



City of Harrisonburg

409 S. Main Street
Harrisonburg, VA 22801

Meeting Minutes - Final City Council

Mayor Deanna R. Reed
Vice-Mayor Richard A. Baugh
Council Member Ted Byrd
Council Member George Hirschmann
Council Member Christopher B. Jones

Tuesday, July 11, 2017

7:00 PM

Council Chambers

1. Roll Call

Present: 5 - Mayor Deanna R. Reed, Vice-Mayor Richard Baugh, Council Member Ted Byrd, Council Member Christopher B. Jones and Council Member George Hirschmann

Also Present: 5 - City Manager Kurt Hodgen, Deputy City Manager Ande Banks, City Attorney Chris Brown, Police Chief Stephen Monticelli and City Clerk Banks Ande

2. Invocation

Council Member Byrd offered the invocation.

3. Pledge of Allegiance

Mayor Reed led the Pledge of Allegiance

4. Special Recognition

4.a. July as Parks and Recreation Month

Mayor Reed presented a proclamation declaring July as Park and Recreation Month to Luanne Santangelo, director of Parks and Recreation and to John Marr, member of the Parks and Recreation Commission.

4.b. A proclamation recognizing Lesbian, Gay, Bisexual and Transgender Pride Day

Mayor Reed presented a proclamation recognizing July 22, 2017 as Lesbian, Gay, Bisexual and Transgender (LGBT) Pride Day to Rob Johnson, President, and Michele Sullivan, Vice President, of the Shenandoah Valley Pride Alliance. Mr. Johnson stated they had the privilege to attend the Pride reception at the Governor's Mansion in Richmond last night, and thinks it is absolutely wonderful to see how things have progressed over the years, and how much more acceptance and understanding there is about the LGBT community. Mr. Johnson stated Pride Day is for everyone and everyone is invited to Court Square July 22, 2017.

5. Consent Agenda (any item placed on the consent agenda shall be removed and taken up as a separate matter, if so requested by any member of Council, otherwise all items will be voted on with one (1) motion)

A motion was made by Council Member Byrd, seconded by Vice Mayor Baugh to approve the consent agenda as presented. The motion carried with a recorded roll call vote taken as follows:

Yes: 5 - Mayor Reed, Vice-Mayor Baugh, Council Member Byrd, Council Member Jones and Council Member Hirschmann

No: 0

5.a. Minutes from June 27, 2017 City Council Meeting

These minutes were approved on the Consent Agenda.

5.b. Consider a request from Virginia Mennonite Retirement Community, Inc. to close 124,700 +/- square feet of developed public street right of way contained within the Park Village area of the Virginia Mennonite Retirement Community complex

This request to close a public street right of way was approved on second reading

6. Public Hearings

6.a. Consider a request from Hillside Land LLC with representative Genaro Salgado for a special use permit to allow a restaurant within the M-1, General Industrial District on the property located at 924 South High Street.

Adam Fletcher, director of Planning and Community Development, presented a special use permit request for property located at 924 S. High Street, per Section 10-3-97(1) of the zoning ordinance which permits restaurants in the district by a special use permit. Mr. Fletcher reviewed the surrounding M-1 zoned properties and the food truck, commonly referred to as mobile vendors, in which this request was initiated. Mr. Fletcher noted all food trucks in the city require a business license; however, this site had been operating without the proper permit and the intent for this was to bring it into compliance. Mr. Fletcher noted the property must have three parking spaces for the 500 square foot cell phone repair store existing on the property and the zoning ordinance does not require parking spaces for mobile vendors, however, city staff has drafted regulations, which will be brought to the Planning Commission in the near future and will include off street parking regulations for mobile vendors that requires one parking space per every four seats provided for the food truck.

Mr. Fletcher stated staff recommended approval of the special use permit and the Planning Commission voted 6-0 to recommend approval by the council with two conditions: One parking space is required for the food truck and one parking space

is required for every four seats provided by the food truck and the parking spaces must be provided within 30 days of city council approval; this special use permit is limited to only the food truck that is proposed.

Council Member Jones asked what the deciding factor was to settle on the parking requirements. Mr. Fletcher stated research was done with other localities throughout Virginia and food trucks are permitted by-right in B-1 and B-2 property with a few conditions.

At 7:17p.m., Mayor Reed closed the regular session and called the 1st public hearing to order. A notice appeared in the Daily News-Record on Monday, June 26, 2017 and Monday, July 3, 2017.

There being no one desiring to be heard, Mayor Reed closed the public hearing at 7:17 p.m. and the regular session reconvened.

A motion was made by Vice Mayor Baugh, seconded by Council Member Jones, to approve the special use permit as presented. The motion carried with a recorded roll call vote taken as follows:

Yes: 5 - Mayor Reed, Vice-Mayor Baugh, Council Member Byrd, Council Member Jones and Council Member Hirschmann

No: 0

- 6.b.** Consider a request from 865 East LLC with representative Stephen Waller, agent for Verizon, for a special use permit to allow a concealed wireless telecommunications facility in the R-5, High Density Residential District. The subject property is located at 865 Port Republic Road

Adam Fletcher, director of Planning and Community Development presented a Special Use Permit for property located at 865 Port Republic Road to allow a concealed wireless telecommunications facility on the rooftop per Zoning Ordinance Section 10-3-54.4(8). Mr. Fletcher stated the property is currently zoned R-5 Conditional, reviewed its previous history of rezoning requests, reviewed the surrounding properties zoning and reviewed the future plan for development per the land use guide. Mr. Fletcher stated this is the first special use permit request since the adoption, in July of 2015, of the Wireless Telecommunications Facilities regulations. Mr. Fletcher noted this request is for a concealed wireless telecommunications facility, reviewed the definition of such, and noted they are allowed by-right in B-1, B-2 and M-1 zoning districts, but require special use permit in R-1, R-2, R-3, R-4, R-5, R-6, R-7 and MX-U districts. Mr. Fletcher reviewed the specifications and heights for this special use permit request and stated they will not be noticeable from ground level. Mr. Fletcher noted per Section 10-3-199 of

the Zoning Ordinance, the applicant must contact the Emergency Communications Center (ECC) and verify the installation of the proposed equipment as to not interfere with the ECC's operations, which has been done.

