

**MINUTES OF HARRISONBURG PLANNING COMMISSION**

**November 9, 2022**

The Harrisonburg Planning Commission held its regular meeting on Wednesday, November 9, 2022, at 6:00 p.m. in the City Council Chambers, 409 South Main Street.

Members present: Brent Finnegan; Adriel Byrd; Kathy Whitten; Valerie Washington; Dr. Donna Armstrong; Laura Dent; and Jim Orndoff.

Also present: Thanh Dang, Assistant Director of Community Development; Adam Fletcher, Director of Community Development; Nyrma Soffel, Office Manager/Secretary; and Meghan Rupkey, Planner.

Chair Finnegan called the meeting to order and said that there was a quorum with all members present. He also noted that the City Council meeting that was to take place in Council Chambers on November 8, 2022, had to be rescheduled to November 9, 2022, at 7:00 p.m. in meeting rooms 011 and 012 of City Hall due to state regulations regarding Election Day. He advised those present how to access the City Council meeting. It was also noted that Councilmember Dent would exit the Planning Commission meeting to attend the City Council meeting at 7:00 p.m. and would return when concluded.

Chair Finnegan said that a vote would be required in order to have New Business – Other Items item 5.a., a request to close a portion of Wilson Avenue, be heard with New Business – Public Hearings items 4.e., 4.f. and 4.g. all of which are requests regarding the same property.

Councilmember Dent moved to add item 5.a. to be heard with items 4.e., 4.f. and 4.g.

Commissioner Byrd seconded the motion.

All members voted in favor of the request.

Chair Finnegan asked if there were any corrections, comments or a motion regarding the October 12, 2022 Planning Commission minutes.

Commissioner Byrd moved to approve the minutes.

Commissioner Orndoff seconded the motion

All members voted in favor of approving the October 12, 2022 Planning Commission minutes.

**New Business – Public Hearings**

***Consider a request from the William Allen Weech Revocable Trust for a special use permit to allow short-term rental at 1335 Wine Drive.***

Chair Finnegan read the request and asked staff to review.

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

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

- Site: Single-family detached dwelling, zoned R-1
- North: Across Wine Drive, Single-family detached dwelling, zoned R-1
- East: Single-family detached dwellings, zoned R-1
- South: Multifamily Residential-Duplex dwellings, zoned R-5 (Rockingham County)
- West: Single-family detached dwelling, zoned R-1

The applicant is requesting a special use permit (SUP) per Section 10-3-34 (7) to allow for a short-term rental within the R-1, Single Family Residential District. The parcel is +/- 10,121 square feet and addressed at 1335 Wine Drive, which is located north of the City/County boundary and west of Port Republic Road. The property has a two-car garage and a driveway that could park a few vehicles.

As defined in the Zoning Ordinance (ZO), a STR is “[t]he provision of a dwelling unit, a guest room or accommodation space within the dwelling unit, or any accessory building that is suitable or intended for transient occupancy for dwelling, sleeping, or lodging purposes and is offered in exchange for a charge for the occupancy.” STRs are further regulated by Article DD of the Zoning Ordinance. Among other things, a STR differs from the by right homestay use by allowing operators to exceed 90 lodging nights per year and in allowing more than four guests at one time.

As explained in the applicant’s submitted letter they will have two accommodation spaces, one bedroom within the principal building and a space within the accessory structure. The applicant stated that no more than six people would stay at the property at one time, two in the guest bedroom and four in the accessory structure. At this time, the applicant has not improved the existing

accessory structure to accommodate the transient lodging use, but would ultimately be required to obtain proper building and sub-trade permits to appropriately convert the structure.

While the applicant has explained their operation plans for the STR, the SUP is not restricted to only the current applicant/operator. All SUPs transfer to future property owners; thus, if the applicant sells the property, any future property owner could operate a STR so long as they meet the requirements of the ZO and any conditions placed on the SUP. How the STR could be operated by any future property owner should be considered and evaluated as part of this request.

The ZO requires one off-street parking space for the single family detached dwelling. If the STR is approved as requested, the site must have two more off-street parking spaces—one for each approved accommodation space. Unless City Council allows for a reduction in off-street parking spaces as a condition of the SUP for the STR, the site must ultimately accommodate three off-street parking spaces—one for the dwelling and two for the STR.

The City has approved many STR SUP applications throughout the City and after review of this request, staff believes this request shares similar characteristics to other applications that have already received approval, and thus staff recommends approval of the request, but only with the following conditions:

1. All STR accommodations shall be within the principal building or one accessory structure.
2. There shall be no more than two STR guest rooms or accommodation spaces.
3. The number of STR guests at one time shall be limited to six.
4. Prior to operation, the operator shall submit to City staff a completed Short-Term Rental Pre-Operation Form. Furthermore, the operator shall maintain compliance with the items identified in the Pre-Operation Form when short-term rental guests are present.
5. Minimum off-street parking spaces do not need to be delineated and can be accommodated utilizing the driveway or other areas on the property.
6. If in the opinion of Planning Commission or City Council, the short-term rental becomes a nuisance, the special use permit can be recalled for further review, which could lead to the need for additional conditions, restrictions, or the revocation of the permit.

Staff believes that the proposed use is consistent with good zoning practice and will have no more adverse effect on the health, safety or comfort of persons living or working in the area and will be no more injurious, economically or otherwise, to property or improvements in the surrounding area than would any use generally permitted within the district.

Chair Finnegan asked if there were questions for staff.

Commissioner Armstrong asked when it is a separate accessory structure does a bathroom have to be included in that?

Ms. Dang said it does not. It is just a living space, but they could put one in if they would like to.

Councilmember Dent said that odd line between accessory structure and accessory dwelling, as long as it does not have a stove, or your call depending on the situation applies as well.

Ms. Dang said correct. It cannot have a full kitchen which we generally consider as the stove and oven. It cannot be a separate dwelling where another household would be.

Commissioner Whitten said condition 1 is written specifically “shall be within the principal building or one accessory structure.” Does that mean “and/or” or is it “or”, one or the other?

Ms. Dang said we intended it to be either one or both.

Commissioner Whitten said that is confusing.

Ms. Dang said you could consider amending that.

Commissioner Whitten said we have not had one where we have had a room in the house and in an accessory building.

Ms. Dang said usually the conditions are either the principal building or the accessory structure.

Councilmember Dent said she saw a similar case in City Council. The City Attorney said that “or” is now taken to mean “and/or.”

Mr. Russ said that is typically the way courts will construe “or” unless the context requires something else. There is no rule that you cannot say “and/or” if you want to make it absolutely clear that is what you meant.

Several members indicated support for amending condition 1 to add “and/or.”

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

William Weech, 1335 Wine Drive, came forward in support of his request. Thank you for giving me the chance to speak. I hope that this is simple and straightforward. I am relatively new to the area. I am retired. I was not sure if I wanted to own real estate, but my kids encouraged me to buy property. They wanted to have a gathering space here in Harrisonburg. When I saw the property on Wine Drive, I thought the utility shed in the back would make a great accessory dwelling for my kids when we have family gatherings. I want to renovate it mostly for family use. It turns out that is rather expensive. Some folks in the neighborhood suggested renting it out on high demand weekends like homecoming and graduation to defray the expenses. I do not want to be a full-time Airbnb host. I am retired. It sounds like real work. I do not want that, but the idea of being able to rent it out a few times when there is high demand in Harrisonburg and defray my expenses is appealing to me. Because it is a small space, we thought to add the bedroom in the house. I would be more cautious about having people I do not know in my house. If they look like solid applicants and the accessory building is too small for them, I would consider allowing them to use the guest bedroom.

Commissioner Whitten asked did you consider a homestay instead of the STR SUP? I see, it is because of the accessory building.

Chair Finnegan asked if there were any questions for the applicant. Hearing none, he asked if there was anyone in the room or on the phone wishing to speak to the request. Hearing none, he closed the public hearing and opened the matter for discussion.

Councilmember Dent moved to recommend approval of the SUP, with conditions, and amending condition one to add “and/or.”

Commissioner Armstrong said my only concern is that we are approving a SUP for a future intention. What is true is that granting this SUP raises his property value. It opens the possibility of applications to apply for the future intention of doing construction and then putting the house of the market and raising the value of the house. I would feel better if it was further along. I did not think about the accessory structure, 90 day limit for the homestay. That would be my only concern. It is not particular to this applicant. My experience with these STR is that once we grant one, we must grant them all. If we create this precedent, that is going to happen with that too. That is the way it operates here. Housing values is something... Affordability is a big deal. This works against that.

Commissioner Whitten said I do not feel that a low density neighborhood is an area where we should be putting more people as guests. In the same that we say that people who are related, people who are families belong in these neighborhoods. When you put guests from outside of that community, it stops being a community and starts being something else. I think that Commissioner Armstrong has provided some strong evidence that that is occurring. I think we should pay closer attention to that. I think that it is detrimental to communities.

Commissioner Orndoff seconded the motion.

Chair Finnegan said, as a historical note, I am currently reading the first Harrisonburg Zoning Ordinance from 1939. I found it interesting that at the very beginning, under definitions, it has family housekeeping unit. The second definition is boarding house. The third definition is lodging house which is any dwelling other than a hotel where lodging for compensation is provided for five or more persons. Adding that to say that Harrisonburg has been trying to regulate this as far back as 1939.

Commissioner Whitten said obviously the economic situation in our country was a lot different then and so were family structures. There were many boarding houses because there were not places for people to live at the time. That is not the situation now for short-term stays. We have lots of accommodation spaces. It is apples and oranges.

Chair Finnegan said it is not apples and oranges in my opinion. It says boarding house is any dwelling where lodging and meals for compensation are provided. This is a historical footnote about that.

Commissioner Armstrong said it is apples and oranges to the extent that we did not have internet.

Commissioner Whitten said that there are too many things that are different.

Chair Finnegan asked if there was any further discussion. Hearing none, he called for a roll call vote.

|                         |     |
|-------------------------|-----|
| Commissioner Armstrong  | No  |
| Commissioner Byrd       | Aye |
| Councilmember Dent      | Aye |
| Commissioner Orndoff    | Aye |
| Commissioner Washington | Aye |
| Commissioner Whitten    | No  |
| Chair Finnegan          | Aye |

The motion to recommend approval of the SUP request passed (5-2). The recommendation will move forward to City Council on December 13, 2022.

***Consider a request form Sherrill K. Glanzer for a special use permit to allow for a short-term rental at 964 Smith Avenue***

Chair Finnegan read the request and asked staff to review.

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

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

Site: Duplex dwelling unit, zoned R-2  
North: Duplex dwelling unit, zoned R-2  
East: Single-family detached dwellings, zoned R-2  
South: Single-family detached dwelling, zoned R-2  
West: Across Smith Avenue, Single-family detached dwelling, zoned R-2

The applicant is requesting a special use permit (SUP) per Section 10-3-40 (8) to allow for a short-term rental within the R-2, Residential District. The parcel is +/- 7,819 square feet and addressed at 964 Smith Ave, which is located north of Graystone Street and west of Collage Avenue. The property has a driveway for two cars as well as a garage for one car.

As defined in the Zoning Ordinance (ZO), a STR is “[t]he provision of a dwelling unit, a guest room or accommodation space within the dwelling unit, or any accessory building that is suitable or intended for transient occupancy for dwelling, sleeping, or lodging purposes and is offered in exchange for a charge for the occupancy.” STRs are further regulated by Article DD of the Zoning Ordinance. Among other things, a STR differs from the by right homestay use by allowing operators to exceed 90 lodging nights per year and in allowing more than four guests at one time.

As explained in the applicant’s submitted letter, they will have two accommodation spaces, one bedroom and a pull-out couch with plans to allow up to four guests at one time. There is a private entrance in the rear to access the basement and the lower level will be separated by a locked door at the top of the basement stairs.

While the applicant has explained their operation plans for the STR, the SUP is not restricted to only the current applicant/operator. All SUPs transfer to future property owners; thus, if the applicant sells the property, any future property owner could operate a STR so long as they meet the requirements of the ZO and any conditions placed on the SUP. How the STR could be operated by any future property owner should be considered and evaluated as part of this request.

The ZO requires one off-street parking space for the single unit of the subdivided duplex structure. If the STR is approved as requested, the site must have two more off-street parking spaces—one for each approved accommodation space. Unless City Council allows for a reduction in off-street parking spaces as a condition of the SUP for the STR, the site must ultimately accommodate three off-street parking spaces—one for the dwelling unit and two for the STR.

The City has approved many STR SUP applications throughout the City with a few of them being within the nearby neighborhood. Staff believes this request is similar to other applications that have already received approval, thus staff recommends approval of the request, but only with the following conditions:

1. All STR accommodations shall be within the principal building.
2. There shall be no more than two STR guest rooms or accommodation spaces.
3. The number of STR guests at one time shall be limited to four.
4. Prior to operation, the operator shall submit to City staff a completed Short-Term Rental Pre-Operation Form. Furthermore, the operator shall maintain compliance with the items identified in the Pre-Operation Form when short-term rental guests are present.
5. Minimum off-street parking spaces do not need to be delineated and can be accommodated utilizing the driveway or other areas on the property.
6. If in the opinion of Planning Commission or City Council, the short-term rental becomes a nuisance, the special use permit can be recalled for further review, which could lead to the need for additional conditions, restrictions, or the revocation of the permit.

Staff believes that the proposed use is consistent with good zoning practice and will have no more adverse effect on the health, safety or comfort of persons living or working in the area and will be no more injurious, economically or otherwise, to property or improvements in the surrounding area than would any use generally permitted within the district.

