within a quarter mile of the site to meet your parking requirements.

Commissioner Armstrong asked so they could stay B-2?

Mr. Fletcher said potentially. If the use was desired to be a business and professional office. Also, there are provisions similarly for charitable and benevolent institutional uses and then the other one is irrelevant.

Commissioner Armstrong said no restaurant bars.

Chair Finnegan said I will say, I did just finish reading this book *Paved Paradise: How Parking Explains the World* and this is textbook out of that. Really, about 90% of our conversations on this board are about parking.

Vice Chair Byrd said often when I hear applications, I am always listening for all the possible solutions and when there are possibilities that do not require zoning to be changed, I tend to want people to move towards those or at least have presented to me why those would not be the preferred path. Since, I have not heard that, I would likely be in favor of denial.

Commissioner Baugh said if I may, and I guess I will look over at the applicant here. First, looking over to staff and going "do not throw anything at me for even suggesting this," but in light of some of this discussion I will just ask, do you think this could benefit from another month or so to ponder this and see whether you wanted to amend this? I feel like, it is maybe not exactly like Mr. Byrd said, but similar that it is sort of like I have got a choice between...It seems like the solutions here are we sure we cannot make B-2 work? Or could we do B-1? Is B-1 right now more open than we are comfortable with is the way I will say it. I know the last thing anybody is looking for is



something to add to the agenda for the next meeting because we are already going to be meeting on two different nights. But if you are okay with it, I think it might just be worth tabling this. If that is something the applicant is okay with?

Chair Finnegan asked if we tabled it would it have to come back next month? Is that right?

Mr. Fletcher said no. I think if the Commission tables it, it has to come back in like within two meetings by the way the calendar is. I think it has to come back within two meetings because you have to act on it.

Chair Finnegan asked two meetings not two months?

Mr. Fletcher said did I say two meetings? That is because I am thinking calendar on a monthly cycle. Thank you. Two months because of the way the calendar falls, if the applicant were to table it, which they can if they want to, it is like an indefinite tabling. Then they get as much time as you want.

Commissioner Armstrong asked with tabling, can it be redrafted and come back with proffers for example?

Commissioner Baugh said if that is something they want to do.

Mr. Fletcher said absolutely, they could do that too.

Commissioner Armstrong said so, that could happen, taking it off the table? It can be a changed application?

Mr. Fletcher said oh yeah, we do not have to readvertise...

Commissioner Baugh said that was what I was thinking. To get an opportunity if they wanted. Chair Finnegan said Planning Commission does have to take some sort of action whether that action be tabling or...

Commissioner Baugh said not if the applicant asks us to table it.

Mr. Fletcher said if you table it, eventually the time period would come where Planning Commission must act. If you do not act, then it is declared approved. Is that right?

Commissioner Baugh said there is a path where that happens. There is a path that if you do not act on it, the default is that it gets approved.

Mr. Fletcher said but if the applicant wanted to, even if you tabled it, even after you have tabled it, the applicant can say we would like to table it ourselves. Then it sort of removes that timeline; it is entirely up to them. I do want to point out however, that the proffers might help with some of the situations, the parking is still going to be a little bit sticky. Even though looking at the picture there is like an open gravel space directly behind the property, they have to go into an agreement with the property owners. Often times that is where it sort of can get a little mucky because you have to come to an agreement.

Chair Finnegan said that is just a civil...

Mr. Fletcher said that is a civil thing.

Chair Finnegan continued...thing that has nothing to do with us.

Ms. Dang said if I may, we have a message from the gentleman in the booth back there that the contract purchaser is on the phone and offered their ability to answer some questions. If you are all interested to entertain that.

Chair Finnegan said is that something that we would want to allow? Any objections to that? Okay this is not of course a part of the public hearing.

Mr. Fletcher said you can reopen it if you want.

Chair Finnegan said I will reopen the public hearing in order to allow...do I need to use this phone. After the call was transferred, Ms. Auguste read the following statement "You are now live with the City of Harrisonburg Planning Commission. Please state your name and address, you now have 3 minutes."