Mr. Fletcher stated an annual report will be required, per zoning ordinance section 10-3-200, and any future wireless carriers must apply for a Special Use Permit to collocate on the building.

Mr. Fletcher stated staff recommended approval of the special use permit and the Planning Commission voted 6-0 to recommend approval by council with one condition: Aside from the three chimney-like antennas, no other equipment including any proposed future equipment, shall be visible above any parapet on the roof of the structure.

At 7:26p.m., Mayor Reed closed the regular session and called the 2nd public hearing to order. A notice appeared in the Daily News-Record on Monday, June 26, 2017 and Monday, July 3, 2017.

Steve Blain, resident of Charlottesville and a representative of Verizon Wireless, stated that Mr. Fletcher did a great job and wanted to let council know he is available for any questions. Mr. Blain noted the additions are to keep up with the rapidly growing demand for wireless data and will be a great addition to the residents, students and visitors of the city of Harrisonburg.

At 7:27 p.m., Mayor Reed closed the public hearing and the regular session reconvened.

A motion was made by Vice Mayor Baugh, seconded by Council Member Byrd, to approve the Special Use Permit as presented. The motion carried with a recorded roll call vote taken as follows:

Yes: 5 - Mayor Reed, Vice-Mayor Baugh, Council Member Byrd, Council Member Jones and Council Member Hirschmann

No: 0

- 6.c.** Consider a request from Marrusstodd Properties, LLC to amend Section 10-3-55.4, Uses permitted by special use permit in the R-5, High Density Residential District.

Adam Fletcher, director of Planning and Community Development, presented a Zoning Ordinance Amendment to Section 10-3-55.4(4) adding business and professional offices to R-5. Mr. Fletcher stated R-5 districts were added to the ordinance in 2007 and six requests have been approved to rezone this district. Mr. Fletcher stated staff had no belief that this would cause a negative impact and recommended to approve and Planning Commission voted 6-0 to recommend approval by council as presented.

At 7:32p.m., Mayor Reed closed the regular session and called the 3rd public hearing to order. A notice appeared in the Daily News-Record on Monday, June 26, 2017 and Monday, July 3, 2017.

Dick Blackwell, 70 Payton Randolph Court, noted that with the other uses which are allowed, this seemed like a good use not just for this particular project, but for future use in the city.

Jonathan Walker, 1419 Bluestone Street, stated this request is actually a back door to one of the other agenda items to be discussed next. Mr. Walker asked council for careful consideration as it allows for the next requests to go through smoothly.

At 7:34 p.m., Mayor Reed closed the public hearing and the regular session reconvened.

Vice Mayor Baugh stated this proposal has broad applicability and is a Special Use Permit item, meaning anyone who wants to do it still has to come back and ask, it will not be automatic. Vice Mayor Baugh stated those that were involved in the ordinance changes in 2007 had a concept and set boundaries and believes that if professional offices in R-5 district were allowed, it would be hard to distinguish mixed-use. Vice Mayor Baugh feels there will be a lot of discussion on this topic in the current Comprehensive Plan update, as we are finding that some things work and some things don't in regard to these ordinances. Vice Mayor Baugh stated it was his recollection to do this in the first place and to make it more distinguishable from mixed-use zoning.

Council Member Jones stated he thinks this is going to increase the pool of entrepreneurs able to live near their businesses. Council Member Jones stated this is a normal thing in other cities and this will help to further make Harrisonburg an attractive place. Council Member Jones also stated that the city needs this amendment to stay main-stream.

A motion was made by Vice Mayor Baugh, seconded by Council Member Byrd, to approve the Zoning Ordinance Amendment as presented. The motion carried with a recorded roll call vote taken as follows:

Yes: 5 - Mayor Reed, Vice-Mayor Baugh, Council Member Byrd, Council Member Jones and Council Member Hirschmann

No: 0

- 6.d.** Consider a request from Marusstodd, Properties, LLC to amend the Comprehensive Plan's Land Use Guide map designation for 5 parcels fronting South Main Street, East Weaver Avenue, and Edgelawn Drive from Professional and Low Density Residential, to Mixed Use Development Areas. The subject properties are addressed as 1340, 1348, and 1356 South Main Street and 1341 Edgelawn Drive.