Chair Finnegan asked if there were any questions for staff.

Councilmember Dent said, to clarify, this is one half of a duplex, but within that dwelling unit they are looking to have a STR in the basement, not half of a duplex.

Ms. Dang said that it is different than the situation that we had on Broad Street where it was one duplex structure with two units on one parcel. Here, each duplex unit is on a separate parcel.

Commissioner Byrd asked if a homestay was considered.

Ms. Dang said that the applicant wanted the option to rent for more than 90 nights.

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

Sherrill Glanzer, 964 Smith Avenue, came forward in support of her request. I am on the northwest side, about a block and a half from Eastern Mennonite University (EMU). I live on the first floor, and I intend to remain there. There are no intentions of moving or selling it. That space gets used only once or twice a year when the family comes to town. I thought I would use it as a rental that I could manage myself. I am retiring in the spring, and I will be there most of the time.

Chair Finnegan asked if there were any questions for the applicant.

Commissioner Whitten asked did you consider using it as a rental, not a STR?

Ms. Glanzer said I did, but that means that my family cannot use it when they come on Thanksgiving and Christmas. That would be my preference. The less people the better. I am not looking to fill it up all the time. I am not looking to make huge amounts of money. I just do not want it to sit there unused for so many nights of the year. I would probably rent it more than 90 nights per year. I have talked with some other STR owners, and they say that 90 days goes very quickly.

Commissioner Washington asked does this space have a bathroom or a kitchen?

Ms. Glanzer said it has a bathroom, a clean bedroom and a large living space that walks out onto a patio. On one end of that large room, it has a kitchenette. It does not have a stovetop. It has a refrigerator, sink, microwave, coffee maker, and a toaster oven. Before I started this project, I spoke with the other duplex owners, Dennis and Sharon Showalter, and the house on the other side, Harold Shenk. I asked if they had any issues with me looking into this further and possibly doing it. Neither of them did. It would be fine with them. I wanted to let you know that because I am a responsible renter and owner.

Chair Finnegan asked if there were any questions for the applicant's representative. Hearing none, he asked if there was anyone in the room or on the phone wishing to speak to the request. Hearing none, he closed the public hearing and opened the matter for discussion.

Commissioner Whitten reminded everyone that with STR SUP, the use goes with the property. It is not just the owner that you know currently. It conveys with the property.

Commissioner Byrd reminded citizens that homestays are available by right for 90 nights if you are the owner. It would be good to use those 90 days to determine whether you need more days. Other than that, I would be in favor of this.

Commissioner Byrd move to recommend approval the SUP with conditions as presented.

Commissioner Orndoff seconded the motion.

Chair Finnegan called for a roll call vote.

|                         |     |
|-------------------------|-----|
| Commissioner Armstrong  | No  |
| Commissioner Byrd       | Aye |
| Councilmember Dent      | Aye |
| Commissioner Orndoff    | Aye |
| Commissioner Washington | Aye |
| Commissioner Whitten    | No  |
| Chair Finnegan          | Aye |

The motion to recommend approval of the SUP passed (5-2). The recommendation will move forward to City Council on December 13, 2022.

***Consider a request from Martha Ann Miller to rezone 1051, 1067, 1069 Smith Avenue***

***Consider a request from Martha Ann Miller for a special use permit to allow multi-family dwellings at 1051, 1067, and 1069 Smith Avenue***

Chair Finnegan read the requests and asked staff to review.

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

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

Site: Multiple-family buildings, zoned R-2  
North: Duplex dwelling, zoned R-2  
East: Single-family detached dwellings, zoned R-2  
South: Single-family detached dwelling, zoned R-2

West: Multiple-family building, zoned R-2

The applicant purchased the property in 1989. Minutes from Board of Zoning Appeal (BZA) meetings indicate that the applicant was told by the previous property owner that they could add a kitchen to the downstairs four-bedroom area and have two dwelling units in the building addressed as 1067 Smith Avenue. They proceeded to do the work believing that they already had City approvals. A complaint was made in 1992 to the Building Inspection Office who required a building permit to be filed, but then denied the building permit because the Zoning Ordinance did not allow adding dwelling units and nonconforming uses cannot be expanded. Following the City's denial of a building permit to allow for the construction of an additional unit within the building addressed as 1067 Smith Avenue, on June 1, 1992, the applicant requested from the BZA a variance for the property addressed as 1067 and 1069 Smith Avenue (tax map parcel 48-C-8) from the maximum allowable density of two units to allow for the addition of another unit. This request was denied by the BZA. On August 7, 1995, the applicant requested from the BZA a variance to move one dwelling unit from the building addressed as 1051 Smith Avenue to 1067 Smith Avenue. This request was denied by the BZA. Then on August 5, 1996, the applicant requested from the BZA a variance for the expansion of a nonconforming use at 1067 Smith Avenue so that they could convert a four-bedroom apartment unit into two 2-bedroom units. The request also describes that the applicant planned to remove an efficiency unit on the adjacent lot and add it as a bedroom to an existing one-bedroom apartment. That request was also denied by the BZA.

The applicant is requesting to rezone a +/- 36,394 square foot property consisting of three parcels from R-2, Residential District to R-3C, Medium Density Residential District Conditional. Simultaneously, the applicant is requesting a special use permit (SUP) per Section 10-3-48.4 (6) of the Zoning Ordinance to allow multi-family dwellings of up to twelve (12) units per building under conditions set forth in subsection 10-3-48.6 (e) and other such conditions deemed necessary by City Council within the R-3, Medium Density Residential District. The subject property is located on Smith Avenue approximately 350 feet south of the intersection with Mt. Clinton Pike. If the requests are approved, the applicant would convert a 4-bedroom unit within the building addressed as 1067 Smith Avenue into two, 2-bedroom units, which would bring the total number of dwelling units in the three buildings to 11 as described below:

| <b>Tax Map/Address</b>            | <b>Current Uses/Number of Bedrooms per Unit</b>   |
|-----------------------------------|---|
| 48-C-7                            | Vacant parcel   |
| 48-C-9 (1051 Smith Avenue)        | 1051 – 4 multifamily dwellings<br>Unit 1 – 1 bedroom<br>Unit 2 – 2 bedrooms<br>Unit 3 – 2 bedrooms<br>Unit 4 – 1 bedroom                                    |
| 48-C-8 (1067 & 1069 Smith Avenue) | 1069 – 3 multifamily dwellings<br>Unit 5 – 2 bedrooms<br>Unit 6 – 2 bedrooms<br>Unit 7 – 1 bedroom<br>1067 – 3 multifamily dwellings<br>Unit 8 – 2 bedrooms |

|  |   |
|--|---|
|  | Unit 9 – 2 bedrooms<br>Unit 10 – 4 bedrooms |
|--|---|

As noted in the previous paragraph, the purpose of the rezoning and SUP request is to convert Unit 10 from a 4-bedroom unit to, two 2-bedroom units, which ultimately adds one unit to the site, but maintains the same number of bedrooms for the entire complex.

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

1. The property shall only be used for residential dwellings, except that any allowed special use permits shall be permitted as approved by City Council.
2. Dwelling units may be occupied by a single family or no more than three (3) unrelated persons.
3. Dwelling units shall provide 1.5 – parking spaces per unit.

Recognizing that a rezoning to R-3 would open the opportunity for this property to have by right abilities for non-residential uses, including but not limited to, hospitals, convalescent or nursing homes, funeral homes, medical offices, professional offices, and charitable or benevolent institutions, the applicant has proffered that the property shall only be used for residential dwellings, except that any allowed special use permits shall be permitted as approved by City Council.

The R-3 district allows by right dwellings to be occupied by a family or not more than four persons. Proffer #2 reduces the allowable occupancy of dwelling units to either a family or not more than three persons. With this proffer, because the minimum off-street parking requirements of Section 10-3-25 (7) allows for reduced parking when occupancy is restricted, the multiple-family use has the flexibility of providing only one parking space per unit. However, with proffer #3, the applicant has proffered that they will provide 1.5 parking spaces per dwelling unit. With 11 proposed dwelling units and the parking proffer, the property would be required to provide 17 off-street parking spaces, which can be accommodated on the site. Staff's research of land records indicates there are private easements granting permission to the subject property (and other properties) to use the existing drive areas along the north and south side of the subject property for access.

Note that the existing parking area along the Smith Avenue property frontage cannot be counted as required off-street parking. The applicant is also aware that while parallel parking along Smith Avenue is allowed, the Zoning Ordinance Sec. 10-3-25 (5) prohibits on-site parking from depending on the public street for maneuvering and therefore the perpendicular parking that appears to be occurring today can no longer function as perpendicular parking.

The applicant did not proffer a maximum number of dwelling units because the R-3 district's requirement of 3,000 square feet of lot area for each multiple-family dwelling unit would limit the property to a maximum of 11 dwelling units, which is what the applicant proposes to have.

As part of the requirements for obtaining a SUP for multiple-family development in the R-3, Medium Density Residential District, an applicant must substantiate that they have met several

conditions to justify the development. Those conditions outlined in Section 10-3-48.6 (e) of the ZO consist of the following:

1. Existing multiple-family development, or land planned for multiple-family development according to the Land Use Guide, is located adjacent to, across the street from, or in close proximity to the proposed development;
2. The applicant has demonstrated that adequate vehicular, transit, pedestrian and bicycle facilities:
  - currently serve the site; or
  - are planned to serve the site according to a city or state plan with reasonable expectation of construction within the timeframe of the need created by the development; or
  - will be provided by the applicant at the time of development; or
  - are not needed because of the circumstances of the proposal.
3. The applicant has demonstrated that the proposed multiple-family development's design is compatible with adjacent existing and planned single-family, duplex and townhouse development. Compatibility may be achieved through architectural design, site planning, landscaping and/or other measures that ensure that views from adjacent single-family, duplex and townhouse development and public streets are not dominated by large buildings, mechanical/electrical and utility equipment, service/refuse functions and parking lots or garages.
4. The applicant has shown that the site is environmentally suitable for multiple-family development. There shall be adequate area within the site, or the development shall be designed, to accommodate buildings, roads and parking areas with minimal impact on steep slopes and floodplains.

The applicant has described in their letter how they believe the four conditions are met.

Staff believes that the four conditions are met if the following special use permit condition is added to the request:

1. The SUP shall be limited to the existing structures and no more than 11 multiple family dwelling units. (Note: Small additions to the existing structure for housing improvements may be allowed at the discretion of the Zoning Administrator.)

This condition allows for consistency in the understanding for the surrounding community to know what development could actually be allowed under the approved SUP. If in the future, the property owner wishes to add more dwelling units or to redevelop the site for other multi-family development, then a rezoning or SUP will be required.

Staff believes condition 1 outlined in Section 10-3-48.6 (e) is met because there are existing multiple-family structures near the proposed development, including on an adjoining property to the west addressed as 1081 Smith Avenue and two parcels to the north at 1301 Mt. Clinton Pike. Additionally, the Comprehensive Plan designates this site as Neighborhood Residential and describes that “[t]hese areas are typically older residential neighborhoods, which contain a mixture of densities and a mixture of housing types, but should have more single-family detached homes than other types of housing. This type of land use highlights those neighborhoods in which existing

conditions dictate the need for careful consideration of the types and densities of future residential development.”

With regard to condition #2, staff would typically expect for the applicant to construct street frontage improvements of curb, gutter, sidewalk, and any other necessary improvements at the time of development to meet the condition of adequate pedestrian facilities. However, the applicant proposes only to convert one multiple-family unit into two units within an existing structure and will not be disturbing more property, which brings into question whether the circumstances of the proposal negate the need for such improvements to be made as is allowed in the last bullet of condition #2. In this particular case, staff believes the circumstances of the proposal do not warrant such improvements.

With regard to condition #3, as proposed and with staff’s recommended special use permit condition, the exterior of the three existing multiple-family buildings will not be structurally changed.

Lastly, with regard to condition #4, the proposed conversion of one 4-bedroom unit into two 2-bedroom units will not impact the environment as the work will be limited to the interior of a building. Additionally, the property does not require additional parking areas to be created to meet off-street parking requirements.

The applicant is aware that if the requests are approved and they wish to create an additional dwelling unit that they would be required to complete a minor subdivision to vacate the internal property lines to achieve the necessary lot area to meet zoning requirements and must also obtain proper building and sub-trade permits. Additionally, if an additional dwelling unit is added, then the property owner will be required to delineate the required off-street parking spaces.

Staff believes that the requested SUP is consistent with good zoning practice and will have no more adverse effect on the health, safety or comfort of persons living or working in the area and will be no more injurious, economically or otherwise, to property or improvements in the surrounding area than would any use generally permitted within the district. Staff recommends approval of both the rezoning and special use permit to allow multiple-family dwellings on the subject parcel with the following condition:

1. The SUP shall be limited to the existing structures and no more than 11 multiple family dwelling units. (Note: Small additions to the existing structure for housing improvements may be allowed at the discretion of the Zoning Administrator.)

Chair Finnegan asked if there were any questions for staff.

Commissioner Armstrong asked if the proffers convey.

Ms. Dang said yes. The proffers would remain unless the property is rezoned to amend or eliminate the proffers.

Commissioner Whitten asked if it the same as with SUP that if they were not rented for a period of two years...

Ms. Dang said in this case it is a structure. It would be maintained as a multi-family structure. It is not a nonconformity.

Chair Finnegan said they are changing the structure.

Commissioner Whitten said they would not lose any of the dwelling units if they did not all remain rented?

Ms. Dang said correct.

Councilmember Dent asked for clarification regarding the block in the middle of Smith Avenue so that it is not continuous.