Kristen Loflin, resident at 232 Fairway Drive and purchaser of 130 Franklin Street, called in to speak on the request. Ms. Laughlin said I was hoping that this was going to go through very easily and quickly and so I did not come as the purchaser, also because I am not the person requesting the rezoning, but can shed some information, shed some light for you situation. I am a mental health counselor and it has been about my 20 yearlong dream to be able to have a practice in which I own the space and then can have colleagues in the same space who share similar ethical values. I currently and have been for a number of years renting from Matchbox. I will tell you all sometimes the heat works sometimes the heat does not work. I am really looking forward to being in a space where I can have control over that. I would like to answer the question about how many spaces and providers would be there. There are four office spaces upstairs and there is one waiting room space downstairs and there is the potential for maybe a group room downstairs but basically on any given day probably three or four mental health councilors in that space, with clients coming in for about an hour at a time. The reason I did not just move into that space is because I have a really strong ethical code. I wanted to make sure I followed the Harrisonburg City Code and made sure that I was doing everything by the books. As I am not the owner, I cannot really be the person there to request the rezoning and I greatly appreciate Ms. Bothemley being there to represent the current owner. I would be really happy to answer any questions that you might have. I can also speak to the idea of the space behind the building. I happen to have information as to how much the owner of that lot is asking. It is about what I am planning to rent each office space for. It is so much money for a parking lot when there would probably be four of us max at a time in that building. It is a little bit untenable.

Chair Finnegan asked do you care to respond to the concerns about the on-street parking that the neighbors have?

Ms. Loflin said sure, my understanding is that the previous owner had actually been able to receive red zone passes. It was really truly a conversation he and I were having and it kind of sounded like “oh you just go down to transportation and parking and you get these stickers easy peasy” and I found out very quickly that it was not easy peasy. That was when some of this came to light. So, while I would very much appreciate being able to park in front of the building, that is very expensive for me to buy, I also understand that it is a mixed use residential business zone. If that means that it does not go through it is really unfortunate. I mean, I personally would love to have just a couple of two-hour spots there because if you can imagine someone who is taking mental health counseling for maybe anxiety or depression, it is hard to get away from work in the middle of the day to get to an appointment. If you are having to drive around blocks at a time to look for parking, that is an extra burden that people do not really need. So, having a couple of parking spots would be really, really helpful. Like others have said this evening, the goal would be to have staff park in the driveway section or potentially behind the building. It is really tough to imagine that. So, while I am trying to figure out other off-site parking, I have not found it yet. Part of that is that I am not the owner yet. So, I cannot really enter into an agreement with anyone either. I would also say in regard to tabling things, it is a tricky situation for me. My lease ends and I do not have anywhere to practice counseling after my lease ends. We have to wait to close until this is determined. Without parking, I cannot operate even the tiniest business there. I want to make sure that I am following the code to the letter of the law. So, if I cannot close by the end of August, I do not know what I am supposed to do exactly. So, this timetable that we are in is tight as it is. Before any of this needed to happen I should say it was supposed to close at the end of May.

Chair Finnegan thanked Ms. Loflin and closed the second public hearing.

Chair Finnegan said there is a lot going on here. Again, so much of what we do up here is about parking. It is about cars. It is about the shape and the size of cars. Where will they go and how long will they be there and is there enough space for them to turn around? I mean it sounds like there is some unresolved concerns. Even if you take the parking away, there is some unresolved concerns. I do not like to vote against something because there is not enough parking. So, if I vote for denial or against approval it would not be because of the parking concerns. Do we have any other thoughts on...it sounds like there might be an appetite to table this. There might be an appetite to deny it. Is there anyone that is looking to vote in support of this as is? Any other thoughts? Motions?

Vice Mayor Dent commented I think I share your rational. Where mine is, I would not want to vote for rezoning to be one simply because of parking. Is that more or less what you are saying? Chair Finnegan said yeah. What I am saying is if I vote for denial, it is not because of parking, it is because there are some other potential uses for that. That is where I am.

Vice Chair Byrd said well, here is the thing, the reason why I am thinking denial is because that at least gets it moving and people in concern are on a timetable. Even if it creates a situation that one of the Commissioners mentioned we may not like City Council having to make a decision about doing something without our input. I feel we made a lot of input about the parking situation with this property in relationship to B-1 and B-2. If they were making a decision in light of that because something had changed, me not seeing it again, I would not have an issue with that. In light of that, I will make a motion to deny and see what people say.

Commissioner Armstrong seconded the motion.

Chair Finnegan asked so whether we all agree to say yes to this or whether we say no to this, this is still going to City Council on July 11?

Ms. Dang said unless the applicant chooses to postpone the application.

Vice Mayor Dent said that is a really good point, that a definitive vote sends it to City Council directly.

Chair Finnegan said that tabling holds it here.

Vice Mayor Dent said exactly.

Chair Finnegan asked what changes, I guess this is just a question for us as much as for the applicant. Are changes allowed to be made between this hearing and July 11? It has to go forward as is?

Mr. Russ said they can add new proffers essentially to address concerns that you all have brought up, or anything that would place additional limits beyond what B-1's normal limits are. So, it can look different when it gets to City Council. They can try to come up with proffers that address some of the concerns that you all have raised.

Chair Finnegan asked if there was any further discussion on this request.