Adam Fletcher, director of Planning and Community Development, presented requests for five tracts located on S. Main Street, containing 1.3 acres, which is currently zoned R-3 and R-1 and is a mix of zoning along S. Main Street. Mr. Fletcher noted four applications are being presented: A Comprehensive Plan Amendment to change the Land Use Guide from low density residential and professional to a Mixed Use Development area; a rezoning from R-1 and R-3 to R-5C; a Special Use Permit per Section 10-3-55.4(1) to allow more than 12 units within a building; and a Special Use Permit per Section 10-3-55.4(4) for retail stores, convenient shops, personal services establishments, restaurants (without drive-thru) and, once the amendment from item 6c is in effect, business and professional offices. Mr. Fletcher noted Edgelawn Street is a public street, although it looks, acts and is like an alley, and variances of the subdivision regulations in regard to improvements would need to be approved by the Planning Commission. Mr. Fletcher reviewed the surrounding properties. Mr. Fletcher also noted that if all four applications were approved, the exact site layout would not be proffered; however, there are some specifics of the proffers that control some of the characteristics of how the site can be developed. Mr. Fletcher also reviewed the architectural renderings that were presented to the Planning Commission. Mr. Fletcher reviewed the current uses allowed by-right for the property and noted the by-right occupancy in the existing buildings can be up to 18 people total and would likely be able, without special use permits or special approvals, to build 13 townhomes and two single family dwellings. These homes could contain up to 56 people on site. Council Member Jones stated that would also mean 56 parking spaces. Mr. Fletcher noted the zoning ordinance does not require one parking space per person, but is determined by bedrooms. Council Member Jones asked how many spaces would be required if townhouses were built. Mr. Fletcher replied with 33 parking spaces would be the minimum requirement. Mr. Fletcher reviewed the permitted heights of the buildings and noted the applicant is not seeking approval for any height increase and will adhere to the by-right height limitations. Mr. Fletcher reviewed the proffer submission: Any building constructed on site shall contain residential and non-residential uses, and the first floor of any building shall contain only non-residential uses; the site shall contain no more than 22 one bedroom multiple-family units; no parking lot shall be located between any building, S. Main Street and E. Weaver Avenue; only one vehicular access point to S. Main Street shall be permitted and it shall be only for right-in/right-out traffic movement; no vehicular access shall be permitted from the site to Edgelawn Drive; a six foot opaque fence shall be installed at a minimum of 19 feet from the centerline of the existing Edgelawn Drive public street right-of-way; a six foot opaque fence shall be installed along the northeastern property line adjoining tax map parcel 18-R-19 and 18-R-20. Mr. Fletcher reviewed the conceptual plan showing a requirement of 77 parking spaces but 86 would be provided by the applicant. Mr. Fletcher reviewed the Traffic Impact Analysis which generated the right in/right out traffic pattern on S. Main Street, full access entrance on E. Weaver Avenue and no entrance from Edgelawn Drive. Mr. Fletcher also reviewed previous rezoning requests in the surrounding area.

Mr. Fletcher noted the Comprehensive Plan is in the process of being updated and

staff are taking a more aggressive approach to recommending more areas in the city to be designated as mixed use, and feels mixed use should be more desired in other locations within the city, particularly the section between Miller Circle and Warsaw Avenue along S. Main Street and Walker Road. Mr. Fletcher reviewed the definition of mixed use development areas based on smart growth principles and reviewed the city's actual and projected population growth from 1990 to 2040. Mr. Fletcher noted that with the anticipated increase in population, the city needs to continue to grow and provide places to live and have non-residential uses to be serviced. Council Member Jones asked if the population numbers include the students of James Madison University (JMU). Mr. Fletcher confirmed all students that live in the city, while attending JMU, are incorporated in the numbers. Mr. Fletcher summarized the requests and noted that staff did not suggest any conditions for either of the Special Use Permits, proffers limit the site to 22 one-bedroom units and all buildings must be mixed use. Mr. Fletcher noted staff recommended approving all four applications as presented, however the Planning Commission voted unanimously 6 to 0 to deny all four applications.

Mr. Fletcher stated there are two additional proffers and a different conceptual layout since the Planning Commission meeting. Mr. Fletcher stated the additional proffers are as follows: No structure, including accessory structures, shall be constructed within 150 feet of the shared property line of Edgelawn Drive, excluding the dumpster containment facility; twice the number of required street trees will be planted along Edgelawn Drive than is required by the zoning ordinance. Mr. Fletcher reviewed the revised conceptual layout and noted 99 parking spaces will be provided which equals 21 more than required. Mr. Fletcher stated the commercial square footage has more than doubled from the previous conceptual layout and these new numbers have not been included into any Traffic Impact Analysis (TIA) evaluation to determine what the potential impact could be. Mr. Fletcher noted however, that if the applications are approved when it gets to Engineer Comprehensive Site Plan, a new TIA would be requested with potential remediation efforts being evaluated properly by the department of Public Works.

Council Member Hirschmann asked if the closest the building would be to any residential would be 150 feet. Mr. Fletcher stated the building cannot sit any closer than 150 feet from the right of way line that is shared with Edgelawn Drive and the subject site.

Council Member Byrd thanked Mr. Fletcher for all the work put into this process.

Council Member Jones asked Vice Mayor Baugh for a recap of the meeting at Planning Commission. Vice Mayor Baugh stated he defers to discuss it until after the public hearing.

At 8:10 p.m., Mayor Reed closed the regular session and called the 4th, 5th, 6th and 7th public hearing to order. A notice appeared in the Daily News-Record on Monday, June 26, 2017 and Monday, July 3, 2017.