Ms. Dang said I do not know the history of that.

On the map, there are two properties that extend to the middle of Smith Avenue. The street narrows to a right of way. Staff has not researched the easements through those properties.

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

Martha Ann Miller, owner of the subject properties, came forward with her son, Jay Miller, in support of her request.

Commissioner Armstrong asked are these all long-term rentals?

Ms. Miller answered they are.

Mr. Miller said there will be no additional construction. We are dividing an existing unit, and there is no need for additional parking.

Chair Finnegan said, in other words, the work is happening inside the structure.

Commissioner Whitten asked do either one of you live at this address?

Ms. Miller said I do.

Chair Finnegan asked if there were any questions for the applicants.

David Lehman, 1032 Smith Avenue, came forward regarding the request. I just recently purchased the property across the street. I am one of the persons whose lots came together. I am learning a lot right now and becoming aware. Does the ability for Ms. Miller to go ahead and do what she

would like to do depend on both of these requests being passed? Can she do it if only the SUP is passed?

Chair Finnegan said it would require both.

Mr. Lehman said the one strikes me as harder to swallow than the other. It helps me understand what is decided this evening. Thank you.

Cynthia Smoker, 1091 Smith Avenue, came forward regarding the request. We would share the northern right of way to this property. Our main concern is does a potential approval of this set any precedent for future approvals, such as a broadened expansion of the R3. I am not sure that can be answered but is a concern of mine.

Chair Finnegan asked if there was anyone in the room or on the phone wishing to speak to the request. Hearing none, he closed the public hearing and opened the matter for discussion.

Ms. Dang said I cannot promise that things will not change. In this case, the proffers and conditions are specifically tailored in a way that one can use that if changes are not desired at other parcels... but I cannot guarantee one way or the other. We might not be the ones making the recommendations or the decisions in the future.

Commissioner Byrd said the current Comprehensive Plan would not suggest that we would encourage a flurry of these, correct?

Ms. Dang said I agree. The Comprehensive Plan and the neighborhood residential designation does describe that there would be more single-family detached homes.

Commissioner Whitten said beyond that, this is a rather unique situation in which there are a lot of non-conformities which are very problematic in zoning in order to change the configuration of a building within the walls of the building. That is the reason this request was made, correct? It is not to add more renters. It would allow for one more. My understanding is that the spirit of this is to bring this property into conformity.

Ms. Dang said the applicant wants to bring in the conformity so that she can add another dwelling unit within one of the buildings.

Mr. Fletcher said I would like to address precedents and the Comprehensive Plan designation. Regarding the Land Use Guide, it is neighborhood residential. In the staff report it says different types of housing in a mixture of densities. Precedents can always be something of significance. Ms. Dang is correct. This is very narrowly tailored. You are going to end up with the same number of bedrooms, just one additional unit. It provides additional flexibility, trying to run a four-bedroom unit rather than a two-bedroom unit. The neighborhood residential designation does not specifically say all single-family or all duplexes. It is a mixture and has a lot to do with the surrounding environment and what the existing context of that neighborhood is.

Chair Finnegan said this is a unique cluster of buildings. A lot of the properties on this side of town in the 1983 annexation look different. There are oddities because of the annexation. I generally am supportive of this. We need more smaller units. This would provide one more.

Commissioner Armstrong said I want to acknowledge that we got one or two neighborhood comments on this. I did read them. There was a lot of concern about what could be the worst-case scenario. I hope that this presentation has reassured the neighbors that there will be no more breaking ground. I support this too. It is all inside and it is all long-term rental.

Commissioner Whitten moved to recommend approval of the rezoning request.

Commissioner Byrd seconded the motion.

Chair Finnegan called for a roll call vote.

|                         |     |
|-------------------------|-----|
| Commissioner Armstrong  | Aye |
| Commissioner Byrd       | Aye |
| Councilmember Dent      | Aye |
| Commissioner Orndoff    | Aye |
| Commissioner Washington | Aye |
| Commissioner Whitten    | Aye |
| Chair Finnegan          | Aye |

The motion to recommend approval of the rezoning request passed (7-0). The recommendation will move forward to City Council on December 13, 2022.

Commissioner Armstrong moved to recommend approval of the SUP.

Commissioner Whitten seconded the motion.

Chair Finnegan called for a roll call vote.

|                         |     |
|-------------------------|-----|
| Commissioner Armstrong  | Aye |
| Commissioner Byrd       | Aye |
| Councilmember Dent      | Aye |
| Commissioner Orndoff    | Aye |
| Commissioner Washington | Aye |
| Commissioner Whitten    | Aye |
| Chair Finnegan          | Aye |

The motion to recommend approval of the SUP request passed (7-0). The recommendation will move forward to City Council on December 13, 2022.

Councilmember Dent exited the meeting to attend the City Council meeting.

***Consider a request from Northside LLC and Joseph H. and Linda H. Moore to rezone 36, 40, 44, 75, 81 Wilson Avenue, 25, 35, 45, and 55 Mount Clinton Pike, and portions of 1411, 1421, 1431, and 1441 North Main Street***

***Consider a request from Northside LLC and Joseph H. and Linda H. Moore for a special use permit to allow attached townhomes of not more than eight units at 36, 44, 75, and 81 Wilson Avenue, 45 and 55 Mount Clinton Pike, and 1411 and 1421 North Main Street***

***Consider a request from Northside LLC and Joseph H. and Linda H. Moore for a special use permit to allow multiple-family dwellings of more than twelve (12) units per building at 36, 40, & 44 Wilson Avenue, 25, 35, 45, and 55 Mount Clinton Pike, and 1421, 1431, and 1441 North Main Street***

***Consider a request from Northside LLC to close a portion of Wilson Avenue***

Chair Finnegan read the requests and asked staff to review.

Mr. Fletcher said the Comprehensive Plan designates this site as Mixed Use. The Mixed Use designation includes both existing and proposed areas for mixed use. Mixed Use areas shown on the Land Use Guide map are intended to combine residential and non-residential uses in neighborhoods, where the different uses are finely mixed instead of separated. Mixed Use can take the form of a single building, a single parcel, a city block, or entire neighborhoods. Quality architectural design features and strategic placement of green spaces for large scale developments will ensure development compatibility of a mixed use neighborhood with the surrounding area. These areas are prime candidates for “live-work” and traditional neighborhood developments (TND). Live-work developments combine residential and commercial uses allowing people to both live and work in the same area. The scale and massing of buildings is an important consideration when developing in Mixed Use areas. Commercial uses would be expected to have an intensity equivalent to a Floor Area Ratio of at least 0.4, although the City does not measure commercial intensity in that way.

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

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

- Site:** Undeveloped and vacant parcels, zoned R-2 and M-1, and a portion of a single family detached home lot, zoned R-2
- North:** Across Mt. Clinton Pike, industrial uses, zoned M-1 and M-1 with the Technology Zone Overlay, and vacant property, zoned B-2C
- East:** Undeveloped property fronting along North Main Street, zoned M-1 and R-2

- South: Remaining portion of a single family detached home lot and undeveloped and vacant parcels, zoned R-2
- West: Industrial property, zoned M-1, the Community Services Board property, zoned B-2 and B-2C, and undeveloped parcels, zoned R-2

The applicant is requesting approval of four separate applications with plans to construct improvements to portions of Wilson Avenue and to construct a shared use path along Mt. Clinton Pike both as part of a planned residential development to include 60 subdivided townhome parcels and up to 34 multi-family units. The site includes eight parcels and portions of four other lots, which in total contains +/- 5.23 acres located along both sides of portions of Wilson Avenue (currently a dead-end, substandard public street) and along an almost 500-foot section of frontage along Mt. Clinton Pike. The project also includes closing portions of the Wilson Avenue public street right-of-way (ROW) in exchange for land the applicant would dedicate to the City for the shared use path they would construct along Mt. Clinton Pike.

To allow for the planned development, the applicant is requesting four separate applications, a rezoning to two different zoning districts, two special use permits (SUPs)—one within R-5 and one within R-8, and a public street ROW closing, the details all of which include:

- To rezone a +/- 1.44-acre area along Mt. Clinton Pike from R-2 and M-1 to R-5C, High Density Residential District Conditional and to receive approval of a SUP per Section 10-3-55.4 (1) for the same acreage to allow more than 12 units within multi-family buildings in the R-5 district.
- To rezone a +/- 1.94-acre area on the north side of Wilson Avenue and a +/- 1.85-acre area on the south side of Wilson Avenue (totaling approximately 3.8 acres) from R-2 to R-8C, Small Lot Residential District Conditional and to receive approval of a SUP per Section 10-3-59.4 (1) for the same acreage to allow townhomes in the R-8 district.
- To close a +/- 5,529 square foot portion (+/- 10 feet in width for +/- 553 feet in length) of public street ROW on the north side of Wilson Avenue in exchange for a dedication of +/- 5,413 square feet (+/- 10 feet in width for +/- 541 feet in length) along Mt. Clinton Pike for them to construct a shared use path.

With regard to the rezoning, the applicant has proffered the following (written verbatim):

1. As illustrated in the attached exhibit, if City Council approves the Wilson Avenue public street right-of-way closing request to close and convey at no cost the approximate 5,529 square feet of property to the applicant, then the applicant shall convey at no cost approximately 5,413 square feet of property to the City for additional Mt. Clinton Pike public street right-of-way. The applicant shall be responsible for completing all surveys and plats for both conveyances.
2. If the application to close a portion of Wilson Avenue is approved and the ROW exchange is completed, then applicant agrees to install a 10-foot-wide shared use path with 5-ft-wide grass strip along the road and a 2.5-ft grass strip on the opposite side of the path with an associated access easement set 6-inches behind the path's 2.5-ft grass strip.
3. Construct street improvements along Wilson Avenue to meet the minimum standards in the City's Design and Construction Standards Manual, Appendix

- F, for local street, or as approved by City Council through a preliminary plat with variance(s) request. The street improvements shall be required along the frontage of all parcels as shown on the exhibit.
4. Applicant will construct designated walkways to allow connectivity from the proposed shared-use path to Wilson Ave.
  5. There shall be no vehicular entrances connecting the subject site to Mt. Clinton Pike.
  6. Applicant will construct an open recreational area of at least 2,000 square feet which may include a playground, dog park, basketball court, benches and tables, or the like.
  7. Multi-family units within the R-5 district may be occupied by a single family or no more than three (3) unrelated persons.
  8. Multi-family unites [*sic*] within the R-5 district shall provide 1 parking space per dwelling unit with one bedroom or 1.5 parking spaces per dwelling unit with two or more bedrooms.

Aside from the proffered details above, the submitted layout of the project is not proffered and thus the layout could change as allowed by the R-5 and R-8 districts.

Although not proffered, the planned layout illustrates a 60-unit, R-8-zoned townhome development, where 29 units would be subdivided and accessible by private-street-named parking lots on the south side of Wilson Avenue while the remaining 31 townhome lots would be subdivided and accessible by another grouping of private-street-named parking lots on the north side of Wilson Avenue. As required by the Zoning Ordinance, to build the townhomes units in the R-8 district, they must also obtain a SUP per Section 10-3-59.4 (1). With regard to off-street parking, the R-8 district requires a minimum of one off-street parking space per unit for townhomes. The submitted layout illustrates 59 parking spaces for the 29 units on the south side of the street and 65 parking spaces for the 31 units on the north side of the street, which is essentially two spaces per unit. Together, the two sides of the townhome section of the development total about 3.8 acres, which by code of the R-8 district would allow a maximum townhome density of 91 units in this area (or 24 units per acre). However, in recognizing that it can be difficult to maximize density for a townhome project like this, the planned 60-unit project would be about 15 townhome units per acre.

The multi-family component of the project includes the request to rezone the +/- 1.44 acres of property located on the north side of Wilson Avenue, parallel and adjacent to Mt. Clinton Pike to the R-5 district. The units would be accessible by the private-street-named parking lots off Wilson Avenue, where proffer #5 would restrict any vehicular access to Mt. Clinton Pike. As identified by the proffers, since the applicant proffered a reduction in the occupancy, the Zoning Ordinance only requires one parking space per unit. However, the applicant has proffered that they will provide one space for one-bedroom units and 1.5 spaces for each unit with two or more bedrooms. The submitted layout illustrates 52 parking spaces. The maximum permitted multi-family density of the R-5 section of the project would be 34 units (or 24 units per acre). At this time, they plan to construct two buildings, where one building could include 15-18 units and the other building could contain 13-16 units. The plan is to construct three-story multi-family structures that would include

one- and two-bedroom units. If they provide an 18-unit and a 16-unit building, they will maximize the R-5 allowed density.

Other details of the project include closing about 5,529 square feet of Wilson Avenue public street ROW in exchange for dedicating about 5,413 square feet of property to become Mt. Clinton Pike public street ROW, where the applicant would then construct a shared use path along the frontage of their property along Mt. Clinton Pike. As noted earlier, Wilson Avenue is currently a substandard City street and the applicant has proffered to improve Wilson Avenue along both sides of the street along the subject site's frontage with curb, gutter, and sidewalk. They would then provide a temporary turnaround at the end of Wilson Avenue. At this time, the applicant is unsure as to the exact width of the public street and whether it would be built to allow on-street parking. Note that they proffered to construct private sidewalk connections from the site to the shared use path and plan to construct a sidewalk connection to the Community Services Board property to the south of the development. An open/recreational area for residents has also been proffered for the site.