Commissioner Baugh said I am going to look over at the applicant, if your choices of no vote on this or us tabling, do you have a preference?

Ms. Bothemley said just explain to me a little bit more what the owner has to do in order to...when it reaches Council in July.

Chair Finnegan said you would want to take action before it reaches Council in July.

Ms. Bothemley said I am sure he is more than willing to put any proffers in there that would be necessary in order to make the community happy and also to make the buyer happy.

Commissioner Baugh said it is really a question of that in the timing. So, if we vote no on it, then it is going forward to Council. Whether you decide to stick with what you have or want to make changes, it would go to Council in next month's meeting.

Chair Finnegan said sometimes it seems nicer for Planning Commission to table something, but sometimes in the case of if something is time sensitive...

Ms. Bothemley said and it is time sensitive, as you heard.

Chair Finnegan said then it is probably better off with a denial at this point.

Commissioner Baugh said and that is why I asked. I am trying to sort of just make sure I am not making assumptions.

Ms. Bothemly said so if it does go to Council, even though you have denied it, there are reasons why you denied it, and then if we present a proffer that might help, that could change the complexion of what is going on? We know what it wants to be used for, which would be ideal for that neighborhood, we just have to figure out a way to make the neighbors happy that nothing else that is going to go in there down the road would jeopardize the integrity of that property. Is that correct?

Vice Mayor Dent asked and staff can continue to work with you on the proffers or whatever that might be right?

Ms. Dang said correct. I will coordinate with you on dates of when you would like to aim to get the completed proffer statement if your client chooses to do that to us so that we can get it on the Council agenda. But also that could be the date, where if your client decided if they wanted to, they could decide to postpone the application also to...but there are some details that I will save to share with you and discuss.

Ms. Bothemly said so I think that would be more beneficial to the person who wants to use that as their counseling office and it would be more beneficial all around.

Chair Finnegan said I would say yes. He then asked if there was any further discussion.

Vice Mayor Dent said well, this is going to be fun to explain at Council.

Chair Finnegan said I think the simple explanation is we did not like it as presented. That is why it was denied.

Commissioner Baugh said the Council hates it when all you have got to report back...

Mr. Fletcher said everything is in the minutes and could be captured there.

Vice Mayor Dent said [referring to Mr. Fletcher] and you can explain.

Mr. Fletcher said I try to do my best. The other thing I was just going to say, to be clear, was all this talk about proffers. Technically the application can move forward with denial. No proffers submitted and City Council can still approve it if they so choose.

Vice Chair Byrd said I just want to be clear. My concern about B-1 was the amount of uses. So, if a proffer were to change those uses, then that would have addressed my concern about B-1, but the applicant did not know what my concerns were for the implied.

Commissioner Baugh said again one of the things that happens at Council, there was a stretch where it would happen not infrequently, where I would be the Council representative and they would say what was the discussion like at Planning Commission and sometimes my honest answer was they just sort of just seemed not to like it. You looked in the minutes and it was hard to tell. And one of the messages that we try to say is the Council members like to know what our thinking is. I will just sort of state, it really echoing what Mr. Byrd said, that the example of the restaurant/bar has come up but that there are some uses that when Ms. Laughlin sells this to the

next person and it is just a B-1 property that is free to be developed under this proposal as anything allowable on B-1. Especially if the intent is to really kind of keep it...to take what has been there and sort of perpetuate that, there are ways to do it. I think we are going to find out in a second there is probably consensus that a straight B-1 just does not seem acceptable to us at this point.

Chair Finnegan said I think that is fair. That is also why I have said it before, and I will say it again, the reason I am voting for denial is not about the parking concerns. It is about the uses.

Commissioner Armstrong said I mean I agree with that, but I think also the residents have expressed a lot of concerns about the tight parking there. That is not something that we disregard because parking is a pain. That quarter mile exploration, a quarter mile is not that far. So, that is reasonable exploration also that could show respect also for the residents' concerns about the parking too.

Commissioner Baugh said and I will even throw this out, that somebody in the audience knows the answer to this question, but if I am remembering correctly, this sort of parking area kind of across the street sort of next to First Step is actually owned, by that sort of an "L" shaped area. That parking lot...there is that area, kind of across, straight. I think what you were saying, you reached out to the people behind and found that was prohibited. Across the street might be prohibited. I stare at a lot of empty spaces over there all the time that I wonder if that might not be an option.

Chair Finnegan called for a roll call vote.

Commissioner Armstrong	Aye
Commissioner Washington	Aye
Commissioner Baugh	Aye
Vice Chair Byrd	Aye
Vice Mayor Dent	Aye
Chair Finnegan	Aye

The motion to recommend denial of the request passed (6-0). The recommendation will move forward to City Council on July 11th, 2023.