Dave Pruett, 28 Edgelawn Drive, stated this neighborhood is described as unpretentious, pleasant, multi-ethnic, and multi-generational. It is inhabited by young families, recent immigrants and the elderly, and in short it is Norman Rockwell country. Mr. Pruett stated he has enjoyed the neighborhood for the past 21 years, with its proximity to downtown events, places of work and the park. Mr. Pruett stated "we are familiar with the comprehensive plan", and per Chapter 6-Neighborhoods; it is clear that job one of a good municipal government is the preservation of the integrity and viability of established neighborhoods. Mr. Pruett stated unfortunately our neighborhood is incredibly vulnerable, it is under constant threat of commercial creep, encroachment by JMU, and it takes only one bad development decision to set a neighborhood like ours on a path of decline'. Mr. Pruett stated the developer was once a resident of our neighborhood, and this developer feels his plan will not detriment the neighborhood, however, the residents are equally certain that the proposed development will have serious negative consequences. Mr. Pruett stated neighborhood residents are not opposed to wise mixed use development along Main Street, but this development creates concerns: after hours noise, adversely affected property values, storm water runoff, light pollution, increased traffic, transient dwellers are incompatible with the single family long term residential character of the neighborhood, loss of the R-1 buffer would breach the neighborhood and make it vulnerable to further encroachment, and this type of zoning would set a precedent to allow other neighborhoods to be similarly impacted. Mr. Pruett stated a small group of residents met twice with the developer to explore a compromise, but failed to yield options that were deemed by residents to be beneficial. Mr. Pruett stated council is being asked to vote on a proposal which is similar in spirit to an eminent domain request. Mr. Pruett noted single family homes are at such a premium in the city that many young families can't find or afford homes in the city and go elsewhere. Mr. Pruett stated it makes no sense to allow this rezoning for the benefit of the developer and asked council to deny this request and noted the residents of this neighborhood are willing to continue to work with the developer to reach a compromise.

Randy Hoffman, 25 Edgelawn Drive, stated he is the one owner occupied home sharing property lines with the lots under this request and will be the single residential home within the block. Mr. Hoffman stated this process has given him a much better understanding for the things council deals with and thanked council for their service. Mr. Hoffman stated he was asked, of the two particular developments proposed, which would he prefer and his preference would be that there is no change although that is unrealistic and unsustainable. Mr. Hoffman stated they have tried to balance their personal interest with the property owner and the neighborhood. Mr. Hoffman stated he realizes it would be unreasonable to ask that no development be allowed to occur, but the idea of a "microtel" that will inevitably be student housing may seem to be less disruptive but the proposed plan extending from Main Street to Edgelawn eliminates the buffer to commercial property for the residential neighborhood and although a parking lot might not seem to be detrimental it will cause additional light and more traffic and he feels

that they will lose current visibility of the stars. Mr. Hoffman asks council to retain R-1 zoning for the neighborhood.

Joseph Brown, 36 E. Weaver Avenue, stated he is in opposition of this request. He stated he is a business owner in downtown and has been studying the comprehensive plan, particularly chapter 4, and he can't understand why the city would abandon the plan for this particular spot on the map and this particular developer. Mr. Brown quoted chapter 4 and chapter 6 of the comprehensive plan and stated Purcell Park neighborhood falls in the Neighborhood Conservation Zone. Mr. Brown stated the citizens are very proud and protective of their neighborhoods, specifically the conversion of single family homes into apartments. Mr. Brown asks council why they would show this favoritism to the property owner and why they are engaging in spot zoning at the detriment of the neighborhood. Mr. Brown asked council to please protect his neighborhood, as he sees, at least, that townhomes have the potential to house families.

Keith Grant, 210 Monument Avenue, stated he believes that converting R-1 and R-3 to high-density mixed use R-5 is not in the best interest of the neighborhood or the community. Mr. Grant stated the only benefit to this would be the private financial gain of the property owner and his associates. Mr. Grant stated all of the costs would be public costs suffered by the members of the community and sees no compelling public interest that would support this rezoning. Mr. Grant stated there is a surplus of high-density and medium-density homes in the city and referred to a letter from JMU's Off Campus Housing, stating that even though 14,000 students are living off campus, housing units have a 20-30% vacancy rate. Mr. Grant states this suggests there is surplus capacity for roughly 8,000 people which suggests that there is no need to convert this property from low density space into a higher density zoning. Mr. Grant stated the current proposal also suggests a commercial/professional space, but within the neighborhood there are brand new vacant commercial spaces available. Mr. Grant stated the demand is for low-density residential, property for sale is scarce in these neighborhoods and he sees this as a threat to his financial investment (his home). Mr. Grant stated approval of this request would destroy the ambiance of the neighborhood and reduce tax revenue and he fails to see any public interest to support this.

Suzanne Fiederlein, 28 Edgelawn Drive, stated obviously there is a shortage of R-1 single family homes in the city. Ms. Fiederlein stated there is a house on Edgelawn, across from where this property is and the neighbors have long co-existed with the professional buildings on that property, but the application requests reflect a much larger commercial area, and who is to say students won't move into the 22 units. Ms. Fiederlein stated there have been changes made to the initial plan and that the whole area will become parking and the R-1 zoning and the buffer zone will be lost. Ms. Fiederlein stated R-3 zoning can be used for professional and various forms of residential, but there has been this veiled threat that if this proposal is not accepted the neighborhood may be faced with a bunch of student housing on that land. Ms. Fiederlein feels there can be better alternatives as there are a lot of unanswered questions regarding the proposal and

the proffers are not developed fully enough in order for the neighborhood to be comfortable with what is being proposed for this property. Ms. Fiederlein stated that by changing to R-5, it is opening all sorts of possibilities which is unfair to the neighborhood.

Bill Wightman, 110 East Weaver Avenue, stated that since April 1, 2017, he has been coordinating the neighborhood's efforts and engaging with the current rezoning request. Mr. Wightman stated that upon recommendation from the Planning Commission, he reached out to the property owner and his project engineer, resulting in two meetings between Purcell Park residents and the developer. Mr. Wightman stated these meetings were cordial and productive and were appreciated by the neighborhood. Mr. Wightman stated that although a mutual agreement was not reached, the neighborhood would like the effort of both parties to be viewed, if not proposed, as a future model for other discussions. Mr. Wightman feels that the inability to reach a mutual agreement doesn't mean that conversations in the future would not be productive and the hope is that other developers would take the time to listen to the neighborhoods. Mr. Wightman stated he has been very proud to be part of this process and knows it doesn't happen often. Mr. Wightman stated they feel that losing R-1 zoning is detrimental to the future of the neighborhood. Mr. Wightman thanked the council for their consideration to maintain the current zoning in his neighborhood.