Note that the submitted layout illustrates a number of trees and other vegetation scattered throughout the project. Certain trees within the parking lot and along the public street ROW would eventually be required by the parking lot landscaping regulations of the Zoning Ordinance. However, the vegetation shown around the open/recreational area is not required and is not proffered. Furthermore, although the applicant wanted to proffer the street trees along Wilson Avenue and along Mt. Clinton Pike as shown within the 5-foot-wide landscaped area that separates the shared use path from Mt. Clinton Pike, the applicant was unsure of the ability to provide all of the illustrated trees at this early stage of the process.

If the applications requested herein are approved, at some point the developer must complete a preliminary subdivision plat, where, among other things, they must request a variance from the Subdivision Ordinance to allow townhome parcels to not have public street frontage. During the preliminary plat process, the developer can also request other variances of the Subdivision Ordinance or the Design and Construction Standards Manual that might be needed to build the project. While not an exhaustive list, they might request deviating from public general utility easement dedication requirements, street width requirements, and others. These matters should be considered when making a recommendation for this project as approving the rezoning and SUPs could be perceived as also providing an endorsement for the subdivision matters during the platting phase.

Staff is grateful the applicant was willing to include changes to the project that were suggested throughout the project's preliminary and official review. Some of the incorporated changes include providing open/recreational space for the residents, to construct the shared use path along Mt. Clinton Pike, to provide sidewalk connections to the adjacent areas, and to provide multi-family units along Mt. Clinton Pike. While we appreciate the open/recreational space that is illustrated on the plan, we further suggested for them to accommodate a design that would relocate this space away from Mt. Clinton Pike, potentially more central and internal to the site. The developer understood this suggestion and might make accommodations once they complete more engineering for the design. Staff would like to see less parking than what is shown as the Zoning Ordinance allows for more flexibility by supplying only one space per unit for both the R-5 and R-8 sections,

yet the project proposes to provide more than the minimum at an overall rate of 1.8 spaces per unit. Staff was also hopeful that they could have proffered specifics associated with street tree planting, but understands some of their hesitations with some uncertainties during the early stages of a project.

As most are aware, the City needs more housing in the City, and while this project would add more units, staff does not believe this project at this location should be approved at this time. While staff understands that the style of buildings and unit types is what is desired by the current developer and is what makes sense for them economically, at this time staff does not believe this particular design and development is what is best for this area of the City. Staff is concerned with:

- the project not maximizing the site's potential density;
- the scale, design, and residential unit types clashing with the adjacent forthcoming commercial and planned mixed use spaces as well as the potential out of place context, detachment, or isolation of the residential neighborhood from the surrounding area; and
- the overall precedent this development could establish for how the rest of the North Main Street and Mt. Clinton Pike corridors could develop.

The Comprehensive Plan's Land Use Guide (LUG) designates this site as Mixed Use, which among other things, recommends for these areas to have around 24 units per acre. The LUG recognizes that any type of residential unit could be appropriate in Mixed Use areas, however, in this corridor and on this acreage, staff believes that more multi-family units within taller structures and overall larger buildings would be more appropriate for the site. As noted, the project is not maximizing the site's potential density capabilities, which could be realized with larger and taller buildings with less parking—potentially creating more open, recreational space. More units would also support the greater concept of planning for more mixed-use opportunities along the North Main Street corridor, where the people residing in the units support the commercial uses and vice versa. (Although adjacent properties planned for commercial and mixed use are currently undeveloped, many will remember the nearby corner property on the north side of Mt. Clinton Pike and North Main Street was recently rezoned to B-2C to allow for a convenience store, gas station, and other commercial uses. Staff welcomed the commercial uses, but did not support that rezoning application due to concerns with the site layout.)

The subject site slopes from the east to the west, where it is about 18 feet lower than North Main Street on the eastern side and then is about 36 feet lower than North Main Street on the western side of the property. Since the site is lower than the adjacent properties along North Main Street, where development could include non-residential uses and/or could include taller mixed-use buildings, staff believes larger and taller multi-family buildings would be more compatible with the physical and built environment and should also assist with the transition space between the eastern side of the subject site, where the rear of the townhome parcels would be located, and the adjacent properties that would front along North Main Street. In comparison, if the site is developed as proposed, then people utilizing the small backyard areas of the townhomes could be located adjacent to large parking lots serving the uses on the adjacent properties. As noted within the Comprehensive Plan's LUG description for Mixed Use areas, "[t]he scale and massing of buildings is an important consideration when developing in Mixed Use areas." Staff does not believe the scale and massing of the proposed development will work cohesively with the

surrounding area. Moreover, the residential neighborhood could be out of place or disconnected from the surrounding area due to the adjacent development that could occur on the east and west sides of the subject site, essentially isolating the residential development.

While considering this project, we must also take into consideration the City’s Comprehensive Housing Assessment and Market Study (Housing Study). The Housing Study places the subject site within Market Type D, which is characterized by the lowest growth of any of the four market types identified by the study. Market Type D has “below median overall access to amenities such as public transit within walking distance, full-service grocery stores, and multiple parks and recreation facilities” (page 7 of the Housing Study Executive Summary). Among other things, the Housing Study also notes:

Market Type D has lower market activity as well as lower access to amenities. This could be because the areas are stable residential neighborhoods or because the area is less developed and therefore has fewer sales and fewer amenities. Strategies that would be appropriate in the latter case include concurrent development of the housing and economic opportunities through mixed-use developments to build commerce and housing centers across the City. (Page 7 of the Housing Study Executive Summary)

The Housing Study also notes (on page 98) that the City “has a limited supply of residentially zoned properties that allow for higher intensity housing densities and types.” The Housing Study goes on to state that “[z]oning map amendments can create an additional supply of higher-density residential zoning, which would allow for more affordable units.” As noted above, staff does not believe the proposed development is utilizing the property’s potential density or opportunity to establish residential housing types for the North Main Street corridor.

On page 48, the Housing Study notes that “Harrisonburg cannot build its way out of a housing crisis if the economy continues to lose higher-paying jobs while creating more low-wage-jobs.” In other words, this is an example that there is no single answer to improve the housing environment; it is a combination of many different tools and actions. Since the completion of the Housing Study, there have been multiple residential developments that have received use-approval by City Council. Table 1 below lists many of those projects and their current status (stage of development). Staff recognizes the difficulty and the complexity of recommending denial of residential development during a time when the City needs more housing. However, we cannot ignore the greater concepts and planning efforts, which ultimately could provide more housing, enhanced quality of life, and improved compatibility with the built environment for people that might live in this area. As shown in Table 1, if the private industry continues forward with projects that have already been given use-approval, more housing units should be on the way. (Note: Projects listed in Table 1 that received a SUP approval could have expired or are nearing the expiration date.)

Table 1: Post-Housing Study Planned Residential Developments Presented to City Council  
(Excludes Developments that Plan to Specifically Cater to College Students)

| <b>Development Name</b> | <b>Street Location</b> | <b>Type of Development</b> | <b>Number of Units Proposed</b> | <b>Stage of Development (As of 11-04-22)</b> |
|-------------------------|------------------------|----------------------------|---------------------------------|--|
| Simms Point             | Lucy Drive             | Multi-family               | 80                              | Approved by City Council                     |

|                                   |                    |                        |     |  |
|-----------------------------------|--------------------|------------------------|-----|--|
| Regal Apartments (Armada Hoffler) | Evelyn Byrd        | Multi-family           | 270 | Fire Review <sup>1</sup>               |
| The Edge                          | East Market Street | Multi-family           | 156 | Approved by City Council               |
| Two41 Central                     | Country Club Road  | Multi-family           | 142 | Fire Review                            |
| Vine Street Townhomes             | Vine Street        | Townhomes              | 29  | Approved for Construction <sup>2</sup> |
| Pleasant Hill Townhomes           | Pleasant Hill Road | Townhomes              | 16  | ECSP <sup>3</sup> Review               |
| Cobbler's Valley                  | Pear Street        | Townhomes              | 35  | ECSP Review                            |
| Suter Street                      | Suter Street       | Duplexes and Townhomes | 21  | Approved for Construction              |
| Foley Road                        | Foley Road         | Multi-family           | 11  | ECSP Review                            |
| Park Apartments                   | Rocco Drive        | Multi-family           | 60  | Approved for Construction              |
| 907 North Main Street             | North Main Street  | Multi-Family/Mixed Use | 9   | Approved by City Council               |
| Chicago Avenue Apartments         | Chicago Avenue     | Multi-family           | 48  | Approved by City Council               |
| Total                             |                    |                        | 877 |  |

As should be understood, staff is not opposed to rezoning the subject sites or approving necessary SUPs to provide more housing in this area. We believe in this case that withholding approval of the subject requests creates opportunity to potentially provide more housing and housing with improved compatibility with future surrounding development through a different concept. For all the reasons described above, staff recommends denial of the project.

However, if there is a desire to approve the rezonings, which establishes the ability to apply for the SUPs to allow for more than 12 units within multi-family buildings in the R-5 district and to allow townhomes in the R-8 district, staff could support the SUPs because it creates the ability for these areas to have higher density in those districts. Staff could also support the street closing request as it creates the ability to construct a narrower street while gaining the opportunity to have the developer construct a shared use path along Mt. Clinton Pike.

As with all special use permits, Section 10-3-130 (c) states that “[w]henver a special use permit is approved by the city council, the special use authorized shall be established, or any construction authorized shall be commenced and diligently pursued, within such time as the city council may have specified, or, if no such time has been specified, then within twelve (12) months from the approval date of such permit.” Therefore, unless the applicant requests for a SUP condition to allow for a longer period of time for the SUP to remain valid, then the applicant must continue to demonstrate diligent pursuit of the project starting within 12 months of City Council approval. Diligent pursuit can be demonstrated with submittals, including but not limited to: a preliminary

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<sup>1</sup> Fire Review refers to a pre-requisite that must be completed prior to officially being accepted into the engineered comprehensive site plan (ECSP) review.

<sup>2</sup> While a project might receive ECSP “Accepted for Construction” status (casually known as approved), the developer might not immediately begin construction or complete the project.

<sup>3</sup> ECSP is the acronym for engineered comprehensive site plan.

plat, a preliminary Fire Review, a preliminary engineering report (PER), an engineered comprehensive site plan, or a building permit.

Chair Finnegan asked if there were any questions for staff.

Chair Finnegan said the HRMPO (Harrisonburg Rockingham Metropolitan Planning Organization) recently had a presentation about the Mount Clinton Reconfiguration Study. How does that factor in this thinking about density on that side of town?

Mr. Fletcher said the idea that Public Works is still working through or has recently completed is to take Mount Clinton Pike from a four-lane facility, two lanes in each direction, and convert it to a three-lane facility with bicycle and pedestrian facilities. There would be one lane in each direction and a center turn lane. That would go from North Main Street to the intersection of Acorn Drive. At that intersection is a planned roundabout to create a better functionality.

Chair Finnegan said you mentioned the reduction of parking. The Northend Greenway is close to that but it dead-ends. I assume that you are taking into account the bike lanes and things that are proposed.

Mr. Fletcher said it is a combination of everything. There was a comment submitted late in the day today that did a nice job of summarizing the fact that from a bike ride you are so close to EMU, to downtown. There are more sidewalks coming. In fact, we have a funded project to provide sidewalks on the opposite side of North Main Street from the intersection of Vine Street southbound to, at least, Emerson Lane. You know that the Harrisonburg homeless shelter is nearby, just down South Main Street. We have grander visions for the North Main Street corridor. We are looking for opportunities for better connections with street configurations, access management, etc.

Chair Finnegan said I believe there is a sidewalk going in for about two miles or so in the County.

Mr. Fletcher said that is northbound in the County.

Chair Finnegan said there currently is no pedestrian infrastructure to speak of, but it sounds like it is coming.

Commissioner Armstrong said when looking at the overall Harrisonburg, and when I drive through commercial areas, B-2 areas on the east side of Interstate 81, there is an enormous number of empty, unrented commercial properties. I always see more. What is the practical feasibility in that kind of a business climate right now to think that mixed use is going to flow? You want to put in more rental commercial properties mixed in with these residential larger storied buildings. Am I correct on that?

Mr. Fletcher said that could be one idea.

Commissioner Armstrong said I thought that was the thrust of mixed-use. How does that reconcile with the state of the commercial properties right now in Harrisonburg?

Mr. Fletcher said I do not know if I can speak directly to that. As you all know, there is a SUP opportunity that B-2 property owners can apply for to do multi-family units in those spaces. We have had at least one of them. Another is coming. There is opportunity for that. While Harrisonburg is not a huge city, we do look at it in zones and corridors. The east side of the City speaks very differently to the North Main Street area of the City. We are hoping to create a new space in that area. While they are connected, they are still separate in a way that we are hoping that we get good momentum in this area of the City.

Commissioner Armstrong said I am not sure that I understood the end of your presentation. If we do not recommend denial, then you would recommend which of these alternatives?

Mr. Fletcher said what we are saying is that everything hinges on the rezonings. If the rezonings are approved, you would end up with R-5 and R-8 zoned properties with conditions based upon certain characteristics of the projects. Even though we are recommending denial of the rezoning, it does make sense, if the rezoning is approved, to give approval of the SUPs because it gives the ability to increase density. If you do not approve the townhomes, then they are going to be left with duplexes and single-family homes. Which is good from people wanting that, but not in this particular space.

Chair Finnegan said this is only time that I have been reading a staff report and did a double take and had to back and read it.

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

Quinton Callahan, Clark and Bradshaw, and Gil Colman, Colman Engineering, came forward representing the applicant.