Jonathan Walker, 1319 Bluestone Street, stated he lives 50 yards from the property and stated if anyone on council lived near this, they might not like it. Mr. Walker stated residents are very strongly against this proposal. Mr. Walker stated he would like to point out that inappropriate activity by students in the surrounding properties would then carry over to the proposed parking lot for pickup. Mr. Walker pointed out he voted for the Vice-Mayor and it is time for him and the rest of council to represent those that voted for them.

Donna Armstrong, 1420 Crawford Avenue, stated granting this request seems to be inconsistent with the precedent, as there are only five R-5 permits that have been granted and those are on very large lots. Ms. Armstrong stated council does not have a competent traffic impact analysis system/report at this point since there were recent changes made.

Cathy Weiss, 1450 Bluestone Street, stated someone mentioned that the real crux of the issues are the R-1 areas and if council came to her neighborhood, they would see green grass because it is zoned as R-1. Ms. Weiss stated she feels that a few years from now there will be a six foot opaque fence which on the other side would be cement, a dumpster and creeping high density parking lot in the very lovely neighborhood. Ms. Weiss is asking council to deny the request.

Panayotis "Poti" Giannakouros, 98 Emory Street, stated he wishes he could be sympathetic to some of the impassioned pleas he has heard but when he and his wife arrived here, they stayed in a Microtel next to Mr. Stone's storage units and thanks to Mr. Stone's business they were given a fighting chance to establish

themselves until they could get a rental that they could afford. Mr. Giannakouros stated since that time, most people have a much harder time than they did and many have gotten tired of speaking about building the community to be an inclusive power. Mr. Giannakouros stated he has a petition to give supervision on an instrument that can and has driven less resourced people from their homes. Mr. Giannakouros stated he hopes he will be finding people who will come to him and check in on the broader issue that the city faces and for now, he trusts Mr. Stone and requests they listen to him and work with him.

Helmut Hirsch, 1420 Crawford Avenue, stated he is not against microtels but only if they are in appropriate places. Mr. Hirsch stated the noise issue has not been brought up yet, and even though the neighborhood is located far enough from student housing, they still can hear noise at 3:00 a.m. when school is in session. Mr. Hirsch stated if this large structure is built and increases the numbers of people in the area, the police are going to be getting a lot more calls. Mr. Hirsch stated he walks his dog in this neighborhood and there are no sidewalks, therefore if traffic increases he will have to drive somewhere to take his dog for a walk or take the chance of getting hit by a vehicle, due to the potential increase in traffic.

Giles Stone, property owner, stated he bought the property 45 years ago and not to just turn it over and make a profit. Mr. Stone stated the house that is currently on the property will be demolished, regardless of what happens with his rezoning and special use permit requests. Mr. Stone stated one lot is non-buildable, another lot with a house on the corner is in bad shape. Mr. Stone stated he was not here to make a profit off of the people in the neighborhood, he is just trying to figure out something to do with this property that would be complimentary to the city and would look nice. Mr. Stone stated he has heard this proposed project referred to as a microtel for the first time this evening, and had originally considered offering it as a proffer to create a monthly rental suites hotel, however he would be glad to promise to rent the one-bedroom units by the year. Mr. Stone stated South Main is one of the busiest streets in Harrisonburg and not sure what else this property could be used for. Mr. Stone stated everyone seems to always have better ideas of what he should do with the property. Mr. Stone stated he respects the people of the Purcell Park neighborhood but feels this will not impact the neighborhood negatively and thanked council for listening.

Joseph Brown, 36 E. Weaver Avenue, stated that he bought his property 13 years ago and when something breaks he fixes it, not tear it down because it hasn't been maintained for 45 years.

Dick Blackwell, 70 Payton Randolph, stated they would have had a meeting before the Planning Commission, but there was a mix up. However, they still had two good meetings with the community, but could not come to a full agreement. Mr. Blackwell stated one of the reasons R-5 zoning is being sought was to allow both some residential and some commercial zones. Mr. Blackwell stated it is also the only zoning that the city presently has where this can be done in the acreage available, and allows for the building to be built within ten feet of the property line.

Mr. Blackwell stated the plan was for 22 one-bedroom apartments to try and have some control over the number of people that reside in the units. Mr. Blackwell stated there were several layouts reviewed, with the final rendering showing the building placed further away from the community. Mr. Blackwell stated rezoning the R-1 land would not need to be done if parking was allowed on R-1, but that is not allowed by city code, therefore, in order to have commercial and 22 one-bedroom units with the appropriate parking the request to R-5 was submitted.

Jenny Kuszyk, 53 E. Weaver Ave., stated she would like to represent the neighborhood and end on a very positive note by thanking Mr. Stone, his family and colleagues for meeting with the neighborhood and hearing their concerns. Ms. Kuszyk stated they understand the R-3 and are just trying to preserve the R-1 zoning.

At 8:54 p.m., Mayor Reed closed the public hearing and the regular session reconvened.

Vice Mayor Baugh motions to deny the request for the comprehensive plan amendment, but there was no second. Motion failed

Council Member Byrd motion to approve the request for the comprehensive plan land use designation as presented. George Hirschmann Seconded

Vice Mayor Baugh stated the planning commission unanimously voted to deny the request, although he may have been the most favorably disposed to the application of any of the members of the commission, but he feels there was a very strong feeling from the group that it was the wrong request, wrong place and wrong time. Council Member Jones stated he is trying to get a sense of the tone on why, if someone has the potential to do 75-80% of this, staff votes 6-0 one way and Planning Commission voted to go the opposite way. Vice Mayor Baugh stated the public hearing at the Planning Commission meeting was much longer than the public hearing on the subject this evening and the discussion between the board members was fairly brief at that point. Vice Mayor Baugh stated the nature of this R-3 property and what the property owner can do with this might have warranted this being talked about more broadly than "I don't like it so I'll vote no." Council Member Jones stated he had the pleasure of speaking with neighbors and applicants and this is what he has been thinking: A large lot on the corner is huge in the city and a person's right to do something that doesn't create physical, emotional or spiritual harm to others is not a threat; the property owner does not really want to build student housing; the reason for the lack of available homes is due to student housing being developed which resulted in low to moderate income welcoming mats for families; It is the property owner's right to build something on his property; 45 years ago when one turned left to go up Weaver Street, there was plenty of commercial buildings; he feels the city cannot continue to have the burden from the residual effect of student housing; he understands the majority of the residents in that neighborhood do not want to see what is currently there for various reasons; he doesn't think that anyone will get what they want in this

situation, more so the unfortunate part is that the two people closest to the property will not get what they want regardless; he wishes this could be revisited until a true solution could somehow be met; everyone has legitimate concerns; Mr. Stone has been extremely philanthropic to the city and kind to him and his family, as well as many other families; his job is to not only look out for neighborhoods, but to strengthen the business economy. Council Member Jones stated the only real positive outcome is to go back to the table at least one more time, if possible, as he feels everyone is in more of an emotional place instead of decision making place. Council Member Jones stated mixed use is the way, but because we don't have much land available, downtown thrives as it's a one big mixed use pot. Council Member Jones stated there is a way to make it work if we all come to the table and be willing to meet in the middle.

Council Member Hirschmann stated he went to the property and drove down the alley several times and asked himself if this could work and he feels the same as Council Member Jones, and wants a little more time to reach a more acceptable answer to please the majority.

Mayor Reed stated when we talk about neighborhoods, everyone feels passionate about their neighborhood. Mayor Reed stated she did feel like the language of threats wasn't fair and Mr. Stone shared that he didn't want to hurt anyone which reflects a man who doesn't want to just make a profit. Mayor Reed stated this is a difficult decision and understands how everyone feels on both sides and feels that as the city grows, there will be change and it might happen in your back yard. Mayor Reed stated the property owner has the right to build a great deal more on that site.

Council Member Byrd stated to the members of the neighborhood that they have a wonderful neighborhood. Council Member Byrd shared a bit of history regarding an R-1 zoning along the interstate 81 interchange and the housing on Port Republic Road, which now both properties are owned by JMU. Council Member Byrd stated for full disclosure he had an uncle who owned a home on Port Republic Road, who realized that once JMU started to grow, his property would be doomed. Council Member Byrd stated he realizes a buffer is necessary to protect the neighborhood, in this case zoning regulations provide for that buffer. Council Member Byrd stated the corridor from SunTrust, and the lot the church was on that was recently rezoned will be business and commercial. Council Member Byrd also stated that unfortunately this particular lot is a split zoned lot, and referenced one other lot in the city split-zoned that he is aware of. Council Member Byrd stated he thinks compromises have been made and trusts Mr. Stone; he is the community's neighbor and feels sure that if something isn't right, the neighborhood can come back to council. Council Member Byrd stated he recommends posting for parking at night be done in regard to those activities across the street. Council Member Byrd stated he hopes this will work as a buffer to give the neighbors protection and knows that the planning staff put a great deal of work into this and is sure the mixed-use will show up in other areas as the city redevelops. Council Member Byrd also stated there are still things to be worked out in these types of rezoning

requests, and the request to rezone this particular property from R-1 wouldn't have been necessary if it weren't for parking regulations. Council Member Byrd stated he is no expert and will rely on the staff's recommendations.

Vice Mayor Baugh stated he acknowledges that this request is challenging, he is persuaded by the input from the neighborhood as he has always been an advocate of citizen input and it isn't about what he thinks, but it is something that is worked on together with the community. Vice Mayor Baugh stated that he has heard from many of the people who have their eyes open on this request would prefer, given the option, to choose the of-right over the proposal and feels inclined to give that some weight in his decision. Vice Mayor Baugh stated if there was no R-1 property, he feels a lot of the same opposition would be heard because then it would be a straight "here is what you can have", with possibly less dense usage on the property. Vice Mayor Baugh stated the R-1 issue tips him the other way; we have a lot of this throughout the city and it is pretty common; on the main thoroughfares, there are existing commercial properties or more dense residential use that often back up to established neighborhoods and as it has been pointed out in the planning, it has been repeatedly stated that the city wants to be protective of the existing neighborhood. Vice Mayor Baugh stated he is concerned about the notion that it's only a little bit of R-1, so it's not a big deal, however there is a need to be protective of the R-1 and every property owner who has commercial or more dense residential property on the main street that backs up to R-1; they would love to have the R-1 rezoned to be more intensively used. Vice Mayor Baugh stated he is prepared to stick with his vote and vote against the request and motion. Vice Mayor Baugh noted that one thing that is floating around is there is a possibility to table this proposal, and asks if his recollection is correct, if this issue was tabled only a small window of time to review this item would be available. Attorney Brown and Adam Fletcher stated it allows for at least 90 days (to be verified) to be re-evaluated by council. Council Member Jones stated this is plenty of time to have one or two more meetings.