Mr. Callahan said with this project we spent a lot of time with staff and had multiple meetings over several months trying to figure out the best use of this property. We made several changes that staff recommended, including trying to get to that density number. The real issue when we talk about the density number, as a developer, is getting to the point where it is a profitable project. That is one of the biggest issues we have here. Speaking specifically about the layout, we have done everything that we can to try to decrease the parking and increase the connectivity. We want walkability. We want biking. Adding this shared use path is important. Originally, we wanted to put it along Wilson Avenue. Public Works wanted it on Mount Clinton Pike, so we made that adjustment. That is why we have the right-of-way exchange, so that we can locate it there.

Regarding the trees, we were trying to get to the point where we could proffer some of those trees. We all want more trees and more greenspace. We have some site layout issues, but it is the applicant's intention to have as many trees and vegetation as we can. We think that we will need some vegetation for some natural buffers because of the neighboring properties and adjacent parcels and their usage.

When we talk about the Comprehensive Plan and mixed-use in this area, this is the only residential use that is contemplated at this time. We have a lot of compatible commercial development in the area, especially across the street. When we talk about mixed-use it is not necessarily all in the same parcel, it is in the neighborhood. At this time this is the only residential use that is contemplated in that neighborhood which is why we think that it fits and is compatible with the Comprehensive Plan.

When we look at staff table 1, and we see 877 units, only about 80 of those are townhomes. Everything else is multi-family apartments, meaning that they do not allow for homeownership. This project is going to almost double the amount of townhomes and homeownership availability that we have in the City. Townhomes are an important part of available housing, especially when we are dealing with this economy and interest rates which are traditionally been used as a gateway to homeownership. We do not have a lot of that available in the City right now. We think of this as piece... One thing that we looked at a lot was, can we do more density and increase more housing units? We already have a lot of multi-family developments that are slated to come online in the City. For us, homeownership was important to look at, and entries to that in the City. That is our main goal. You see in the R-8, they are smaller lots, but they allow for that.

Finally, when we look at the other uses... For the first half of the presentation, I thought staff was doing a great job of selling the project, then we do a double take. We have done as much as we can to get there. When we look at the big picture, we think maybe this could be a better use down the line. This is what we are willing to do now. Two of the partners associated with the development are builders. We want to get the shovel in the ground. We want to get this thing built. With that, I will pass it over to Mr. Colman, our engineer for the project.

Mr. Colman said what is interesting about this project is the opportunity for homeownership. I worked with my client on this, providing as much as possible. We did not want it to be multi-family units. That was not what we wanted. Working with staff, we got to the point that we can do that, we can accommodate it along the road, which is what would be most fitting. Even if you have a multi-family building with 50 apartments, at the very least you might need to provide 50 parking spaces. You still need parking for that. We considered that and found that it is really tight for us to do anything. As a matter of fact, the R-5 zone area, we could not put any more buildings there because we have no room for parking it. Therefore, we end up with a larger green area which works great for the neighborhood, and we can accommodate the park there, or the playground. We cannot fit more density. We cannot accommodate the parking.

Another issue that you will find throughout the City, is that we have odd-shaped properties. In this case, we have a street going through it. We discussed with the City about vacating that street and trying to reconfigure it in a way that would generate more density. The City was not willing to do that because they wanted to maintain the connectivity to the rest of the lots fronting Mount Clinton Pike. They wanted to maintain interior access. All that property around there is zoned R-2. All that is residential right now. We know that the Comprehensive Plan calls for a different use that could be applied there, but right now it is R-2. It is residential zoning. From the standpoint of the existing zoning, which is a residential use, we are doing a residential use. We are looking for more density with the townhomes. We could have piled up townhomes back-to-back, as much as we could. We do not want to do that. We want to provide quality of life. We do not want to pack people into an

apartment building. We want quality of life. Families could live here. If you have all apartments, it is not conducive to a family. We need places for families to go. This could provide that.

Mr. Callahan said on the conceptual design you can see that. That is why it is grouped as three and four units at a time, instead of having eight lined up all together, to try to give some greenspace in between the homes. In terms of the greenspace location, one of the benefits of going with the townhomes is that everybody has their own greenspace. They have their own yard, their own space. Looking at page 8 of the staff report, we would ask the Commissioners to go with alternative A, the rezoning approval, the two SUPs and the street right-of-way closure as submitted.

Commissioner Whitten asked are you going to preserve any of the large trees that are on the property now?

Mr. Callahan said if we can. I would much rather keep a tree rather than tear it down and plant a new one. Economically that makes more sense.

Commissioner Whitten said it takes a long time to grow a tree that size.

Mr. Colman said the ones that are close to the edge of the properties, it is more likely that we could. The property does undulate, so we need to make sure we are able to accommodate the drives and the houses. The ones that are closer to the right-of-way or the edge of the properties, it is more likely that we could. We will consider keeping as much as we can. There are some beautiful trees there. They have cleared most of it. There are only a few trees left. I enjoyed the shade when I walked there this summer.

Chair Finnegan asked from the developer perspective, what would it take to reduce the amount of parking, is it the where the property is located on the edge of town, is that the concern with reducing parking further?

Mr. Callahan said one of the biggest concerns when we look at parking is for the townhomes. These are intended for families. Families tend to have two cars. We need to have adequate spaces for that. When we look at the apartments, even going down to one and a half, some of the apartments are going to be one-bedrooms, others are going to be two-bedrooms. We are trying to allocate where we can. Having the greenspace, the recreational area, there is going to be some flow of people parking close to the recreational area, then going to the townhomes. We are trying to decrease as much as we can, while also being practical about what is going to be required. One of the worst things we can do is underestimate the parking, then it would be insufficient.

Mr. Colman said we want to minimize it. It costs more to add more parking. At the same time, if we do not have sufficient parking, where are people going to park? On the street, perhaps. We do not want them to park on the street. There is nowhere else. If they develop the adjacent properties as businesses, they might park there and towed. Staff is anticipating that there would be a large parking lot there. Do we really want a large parking lot there? I thought we were trying to reduce parking. Should we not encourage whoever develops that property to minimize their parking as well and provide green space and buffering. This is a residential use. We are here right now. When

it comes to parking, we would like to reduce it as much as we can. Realistically, we know that people are going to be needing more spaces and there is nowhere else to go.

Commissioner Armstrong said I appreciate that you are looking at homeownership and beginning family's homeownership. There is too little of that. Do have any ballpark of what the pricing would be.

Mr. Callahan said I would love to give you a number. The reality is that between tonight, if this is approved, and the time that we get the actual site plan and subdivision and have them constructed there are many variables. If these were ready and available today, our goal would be the low to mid \$200,000. That is where we would be looking. That is the reality of the cost of construction right now, and interest rates. I do a lot of real estate. What I see is that as those interest rates go up, the purchasing power goes down. We have had a lot of people who have been moving into the single-family detaches structures, less desire on the townhomes. I think that is going to flip as interest rates continue to rise. Look at the table in the report. We do not have enough of those units available. This is going to be a very desirable product, I believe.

Commissioner Byrd said I have a general development curiosity. I rarely see buildings suggested where the parking is under the actual structure. Is there a reason why most people do not suggest that structure?

Mr. Callahan said the cost of excavating. In order to break the rock to put it below grade, then have the support of the building on a pier foundation instead of a solid foundation. In this model, the only place that would potentially work would be in the multi-family. That is something that we may consider if we want to decrease the visible parking. For townhome type structures it does not make a lot of sense. We want to put the parking at street level.

Chair Finnegan said there are some townhomes in Harrisonburg that have garages on the bottom if they are built on the side of a hill.

Mr. Colman said there are garages. Typically, the issue is that then you are limiting the usable space for the family which is used for parking instead. If you are constricted. In Harrisonburg a couple of years ago you could see a building and parking would have to be underneath. That would work in the downtown area where you would have nowhere else to park and you want to provide parking. In this case, that could be possible, but it gets a lot more expensive. Then the affordability goes away.

Chair Finnegan asked would it be possible to charge for parking in addition to rent? Is that something that is being considered?

Mr. Callahan said, at this stage, that has not been considered. Especially on the section that would be zoned R-8 for the townhomes that would not be a possibility. Possibly in the R-5 depending on how the layout plays out. The biggest thing on the R-5 area is we are already getting close to the maximum density. When we were looking at it, we were thinking that we could put more units here. Then we hit the maximum density, even with the SUP. Then we said we have room for greenspace and more parking because we cannot put more units.

Mr. Colman said charging for parking affects affordability. It depends on who you are targeting.

Chair Finnegan said right now, if you pay rent, say \$1000 per month, a certain portion of that goes to pay for parking. It is not free parking

Mr. Colman said then the issue would be to provide that parking. If the City had a better transit system, where there were more regular buses, then you could afford to say there is limited parking here but there is bus service that could be used. As we talk about the Northend Greenway and the shared use path, it will be a shared path to nowhere that hopefully continues to grow. Hopefully the City picks it up and ties it into something. We all like the shared use path. I have gone to it a couple of times. It is something that we all like to see. We have been working on that Northend Greenway path for many years now. It is good to see that some things are happening right now. Little by little we are getting there. That said, there is no place for people to actually walk to. It is too far for them to walk anywhere. They are going to be driving. When it comes down to services, the fact that this property has some commercial in it, services will be there. There is the property across the street that Holtzman bought. There will be services there that will benefit this and vice-versa, from the standpoint of labor force or clients. There is housing along here. There are apartments and townhouses around the same area if we look beyond these properties.

Dixon Summers, Harrisonburg-Rockingham Community Services Board (CSB), came forward regarding the request. Boulevard Avenue runs behind the property and is behind the CSB. My understanding is that there is not a plan for that (Boulevard Avenue) to be developed with this. Would that change at some point?

Chair Finnegan said I do not have that answer. It is possible.

Mr. Fletcher showed the image of the undeveloped street named Boulevard Avenue which runs northeast-southwest. When you look at the big picture, it is a possibility that we would look for it. It depends on how the surrounding properties develop. We want this to connect all the way through. We asked them to lay out to make sure that this space here could align with Technology Drive because we wanted an extension of Technology Drive. You can see the continued flow of this space that goes into that Boulevard Avenue section. Boulevard Avenue was deeded many decades ago. It is clearly not a public street right-of-way. It is the width of an alley. It is a possibility.

I also want to remind the applicant that the SUP does come with timelines. They need to continue actively moving forward. If it gets approved as presented, with no additional recommendations for City Council to give an extended timeline, which at times you hear us talk about. It is a 12-month timeline where they have to be acting in those 12 months to keep it active. I agree about not wanting as much parking here. We also had to consider the reality that if there is going to be a building that has frontage on the street, which is where we want it, the parking would likely go in the rear. That is what would be adjacent to the townhome rear lots. If it 15 feet, that is about from the step to wall [Mr. Fletcher referring to, in City Council Chambers, the step at the podium to the wall behind Councilmembers' seats]. You have to keep that in mind about the visual esthetic. As much as we do not want as much parking, we know the reality of where that is and recognize that when commercial spaces go in, even though we give recommendations for pedestrian friendly

development, we know that we do not make the final approvals and we end up with very large commercial parking lots.

Commissioner Armstrong said in the past, there have been approval of these projects with an extended timeline, up to three years.

Mr. Fletcher said often times, we react to those upon request of the applicant. The applicant could request an extension this evening. If you want to, you could grant that. We typically react to their request. You typically see three years, sometimes even five years.

Mr. Callahan said our intention is to move quickly, if approved. The language of “diligently pursuing” is open to interpretation. We would ask, if the Planning Commission is willing to approve, for up to 36 months instead of 12 months, with the understanding that it is our intention to continue to diligently pursue the project.

Chair Finnegan asked if there were any questions for the applicant’s representative. Hearing none, he asked if there was anyone in the room or on the phone wishing to speak to the request. Hearing none, he closed the public hearing and opened the matter for discussion.

Chair Finnegan said this is different. What we are looking at, and this is something that I have thought and that I have heard in the past, you drive around Harrisonburg and there are certain places that feel haphazard. Why is this like this? Why is there a big parking lot here? I do appreciate staff looking at this not as a blank canvas but as a future piece of the City. I share staff’s concern about setting the tone and setting the pace for this side of the City. If I recall correctly, the gas station request, the massing of the buildings, was a split vote. I voted against that for the same reasons. It is setting the gateway, setting the pace.

Commissioner Whitten said I think it was more about where the gas pumps were.

Chair Finnegan said it was the massing of the buildings. Staff was not saying to not put a gas station there.

Commissioner Whitten said we were on our site visit yesterday. A couple of us talked about a particular area not in the City that has gotten extremely dense. I think the comment was if you did not know where you were, you might think you were in Manassas. If I wanted to live to Manassas, I would move there. I do not want to see Harrisonburg turn into making it denser, bigger, higher. That is not better in my mind. I do not think that is why people move here now. I hope it will not ever be why they move here. I do like the concept of the possibility of owning something. I have spoken about that here over and over. If we keep building rental apartments where the rent continues to get astronomical. I know a young single mother who is paying \$1500 per month for rent for a basic apartment. She owned a house in Staunton and sold it to move to Harrisonburg to pay \$1500 per month. We are not really helping that single mother by not offering her a product that she could purchase and actually move to something nicer, better, but not necessarily taller or bigger with more people. In that respect, I like this. I do not like to disagree with staff because they have excellent training and I usually agree with what they want to do. Maybe not on this one.

Commissioner Armstrong said looking at that table of what has been approved and is in the pipeline, there is nothing like this. I do not think that we can pass it up. It is providing an opportunity that we do not see very often. It has been called for a lot of times. We have talked about one- and two-bedroom homes. It may not be ideal from a larger planning perspective, but I do not think we can pass this up.