Council Member Jones stated he cannot vote for or against this issue, but will vote to table the request and review it again. A discussion took place regarding how to move forward with motion to table, without denying the application, as the motion on the floor was to approve the request as presented.

Attorney Brown stated there is a motion on the floor that has been properly seconded; he doesn't think there has been a motion to amend that yet.

Council Member Jones makes a motion to amend the motion and table the current request as presented. Vice Mayor Baugh seconded the motion.

Council Member Jones stated the point of tabling this request is for all of these individuals to take one more crack at reaching an agreement.

Mayor Reed stated all parties had met a couple of times already and one more meeting should be scheduled. Council Member Jones stated the point of tabling

this issue is that no one is getting what they really want, so possibly, a compromise can be made where the neighborhood feels they had a choice and the property owner is able to do what he wants. Vice Mayor Baugh stated all parties are as informed as they can possibly be as to what the decision of the ultimate decision makers is at the moment.

Council Member Byrd asked if this can be tabled with a time line provided. Mayor Reed agreed.

Attorney Brown stated a motion to table is when something is set aside indefinitely, but can also have a motion to postpone to a time certain.

Vice Mayor Baugh asked if the penalty of violating a motion means the item is approved, therefore if one table an item an act must be made within the allowed time or the item will be automatically approved. Attorney Brown agreed and stated the options are to table the request and act within the built in time line or to postpone the request to a specific meeting to be addressed again. Further discussion took place regarding what type of motion to make and what time line will be provided.

Vice Mayor Baugh noted for the record this motion was for agenda items 6d, 6e, 6f and 6g.

A motion was made by Council Member Jones, seconded by Vice Mayor Baugh to amend a motion and table the Comprehensive Plan Amendment, a rezoning request and two Special Use Permit requests as presented until August 22, 2017. The motion carried with a recorded roll call vote taken as follows:

Yes: 5 - Mayor Reed, Vice-Mayor Baugh, Council Member Byrd, Council Member Jones and Council Member Hirschmann

No: 0

- 6.e.** Consider a request from Marusstodd Properties, LLC with representative Blackwell Engineering to rezone five (5) parcels containing a total of 1.3 +/- acres from R-1, Single Family Residential and R-3, Medium Density Residential to R-5C, High Density Residential District Conditional and addressed as 1340, 1348, and 1356 South Main Street and 1341 Edgelawn Drive.

see Agenda Item 6d for discussion.

This PH-Rezoning was tabled.

- 6.f.** Consider a request from Marusstodd Properties, LLC with representative Blackwell Engineering for a special use permit per Section 10-3-55.4(1) to allow multi-family dwellings of more than twelve (12) units per building under conditions set forth in subsection 10-3-55.6(e) and such other conditions deemed necessary by City Council on five (5) parcels located at 1340, 1348, and 1356 South Main Street and 1341 Edgelawn Drive

see Agenda Item 6d for discussion.

This PH-Special Use Permit was tabled.

- 6.g.** Consider a request from Marusstodd Properties, LLC with representative Blackwell Engineering for a special use permit per Section 10-3-55.4(4) to allow retail stores, convenience shops, personal service establishments, restaurants (excluding drive-through facilities) under conditions set forth in subsections 10-3-55.6 (f) and (g) and such other conditions deemed necessary by City Council. The subject property consists of five (5) parcels addressed as 1340, 1348, and 1356 South Main Street and 1341 Edgelawn Drive

see Agenda Item 6d for discussion.

This PH-Special Use Permit was tabled.

Recess

At 9:37 p.m. meeting was called to a five minute recess.

At 9:46 the meeting was reconvened.

7. Regular Items

- 7.a.** Consider acceptance of Anicira proposal at the "conceptual stage" for provision of animal services for the City of Harrisonburg.

City Manager Kurt Hodgen presented the proposal from Anicira and noted the four alternatives to council to act on this requests: take no action; accept proposal at conceptual stage which begins a 45 day notice and opens up process for other entities to submit proposals; consider issuance of a traditional request of a proposals, a process for providing animal services to the city or the issuance of a joint RFP on behalf of the city and the county who is currently our partner with the SPCA for several decades; consider revisions to the existing contract with Rockingham-Harrisonburg SPCA. City Manager Hodgen stated his recommendation, given no formal policies or standards have been provided by council other than compliance with the requirements in Section 3.2-6546 of the Code of Virginia, would be to take no action at this time.

Vice Mayor Baugh made a motion to accept Anicira's proposal at the conceptual stage and move forward with the 45 day notice. Motion failed for lack of second.

Council Member Jones stated he wants to move forward however he wants to hear and see the presentations from both Anicira and the SPCA before a decision and expected to have the presentation from Anicira tonight but it was not feasible for Anicira's schedule. City Manager Hodgen stated she is available to present on the 8th or the 22nd of August. Council Member Jones requests this item be placed on the same agenda as when Anicira's presentation is held in order to make a more educated decision. Vice Mayor Baugh stated it is up to council to

do whatever they want to do, but didn't think the proposal from Anicira and their presentation were necessarily connected and believes city staff thought the same thing, hence the proposal being presented tonight. City Manager Hodgen stated Anicira submitted their proposal officially at the end of May and needed something, either no action or two weeks from tonight.

Council Member Jones made a motion to renew Vice Mayor Baugh's previous motion. Vice Mayor Baugh seconded.

Council Member Hirschmann asked if Anicira will present on August 8, 2017 and then SPCA the following meeting. Council Member Jones replied with a yes.