Commissioner Washington said I do think it is difficult to pass up in terms of housing units. If we think about the potential of how many units could be there, then are we going to forego what we can do now to maximize that space in the future. I think the plan itself is unimaginative. Whether we put townhomes there or not, rent is still expensive. Owning a house is still expensive. Thinking that apartment living is not conducive to families, I think that is false. I think that there are other opportunities for homeownership through different models of housing, even condominiums. We need housing for everyone, not just everyone who can afford a townhome. This one is hard.

Commissioner Byrd said only in the past two years have I no longer been a working neighbor of this site. I used to work at the large office building across the street. Now I work at home. When people mention concerns about that area, I have seen it over a long period of time. I have voted up here when residents were concerned about larger apartment buildings being built near their townhouses or their houses. We need it and I am going to approve this going there. For me to see an area that has been flat, and nothing there for so long and to think that in the future, some developer may put a large apartment across from this very busy, usually truck traffic street. I can see that argument. I can understand the thinking there, but if we are filling all the other spots around the City and we are going to approve their building there... Most of the things we have approved have not been built. I can understand staff's thinking and their concerns, but I was not moved by that argument. I am more in favor of approving. I do recognize that it creates an issue for whoever owns the property on that end by Main Street and whatever decisions they would make in the future would make any future residents of this particular idea want to come here and have something to say about what building is going there.

Chair Finnegan said I struggle with this one, but I agree with the point Commissioner Washington is making about all types of housing including condos. Where I am coming from on this, and I think Commissioner Armstrong made this point when we took the vote on the gas station. I think you said something about how do we start to move in a new direction? What I am looking at is the parking is what pushes the buildings apart. I am torn of this one, but side with staff. It sounds like we have mixed opinions here.

Commissioner Orndoff said I am torn as well. I am also concerned about the property that is in front of this fronting Main Street. What will happen with that? Will it be a compatible development with this? Or will it tend to isolate this? I know we cannot predict the future, but I do have a concern about that. I do not know if it is enough of a concern that I would vote against it.

Commissioner Byrd made a motion to recommend approval of the rezoning request.

Commissioner Whitten seconded the motion.

Councilmember Dent returned to the meeting. As she did not hear the discussion, she will abstain from the votes on these items.

Chair Finnegan said I struggle with this one. I want to make it clear that the reason why I plan to vote against this is not because I do not like the townhouses. I agree with staff, and I think that we can do better. That is my opinion.

Chair Finnegan called for a roll call vote.

|                         |         |
|-------------------------|---------|
| Commissioner Armstrong  | Aye     |
| Commissioner Byrd       | Aye     |
| Councilmember Dent      | Abstain |
| Commissioner Orndoff    | No      |
| Commissioner Washington | No      |
| Commissioner Whitten    | Aye     |
| Chair Finnegan          | No      |

The motion to recommend approval of the rezoning request passed (3-3). The recommendation will move forward to City Council on December 13, 2022.

Commissioner Byrd moved to recommend approval of the SUP to allow townhomes of no more than eight units.

Commissioner Armstrong seconded the motion.

Chair Finnegan called for a roll call vote.

|                         |         |
|-------------------------|---------|
| Commissioner Armstrong  | Aye     |
| Commissioner Byrd       | Aye     |
| Councilmember Dent      | Abstain |
| Commissioner Orndoff    | No      |
| Commissioner Washington | No      |
| Commissioner Whitten    | Aye     |
| Chair Finnegan          | No      |

The motion to recommend approval of the SUP request passed (3-3). The recommendation will move forward to City Council on December 13, 2022.

Commissioner Byrd moved to recommend approval of the SUP to allow multiple-family dwellings of more than twelve units.

Commissioner Whitten seconded the motion.

Chair Finnegan called for a roll call vote.

|                        |     |
|------------------------|-----|
| Commissioner Armstrong | Aye |
|------------------------|-----|

|                         |         |
|-------------------------|---------|
| Commissioner Byrd       | Aye     |
| Councilmember Dent      | Abstain |
| Commissioner Orndoff    | No      |
| Commissioner Washington | No      |
| Commissioner Whitten    | Aye     |
| Chair Finnegan          | No      |

The motion to recommend approval of the SUP request passed (3-3). The recommendation will move forward to City Council on December 13, 2022.

Commissioner Byrd moved to recommend approval of the request to close a portion of Wilson Avenue.

Commissioner Whitten seconded the motion.

Chair Finnegan called for a roll call vote.

|                         |         |
|-------------------------|---------|
| Commissioner Armstrong  | Aye     |
| Commissioner Byrd       | Aye     |
| Councilmember Dent      | Abstain |
| Commissioner Orndoff    | No      |
| Commissioner Washington | No      |
| Commissioner Whitten    | Aye     |
| Chair Finnegan          | No      |

The motion to recommend approval of the request to close a portion of Wilson Avenue passed (3-3). The recommendation will move forward to City Council on December 13, 2022.

Chair Finnegan called for a recess at 8:05 p.m.

The meeting resumed at 8:10 p.m.

***Consider a request from Farhad Koyee to rezone 935 and 937 Vine Street***

***Consider a request from Farhad Koyee for a special use permit to allow attached townhomes of not more than eight units at 935 and 937 Vine Street***

Chair Finnegan read the request and asked staff to review.

Ms. Dang said the Comprehensive Plan designates this site as Low Density Residential. These areas consist of single-family detached dwellings in and around well-established neighborhoods with a target density of around 4 dwelling units per acre. The low density residential areas are designed to maintain the character of existing neighborhoods. It should be understood that established neighborhoods in this designation could already be above 4 dwelling units per acre.

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

- Site: A single family detached dwelling and a single-family detached structure, zoned R-1
- North: Townhomes, zoned R-4
- East: Single-family detached homes, zoned R-1
- South: Single-family detached homes, zoned R-1
- West: Across Vine Street Multiple-family dwellings, zoned R-4

The applicant is requesting to rezone a +/- 1.77-acre parcel from R-1, Single-Family Residential District to R-8C, Small Lot Residential District Conditional and is applying for a special use permit (SUP) per Section 10-3-59.4 (1) to allow attached townhomes of not more than eight units within the R-8, Small Lot Residential District. If the requests are approved the applicant plans to demolish the building addressed as 935 Vine Street (the building located closest to Wren Way), to keep the single-family detached dwelling addressed as 937 Vine Street, to construct 10 duplex units (5 structures) and eight townhomes, and to permanently terminate Wren Way.

As required per Section 10-2-41 (e) of the Subdivision Ordinance “[c]uls-de-sac [sic] and other permanent dead-end streets are prohibited except when permitted by the planning commission in accord with the DCSM.” Therefore, Planning Commission must give consent to dedicating a cul-de-sac (or other approved street termination) and permanently terminating Wren Way. If Planning Commission consents to creating a permanent termination, the applicant can continue later with applications for preliminarily platting the property with the permanent termination of Wren Way. If the rezoning request and SUP to allow for the proposed project is approved, then staff recommends approval of the request for permanent termination of Wren Way. (Note that the proposed permanent cul-de-sac only requires Planning Commission approval.) Staff requests for Planning Commission to consider this component of the project now and to act on this request during the current application reviews.

With the subject rezoning request to R-8C, the applicant has proffered the following (written verbatim):

1. Vehicular access to this development will be served by an entrance from Wren Way. There shall be no vehicular entrances connecting the subject site to Vine Street.
2. At the time of development, the property owner shall construct an acceptable turnaround at the end of Wren Way. The turnaround may include a cul-de-sac or another design accepted and approved by City staff. The property owner shall also dedicate the necessary land for public right-of-way to include the turnaround, and along the south side of the turnaround, the property owner shall dedicate an additional 7.5-ft. width of land as public right-of-way for future sidewalk. The property owner will not be responsible for constructing the sidewalk.
3. At the time of development, the property owner shall construct a sidewalk connection between Wren Way and the property line closest to Vine Street.

Note that the submitted Concept Plan is not proffered.

With regard to proffer #1, during pre-application meetings with the applicant, there was much discussion between the applicant and City staff on how best this property should connect to the

public street network. Three general scenarios were explored: (1) extend Wren Way to connect to Vine Street (which included a few intersection options such as full access, right-in right-out, right-in only, or right-out only), (2) have vehicular access only to Vine Street, or (3) have vehicular access only to Wren Way. Ultimately, City staff believed that vehicular access only to Wren Way was best due to factors including, but not limited to: there being an unusually shaped parcel between the subject property and Vine Street that is not owned by the applicant; at times, southwest bound traffic on Vine Street backs up from the intersection with Country Club Road to the frontage of the subject property; and connecting these proposed homes to Wren Way, which would create a more inclusive component of this residential development by making it part of an existing neighborhood rather than separating it from that neighborhood.

With proffer #2, the property owner will be responsible for constructing an acceptable turnaround, which may be a cul-de-sac or tee/hammerhead turnaround. The conceptual layout shows a cul-de-sac that is not located wholly on the applicant's property. The applicant is aware that they will be responsible for coordinating with and obtaining permissions from neighboring properties for easements or to purchase property to allow for the future turnaround. Alternatively, the applicant can choose to design the turnaround wholly on their property. These details will be worked out during the engineering design phase of the project.

With proffer #3, the property owner will be responsible for constructing a sidewalk connection between Wren Way and the property line closest to Vine Street. The property owner could not proffer constructing the sidewalk to the Vine Street public street right-of-way because there is a parcel owned by someone else between the subject property and Vine Street. In early conversations with the applicant, staff requested that the applicant consider proffering to construct a 10-foot-wide shared use path and to dedicate a public shared use path easement giving the City maintenance responsibility of the shared use path. When the applicant proposed a sidewalk connection, staff requested that the applicant consider proffering that the sidewalk be at least 5 feet in width. However, the applicant is concerned that there will not be enough room on the site for a 5-foot-wide sidewalk and that because they do not believe there will be a lot of foot traffic through the site, thus they only want to construct a 3-foot-wide sidewalk.

If the applications requested herein are approved, at some point the developer must complete a preliminary subdivision plat, where, among other things, they must request a variance from the Subdivision Ordinance to allow lots to not have public street frontage. During the preliminary plat process, the developer could also request other variances of the Subdivision Ordinance or Design and Construction Standards Manual (DCSM) that might be needed to build the project. It is possible the developer could request deviating from cul-de-sac or other street termination designs. These matters should be considered when making a recommendation for this project as approving the rezoning and SUP could be perceived as also providing an endorsement for the variance that would be requested during the platting phase.

As previously stated, the Comprehensive Plan designates this site as Low Density Residential. "These areas consist of single-family detached dwellings in and around well-established neighborhoods with a target density of around 4 dwelling units per acre. The low density residential areas are designed to maintain the character of existing neighborhoods. It should be understood that established neighborhoods in this designation could already be above 4 dwelling units per

acre.” Adjacent properties are designated Low Density Residential and Medium Density Residential. The Medium Density Residential areas “have been developed or are planned for development of a variety of housing types such as single-family detached, single-family attached (duplexes and townhomes), and in special circumstances, multi-family dwellings (apartments). Depending on the specific site characteristics, densities in these areas should be around 15 dwelling units per acre. Non-residential uses may also be appropriate.” The proposed density of this subject development is 10 dwelling units per acre. To the north of this property, across Vine Street, and within the Reherd Acres neighborhood on and around Meadowlark Drive there are existing townhomes that are adjacent to existing single-family detached dwellings.

A distinction to note is that while the referenced existing townhomes are zoned R-4, Planned Unit Residential District, which allows by right occupancy of a family or not more than four persons, the R-8 district’s occupancy regulations are the same as the R-1 district’s occupancy regulations. When the R-8 district was drafted, the proposed occupancy regulations were intentionally designed to mimic the R-1 and R-2 districts because the R-8 district was intended to promote family occupancy with higher unit density abilities. The occupancy regulations allow:

- (1) Owner-occupied single-family dwellings, which may include rental of space for occupancy by not more than two (2) persons, providing such rental space does not include new kitchen facilities, and
- (2) Nonowner-occupied single-family dwellings, which may include rental of space for occupancy by not more than one (1) person, providing such rental space does not include new kitchen facilities.

Said differently, owner-occupied dwellings can be occupied by a family plus two individuals or a maximum of three individuals and nonowner-occupied dwellings can be occupied by a family plus one individual or a maximum of two individuals.

While reviewing this project, the City’s Comprehensive Housing Assessment and Market Study (Housing Study) should also be considered. The Housing Study places the subject site within Market Type A, which is characterized by “high population growth” and that “houses in these markets are quick to sell.” The Housing Study also notes that “[w]ithin this market type reside 32% of the City’s population and the lowest concentration of college-aged persons.” Moreover, “Market Type A tends to be more built out” and “priorities and policies that are appropriate for Market Type A areas include an emphasis on increasing density through zoning changes, infill development and housing rehabilitation to maintain the quality of housing.” Staff believes that the proposal follows two components of the Housing Study by proposing to increase density for this parcel and by attempting to create an infill development.

While the proposed development of duplexes and townhomes is not providing single-family detached dwellings that are recommended by the Comprehensive Plan’s Low Density Residential designation, staff does not believe that the proposed project is inconsistent with existing development in this area nor what is believed to be appropriate per substantiation by the Housing Study. While the subject property is designated Low Density Residential adjacent properties to the north and across Vine Street are designated Medium Density Residential, which plans for around 15 units per acre. Also, the adjacent property to the north consists of existing townhome units and

there are additional townhome units as well as existing multi-family dwelling units across Vine Street.

Staff believes there are benefits to rezoning this site to R-8 and, with appropriate conditions, can support the SUP to allow townhomes in the R-8 district and believes the proposed townhome use is consistent with good zoning practice and will have no more adverse effect on the health, safety, or comfort of persons living and working in the area and will be no more injurious, economically, or otherwise, to property or improvements in the surrounding area.

Staff recommends approving the rezoning request and to only approve the SUP with the following conditions:

1. There shall be no more than eight townhome units.
2. The eight townhome units shall be located in the general area as shown on the submitted exhibit.
3. The sidewalk that was proffered by the applicant to connect to Wren Way and the property line closest to Vine Street shall be a minimum 5-foot-wide sidewalk.

As with all special use permits, Section 10-3-130 (c) states that “[w]henver a special use permit is approved by the city council, the special use authorized shall be established, or any construction authorized shall be commenced and diligently pursued, within such time as the city council may have specified, or, if no such time has been specified, then within twelve (12) months from the approval date of such permit.” Therefore, unless the applicant requests for a SUP condition to allow for a longer period of time for the SUP to remain valid, then the applicant must continue to demonstrate diligent pursuit of the project starting within 12 months of City Council approval. Diligent pursuit can be demonstrated with submittals, including but not limited to: a preliminary plat, a preliminary Fire Review, a preliminary engineering report (PER), an engineered comprehensive site plan, or a building permit.

Chair Finnegan asked if there were any questions for staff.

Councilmember Dent said it looks like there is a faint street on the map. Is that a driveway? What is that?

Ms. Dang said it is a driveway. It is a way to get into the existing single-family home that would remain.

Councilmember Dent asked was that considered to make that more of a road into the property?

Ms. Dang said it may have been considered. The proximity to Honeysuckle Lane is too close. The Vine Street traffic concerns would remain the same at this location, if not closer to the intersection with Country Club Road.

Chair Finnegan asked there is no house on that triangular piece of land?

Ms. Dang said correct.

Chair Finnegan asked is it big enough to build a house on? It is an odd piece of land.

Commissioner Byrd asked none of this proposed property would feed onto Vine Street?

Ms. Dang said correct. The entire development would feed onto Wren Way.

Commissioner Byrd said it would feed onto Wren Way which feeds onto Star Crest Drive to Blue Ridge Drive.

Commissioner Whitten said then Wren Way becomes a runway.

Commissioner Armstrong said I want to clarify what you said about the proximity to Honeysuckle Lane. On the north end of this lot, you could not construct an entrance onto Vine Street there, on the north corner?

Ms. Dang said I do not think they have access to Vine Street. It narrows as it goes north.

Commissioner Armstrong said you said this [development] depends on getting easements from local residents. What are those easements that would be required?

Ms. Dang said as designed. If the applicant were to construct the cul-de-sac as shown on the concept plan, some of that cul-de-sac is on the neighbor's property. If the neighbors were to decline, the property owner could move the entire cul-de-sac or turnaround further into the property. They may lose a unit or so. They would not get the density they are planning for here, but that is an option that can be explored at a later time. They can also have a different turnaround design. It does not have to be this circle. There may an acceptable design for the hammerhead, t-turnaround, smaller circle or something else. That will be figured out later.

Chair Finnegan said it has to meet certain standards like the turn radius of a fire truck and things like that.

Ms. Dang said that would be up the discretion of the Fire Department and Public Works for their equipment.

Commissioner Washington asked the site plans were not included or they have not gotten that far yet?

Ms. Dang said that happens after the land use approval. Then they expend the effort to do all the more detailed design.

Commissioner Whitten said here is another idea. The house that they do not want to tear down, could be torn down. Then they would have access to Vine Street at a more obvious... You are shaking your head.

Ms. Dang said there is not access.

Chair Finnegan said that triangular strip of property fronts Vine Street and would block it.

Commissioner Whitten asked farther down where the house is located? I am talking about the house right in the middle.

Ms. Dang said there is a property owned by somebody else between Vine Street and that house.

Commissioner Whitten said I would love to see as much detail as we saw in the previous case put to this. I do not think that this configuration is very appealing, especially pushing all of the cars from this development onto that narrow street and then onto Star Crest Drive and Blue Ridge Drive. It is neighborhood residential streets and school buses and all that. I am surprised that staff would like this when you did not like the previous request. It does not make sense to me. That is just one woman's opinion.

Chair Finnegan said it is explained in the staff report.

Ms. Dang said there is one note, similar to what Mr. Fletcher said, about the previous request that with all SUP they have to be diligently pursued in that 12-month period. The applicant could request to consider an extension of that.

Commissioner Armstrong asked is that house occupied? The one at the end of the cul-de-sac? The brick one? There was a question asked. How does that occupant access that house?

Ms. Dang said the applicant can address those questions.

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

Farhad Koyee and his son Akarr Koyee come forward in support of their request.

Mr. F. Koyee said I moved to Harrisonburg 18 years ago. I have seen so many changes. This is growing fast. I see the increase in population. I saw potential on this property to make some changes, so that it can help the community. I have four children. I was thinking about having some units for my children as well. That is why I am here today.

Mr. A. Koyee said as you can see here, there is a lot of public sentiment with this property. We have read all the public comments. Thank you all for coming out. We want to be open and have a dialogue about this property. We do not just want to come in and develop something, make money and sell it. There is a clear housing demand and need in Harrisonburg, but that does not go over the needs of the residents and we do not want to be that person to take away from an existing development. In reading the public comments, at first I was confused as to why we got so many public comments. Looking into it, it makes absolute sense. Most of the comments acknowledge that there is a housing need in Harrisonburg. A lot of them are concerned about public safety. There are a lot of children walking and playing in the streets, a lot of families, school buses and things of that nature. An alarming rate of those public comments are concerned about the safety of what seems to be Blue Ridge Drive, Star Crest Drive and Wren Way and reports of speeding,

people overtaking one another on Blue Ridge Drive. There have been calls for more speed bumps, more regulations on the speed limits. I think the City put in a speed sensor, but apparently that turned into a competition for people to try to hit a record. I understand the sentiment there. I think that there are measures that we can take as a community, with you (Planning Commission), collaboratively to figure out a good way where it is a win-win for everybody. These houses are going to be developed and sold. We are not looking to produce a bunch of rentals. We want to come in at an affordable price point for people to come in and own these properties. One of the steps that we have taken for safety, and a big call in a lot of these public comments, is that there are no sidewalks. In our proffer, we have allocated our land to account for a future sidewalk that the City of Harrisonburg will then come in and accomplish. We want to be open to the best way to go about this development. If things need to change, we are here to address those needs. We want to hear the community. It does seem that public safety is a main concern. You made a reference to Wren Way becoming a runway and everybody cheered because all the of the comments that we are receiving is that Blue Ridge Drive and the surrounding streets have become so high traffic, with a lot of speeding, a lot of concern for public safety. Some of those comments requested that we make a connection to Vine Street. In my opinion, that will not help because cars from Vine Street might use that to come into that neighborhood. It would not solve the problem. Instead, it would create another road that people will be flying down. Having that private entrance through Wren Way, I believe is a good suggestion. To me, this is an exciting project, but we do not want to develop something that is going to make the neighborhood upset. I think that there are steps that we can take. A lot of these comments are concerned about Blue Ridge Drive and a lot of these intersections. Some of them propose roundabouts. A lot of them propose speedbumps. These concerns for traffic on Blue Ridge Drive, while it does affect this future development, I still do not think that it is a good enough cause to deny a new housing project. Of course, this is why we are here to have this conversation. We appreciate you hearing us out. I hope you all (those present) do not hate us. We are trying to be open to this process.

Chair Finnegan asked if there were questions for the applicant.

Commissioner Byrd asked were you able to find out who the owner is the strip of land between your property and Vine Street?

Mr. F. Koyee said unfortunately we were unable to get in contact with the owner.

Councilmember Dent asked if there was a way to find out who owns the property.

Mr. Russ said I am sure we can figure out who it is. The owner may just not have any interest in talking with anyone. We do have spare bits of land that are owned by the heirs of someone who died long ago, and they may not know that they own it. From time to time that happens with smaller, undeveloped parcels.

Commissioner Armstrong asked is the brick house, number 937, occupied?

Mr. A. Koyee said it is currently being rented.

Commissioner Armstrong asked how do they access it?

Mr. A. Koyee said using that temporary driveway off of Vine Street. It is on the bottom left of the image. It is a 15-foot section that turns into grass. That is the existing driveway. It is in a very tight area. We know that Vine Street gets incredibly backed up. Even if we did acquire this section, putting in another entrance will exacerbate the situation, in my opinion. That may not be the case. We can take a deeper look into it. If we address some of these safety concerns in Blue Ridge Drive and Wren Way... There are no sidewalks. They are asking for more stop signs, speed bumps, things like that will mitigate a lot of this concern. I think that people here are concerned about public safety more than anything. There is no denying that this will increase traffic, but this is a relatively small development. You will not see a huge influx of cars like this community has seen with larger housing structures that do increase traffic significantly. While this project will increase traffic a little bit, it will not be to that scale. I do think that we do need to address some of the public safety concerns with the speed bumps and potential roundabouts. Of course, that is a conversation to be had later.

Ben Lundy, 968 Wren Way, came forward on opposition to the request and asked to present slides. I want to thank staff. We had several conversations with them. Even when it became apparent that we were going to be on opposing sides of this issue, they still worked hard to answer our questions. I think that speaks to their dedication as public servants. I appreciate that.

You are going to hear a lot of different reasons why folks in or neighborhood oppose this rezoning proposal. I would like to focus my time on infrastructure, as has already been mentioned. Based on conversations we have had, my understanding is that the project was initially considered to come off of Vine Street, but that the City recommended against that because of the high volume of traffic that is already on Vine Street. Yes, there is a lot of traffic on Vine Street, so that was a wise decision. The solution is not to put the traffic on Wren Way. What this tells me is that this development proposed is too dense. It is not that you move that traffic to Wren Way. Our neighborhood is zoned R-1. It is not designed for this level of traffic. The infrastructure is not able to handle it without creating some safety concerns for the residents.

We looked at other R-8 and R-8C areas in Harrisonburg to compare them to what is proposed here. This is the Virginia Avenue 600 block. It has a double-line road. It has stoplights. It has crosswalks and sidewalks. The bottom right one is the R-8 housing that was developed recently. The next slide is 107 Vine Street. It has not been developed yet, but they already have a double-line road. They have a bike lane. This is adjacent to townhouses and apartments, similar style housing to the townhouses being proposed in this plot. The next slide is Pear Street on the other side of town. It is at the edge of town with lots of room. It has a double-line road and sidewalks. It has infrastructure for walking and calming traffic. The next slide is Pleasant Hill Road. It has a double-line road. It is adjacent to duplexes and apartments, which meets more the characteristics of an R-8. Wren Way does not. The next slide is Suter Street. This is the one that is closest to Wren Way in the style. There are no double-line roads. There are no sidewalks. But it does have duplexes as the adjacent properties rather than single-family dwellings. It is also a place that has low traffic density. My understanding that this is not one that has applied for a SUP to put townhouses. This slide is a picture of Wren Way, our street. There are no sidewalks, no double-line, no bike path, no traffic lights, no crosswalk. There is none of the infrastructure that would protect the safety of pedestrians that you have seen in the previous slides. The next slide shows the two roads that would serve most

of the traffic coming into this new development, Star Crest Drive and Blue Ridge Drive. They have no sidewalks, no double-line, no bike path, no traffic lights, no crosswalks. As we were going around telling our neighbors about this, we felt unsafe walking on Blue Ridge Drive already. Anyone who has lived there a long time can tell you that the traffic has gotten worse and worse. Now we want to dump some traffic on it that was intended or originally thought of for being on Vine Street? We do not think this is the solution. We have lived here several years now, next to this undeveloped land. We were always understanding that at some point someone would want to come develop it. We think that the density that is being suggested is not appropriate and does damage to the neighborhood and to the safety of the residents. We would like to see something redesigned there that is more in the nature of single-family homes, maybe duplexes at most, but certainly not packing with as many townhouses. This is not the right plot of land for that when you look at the infrastructure surrounding it and if you want to take the safety of the residents into consideration.

Councilmember Dent said when you mentioned Suter Street, we have approved a townhouse development at the end of that and a permanent cul-de-sac.

Mr. Lundy said I am not the expert. We have the experts here. Thank you for pointing that out.

Gil Colman, Colman Engineering, said I worked on the Suter Street design. For the most part they are duplexes, but there was a grouping of three townhouses there. Traffic concerns were there for that development too.

Ron Brandon, 960 Wren Way, came forward in opposition to the request. I am next to that little house that they were talking about tearing down. That is my bedroom. Nobody let me know, that little strip of land that comes across my property across Wren Way, I have been caring for that for 20 years. I want to know where to send the bill. I think it is ludicrous to open that up and bring that traffic down Wren Way. My neighbor said it well and I do not think that I can add a whole lot to what he said. I ask the Commission to really examine this proposal.

Ed Zahn, 965 Star Crest Drive, at the corner of Wren Way and Star Crest Drive, came forward in opposition to the request. I have a list of things that I was going to talk about, but Mr. Lundy has pretty much covered it, so I am going to skip most of it. I am going to make one comment. People, cities, it does not matter. We are only as good as our road. I regard the R-1 zone as a promise from the City. At this point, I understand that they want to put some buildings up there. I do not have an issue with that. Put some single-family buildings there. As far as changing it, I would be absolutely opposed to that for various reasons. Mr. Lundy has pretty well covered things. When you are talking about the northside, the multi-family buildings up there were constructed at the time Reherd Acres was developed. At the time there were sufficient roads to handle that. When you want to add more to it, that is going to be an issue. I am confused about this narrow strip of land. You are saying that the sidewalk is going to go from where to where?