Vice Mayor Baugh stated this is a vote to move forward, this is not a decision to do anything other than allow the process to move forward.

City Manager Hodgen noted for clarification purposes what was just voted on was to accept the proposal to move to the conceptual stage and advertise the 45-day notice which will begin as soon as the ad runs, within the next few days. Further conversation took place regarding the 45-day notice start date.

A motion was made by Council Member Jones, seconded by Vice Mayor Baugh, to approve accept the proposal at the conceptual state as presented. The motion carried with a recorded roll call vote taken as follows:

Yes: 5 - Mayor Reed, Vice-Mayor Baugh, Council Member Byrd, Council Member Jones and Council Member Hirschmann

No: 0

9. Other Matters

9.a. Comments from the public, limited to five minutes, on matters not on the regular agenda. (Name and address are required)

Alice Baker, resides in the county, stated the one thing that gets her is accountability, as council is aware they are accountable to the public to uphold policies and outcomes, and feels the SPCA shows no accountability. Mayor Reed stated one cannot speak during public comment on an item that is on the agenda unless it is a public hearing. Ms. Baker thanked council for giving everyone a chance to be heard.

9.b. City Council and Staff

Vice Mayor Baugh provided a quick update on Planning Commission, which meets July 12, 2017, with a couple of public utility applications, one on Erickson Avenue and one on Rawley Pike, a preliminary plat on Founders Way with a variance to

reformat for townhouses, a Special Use Permit Request for the Campus View project and bicycle parking regulations. Vice Mayor Baugh stated since he is the representative on the Environmental Performance Standards Advisory Committee (EPSAC), he wanted to inform council the committee had a conference call with a sustainability coordinator for Roanoke and learned how Roanoke and Blacksburg have adopted energy use plans which focus on energy efficiency issues and EPSAC trying to plan a field trip to Blacksburg to speak with them.

City Attorney Brown stated at the June 27, 2017 council meeting, council approved an amendment to the Harris Contract, and there was some erroneous information given at that meeting which needs to be corrected, as per the amendment received. City Attorney Brown stated ECC staff had been in negotiations with Harris and to refresh council's memory, it was apparent new radios were needed within the next two years, and due to the incompatibility of the current radios to the new system, this need was accelerated. Attorney Brown stated during the negotiations Harris advised they would take care of the interest at no charge to the city for this acceleration, which was interpreted by the ECC staff that Harris had a lender that was willing to offer a no interest loan. However, after speaking with a Harris representative the next day, it was determined that after Harris went to the lender with an estimated \$6.2M costs less all discounts and asked what the ECC would pay in interest over the next two years the lender quoted interest of 2.69% which equals over a two year span a total of \$400,000. Therefore, Harris discounted an additional \$400,000 from the contracted purchase price. City Attorney Brown stated the director of Finance feels we can obtain a better rate than the 2.69% offered by the lender, so the city will still get the discount from Harris based on the 2.69% but should be able to secure financing at a better rate. City Attorney Brown stated he envisions bringing this back to council to approve in August. City Attorney Brown stated the contract amendment was executed, but the city built into their non-appropriation clause that at any time before the radios are delivered we can notify them if council was not able to appropriate the funds and this amendment is no longer valid.

Council Member Byrd stated going into the future having two days to make \$6.9M decisions and now finding out we had received erroneous information maybe next time ECC goes to these types of negotiations city staff would be available.

Mayor Reed stated the annual Harrisonburg Fire Department annual Smoke Alarm and Free Pizza Night will be July 12, 2017 beginning at 4:00 pm; anyone interested in learning more about the city should sign up to participate in the annual Citizens Academy, which is a 13 week program in which the city opens its doors to teach city residents about the day to day services it provides and applications can be found on the city's website and are due to the city manager's office by July 31, 2017; National Night Out is also just around the corner and will be held on Tuesday, August 1, 2017, which will kick off at 5:00 p.m. from Court Square and additional details will be posted on the city's website; Harrisonburg Parks and Recreation will host its annual Youth Triathlon, Saturday August 12, 2017 with a deadline to register of August 4, 2017 and is open to kids ages five to

seventeen.

10. Boards and Commissions

10.a. Harrisonburg Electric Commission

A motion was made by Council Member Byrd, seconded by Vice Mayor Baugh to appoint David Frackelton to a term to expire on December 31, 2018 to the Harrisonburg Electric Commission. The motion carried with a recorded roll call vote taken as follows:

Yes: 5 - Mayor Reed, Vice-Mayor Baugh, Council Member Byrd, Council Member Jones and Council Member Hirschmann

No: 0

10.b. Community Service Board

A motion was made by Vice Mayor Baugh, seconded by Council Member Byrd, to reappoint Geraldine Rush to a second term to expire on July 1, 2020 to the Harrisonburg Electric Commission. The motion carried with a recorded roll call vote taken as follows:

Yes: 5 - Mayor Reed, Vice-Mayor Baugh, Council Member Byrd, Council Member Jones and Council Member Hirschmann

No: 0

10.c. Transportation Safety and Advisory Commission

A motion was made by Council Member Byrd, seconded by Council Member Hirschmann to appoint Marian Lebherz to an unexpired term to expire on December 31, 2018 to the Transportation Safety Advisory Board. The motion carried with a recorded roll call vote taken as follows:

Yes: 5 - Mayor Reed, Vice-Mayor Baugh, Council Member Byrd, Council Member Jones and Council Member Hirschmann

No: 0

11. Adjournment

At 10:11 p.m., there being no further business and on motion adopted, the meeting was adjourned.

DEPUTY CITY CLERK

MAYOR