Mr. A. Koyee said around the cul-de-sac down to Vine Street.

Mr. Fletcher said from the end of the cul-de-sac to the edge of the property adjacent to Vine Street.

Mr. Zahn asked how are you going to do that if you do not own it?

Mr. Fletcher said it would go directly to the property line. The Depoys still, apparently, own that little strip. The Depoys are the original subdividers of Reherd Acres which is public record. We know who the property owner is. We may have even advised the applicants early on.

Mr. Zahn said if you insist on doing this, there is a way to get it on to Vine Street. You are saying there would not be that much traffic. Let us assume that. If there is not that much traffic, why can we not put a light that is always green unless there is traffic trying to get out onto Vine Street? That would be my suggestion. Down by where you go to Wal-Mart, there are two lights in a row. That would not be an issue as far as having lights very close to each other. Thank you for the opportunity.

Luke Hartman, 963 Wren Way, came forward in opposition to the request. The R-1 zoned neighborhood on Wren Way has been established since the early to mid-1970s or maybe even before. This neighborhood is incredibly multi-cultural, multi-ethnic, multi-lingual and demonstrates diversity in socio-economic status, along with being inter-generational. You can look at this group, it is a beautiful mosaic of our neighborhood. This established community is a microcosm of what is right with the City of Harrisonburg and should be celebrated. That being said, many in the neighborhood would be excited to add affordable, single-family duplexes or homes to continue the goals of creating ongoing patterns of traditional neighborhood development. Under state zoning law section 15-2-2200 section 3 [Code of Virginia Section 15.2-2283(iii)] these objectives to facilitate the creation of “harmonious community.” That is beautiful language. Under number 10 [§15.2-2283(x)] “to promote the creation and preservation of affordable housing suitable for meeting the current and future needs of the locality.” Tonight, the question of issue is the interference of the values of my property, since according to the Rappahannock case, I currently live within 2,000 feet of the subject property, thus deemed proximate. If this issue of standing continues, it will be demonstrated that special damages are indeed different from the community in general and will meet the two steps of substantial interest-aggrieved citizen test. I have looked up both of these. With the potential rezoning, our family stands to suffer the degradation of our reasonable use and enjoyment of the property. That is the legal language. Specifically, the potential for appropriate to be ensured including what Mr. Lundy said, sidewalks, bike paths, double yellow lines, as is the case for all the other current R-8 and R-8C zoned neighborhoods, would not be possible without aggrieving the neighborhood citizens. We thought we would be harmed by personally experiencing greater noise and disturbances, which occurs to being zoned to potentially triple, actually triple, the current density. It will triple the current density. The increased traffic on Wren Way, which is exactly why the original Vine Street proposal was not an option. We are not looking to stifle or slow the growth of our urban community; however, we do believe that the current R-8C zoning is in direct conflict with the land use and development quality report. One said principle of this report refers to traffic calming techniques being used to reduce vehicle speed and increase pedestrian and bicycle safety. When the change in zoning has the potential to triple the density of the neighborhood, of course without sidewalks or bike lanes down Wren Way or “runway” traffic calming does not seem feasible. Wren Way no longer meets the recommendation of a pedestrian family road design. That is your language. That is the state language. That is the code language. That is the local language. What then seems to be untenable is if sidewalks and bike lanes are to be created, possibly on Wren Way, then we suffer

degradation of our reasonable use and enjoyment of the property which meets the definition of special damages. We lose some green space. One clear objective of the Land Use Guide, of course, is to have more single-family detached and duplex homes, I get that. We are open to having the proposed land zoned and developed to meet the goal of that and some duplexes for single families as opposed to cramming up to eight townhouses or ten additional duplexes. The second objective of the Land Use Guide is affordable housing options. I would be curious as to how this objective will be met especially with the increasing interest rates and the current housing inflation. Renting out space by the room might make for affordable housing but remains incongruous to the Land Use Guide. I will not talk about spot zoning because as commissioners you all know about spot zoning. It looks like this is made to serve the private interests of one or more landowners but not the community as a whole. In the case of Wren Way, it appears that a small parcel of land is being rezoned for use classification totally different from that of the, at least proximate, community. You did not go, if you are there, you go a couple of streets further on up, then you have some townhomes and it looks the same, but right in the surrounding area there is a benefit for the owner, but it could be detriment to the other owners. If the proposed R-8C zoning was facing Vine Street instead of Wren Way, then one could rationally claim that the zoning classification is similar to the surrounding area. When tripling the density of a R-1 neighborhood without appropriate infrastructure, public safety and welfare must be taken into consideration as potential harm. Let the record demonstrate that I am formally registering a concern of a legal merit that this zoning decision needs greater attention because the decision to zone as R-8C is unreasonable as it currently stands and appears to be built arbitrary and a bit capricious. I appreciate the sentiment of the applicant in at least taking in the emotional ties to this long established multi-cultural neighborhood that represents the City of Harrisonburg.

Bonnie Simmons, 1011 Robin Court, came forward in opposition to the request. Robin Court is a cul-de-sac in Reherd Acres that empties out into Blue Ridge Drive. I have lived there 45 years, a couple of years after it was developed. I want to speak about some history of Blue Ridge Drive. When Reherd Acres was first developed, Blue Ridge Drive was a very nice street. It was no problem. Since then, when Founders Way was developed and when North 38 was developed, we were told not to worry about it because all the traffic is going to go to Vine Street and out. It did not happen. Traffic comes down Blue Ridge Drive at a very high speed most of the time. We tried for several years to get a stoplight at the end of Blue Ridge Drive onto Country Club Road. It took us several years to get that. We kept asking and begging and pleading. Then the next thing we did, because what would happen is you would be coming up Blue Ridge Drive trying to be at the speed and cars would pass you, so we kept trying to get a double-line in the center. What we got was these white lines along the side. They are not even designated for bicycles, just long white lines. Almost every home on Blue Ridge Drive has at least four cars. Some of them have seven cars in the evening. If you go all the way up Blue Ridge Drive onto Old Furnace Road, it is very bad at night because of the cars parked on both sides of the road. Reherd Acres will never be able to have sidewalks because the streets are too narrow. What is going to happen on Wren Way is what has happened at Meadowlark Drive. When Meadowlark Drive was put in, we were told that there would be no on-street parking. It would be all off-street parking. Now, two cars cannot pass because there are cars parked on both sides of the road. That is what is going to happen on Wren Way because all of the streets at Reherd Acres are very narrow. There can be no sidewalks. We always walk the neighborhood with no fear whatsoever. I would not dare to walk on Blue Ridge Drive anymore. You have approved the apartments on the other end of Blue Ridge Drive across

Country Club Court. You cannot put any more traffic on Country Club Road. This also is going to affect Country Club Road, not just our neighborhood and not just Blue Ridge Drive. It is going to affect Country Club Road. Sometimes in the evenings, traffic will be blocked all the way up passed the railroad tracks. If any of you have come up Country Club Road, you have witnessed that. I want you to think about our neighborhood is and how Wren Way is such a quiet neighborhood. There can be no sidewalks. Speedbumps are not going to happen. It took us years to get what we did get. Nothing is going to change any faster. Please consider the neighborhood that it is a single-family neighborhood and there are very few of those left in the City.

Cody Cole, 1059 Bobwhite Place, came forward in opposition to the request. As a resident of the Reherd Acres subdivision, I am here to express my concern regarding the rezoning of the 935 and 937 Vine Street properties to allow for duplexes and townhomes to be constructed. I have many concerns. This is not something that was happily received by those in my community. Connecting this development through our R-1 neighborhood is unacceptable. Blue Ridge Drive is already one of the busiest residential streets in the City. Many of our residents enjoy walking through the neighborhood with their families and pets. Further increasing traffic volume increases the risk of being a pedestrian on these streets. Children play in yards and learn to ride bikes on these streets. The streets in our community were not designed for the levels of traffic that they receive already. There are multiple school bus stops on Star Crest Drive and Blue Ridge Drive. If this development is allowed to proceed, is there a plan add sidewalks to keep our pedestrians and children safer while walking down the street to their bus stops? What about the schools in this district? How is the student to teacher ratio? I do not know the answer, but I hope it is considered in this process. What about school bus drivers? Are there enough available to add a development of this size to our district. I have a child that attends Smithland Elementary. Their bus driver has two loads of students. My child has to stay in school after dismissal until the bus returns for its second load. I ask that this be considered in this process to ensure that the City has the resources to support development of this nature in our community. I think that routing traffic for a development of this nature through a single-family home community is asinine. If allowed to build this, the traffic needs to flow through Vine Street. If the traffic has to flow through Wren Way, then the rezoning should absolutely not be allowed in this case. Constructing a new single-family home or two would be completely acceptable and welcomed. Rezoning to allow construction of 18 new units is not aligned with the other homes in our community and threatens the safety of our streets. Housing development within the City can bring unintended consequences. More density is not always a good thing. Please consider pedestrian and traffic safety, school overcrowding, lack of bus drivers, police officer shortages and the need to offer pedestrian traffic infrastructure in considering this proposal. I am strongly opposed to the rezoning as outlined.

KC Kettler, 242 East Water Street, came forward regarding the request. I am fairly sympathetic to some of the concerns I have heard tonight. I am sympathetic to the concerns about cars. Cars are a nuisance. I am strongly in favor of traffic calming on Wren Way. Ultimately, the only way to have fewer cars is to make our communities more walkable and more bikeable. Something else we are interested in is making housing more affordable. How do we do that? How do make our community more walkable and bikeable? One part is infrastructure. Part of the proffer that you have seen here is increasing sidewalks in this area. Increasing it so that at least in this area people can walk from one duplex on the south end to a townhome on the north end. Every bit of that sidewalk is important. Every bit of infrastructure is important. Another aspect that helps is

connectivity. Connecting Wren Way down to Vine Street, even if it does not go completely all the way, does improve connectivity and allows people to walk and bike more easily through this corridor. With that strip of property being as thin as it is, people are going to bike over that. A third part is density which is part of what makes communities more walkable, bikeable and affordable, particularly if it is in an area where it is closer to the City center, such as this is, compared to areas in the south and east. We have seen in Harrisonburg, even now after the housing market has begun to slow down, houses are on sale and gone within a few days, sometimes within hours. The rental market is no easier to navigate and is even harder if you are on a very limited budget. It is even harder if you just got the job, and you need to get there. Homelessness is on the rise. I often hear that we need housing, but we are concerned about traffic. We need housing, but we are concerned about more people being in the neighborhood. We need new housing, no ifs, ands or buts.

Dennis Snyder, 964 Wren Way, came forward in opposition to the request. Over the years I raised two daughters on that street. I taught them how to ride a bicycle knowing that there is not a lot of through traffic. It is going to be runway, not Wren Way. Our street cannot handle that much traffic if you add 18 units. It is not going to be safe. I will not repeat what was said here. I appreciate your time. I strongly oppose and want to be on the record for that.

Tony Fajardo, 660 Blue Ridge Drive, came forward in opposition to the request. I do understand the need for new housing, the need of the community for housing, but not at the expense of our children in our community. There are three schools near the proposed building site. Those kids cannot even walk to those schools. There is no way for them to bike to schools. Why can you not work on something for that instead of increasing the number of students that are not going to be able to walk to those places?

Michael Walsh, 960 Star Crest Drive, came forward in opposition to the request. Star Crest Drive is a raceway. People cut down from Vine Street to Blue Ridge Drive, down Star Crest Drive, and from Meadowlark Drive to Star Crest Drive to Blue Ridge Drive. They want to skip the stoplight over by the Sheetz. Many times, Mr. Zahn and I will be standing outside, and we can hear accelerate before they come around the corner below us. The same way the other way. One of the families at the top of Star Crest Drive is concerned because they come whipping around there and they go wide. For those of us who have walked, I have had to jump the curve twice because people misjudge the turn and almost hit some of us. We have all been passed on Blue Ridge Drive. About three weeks ago, I was coming down Star Crest Drive at a little over 25 miles per hour and I got passed. We have a bigger problem that we are starting to look at with the City. Right now, Star Crest Drive has a speeding problem in the morning when there are buses and in the evening as people are coming home. That is the shortcut and to make the shortcut worth it they have to speed down Star Crest Drive.

Jen Nelson, 968 Wren Way, came forward in opposition to the request. My husband has already spoken. I am a resident of Wren Way, soon to be a runway. I have been a resident in our neighborhood for seven years. We bought our house as first-time homebuyers and we were thrilled to join that neighborhood and surrounding neighborhood. We love it. I also have a Master's in Public Administration, so I understand that as public servants and as staff members in the City, your job is a difficult one. You are trying to balance different needs of different people. This is a tough scenario because we have an undeveloped plot of land and there is also a housing crisis.

This plot of land is within an established residential community. We have some decisions to make here. I would argue that the solution we have been presented with here, which is rezoning a low-density R-1 plot into an extra-high density R-8C is at best a one-sided solution to this problem. While solving one challenge, we are creating quite a few others. We have talked extensively about what those are. Good public policy is not all about all or nothing solutions. It is about being able to walk the line of creating opportunities and creating solutions that work for as many people as possible and never at the expense of certain people over others. At the core of this is that we have a private developer who is trying to make money. We are doing this by supercharging with that SUP by adding the townhouses. I think I speak for a lot of my neighbors that we would be fine with adding single-family homes and duplexes. The current proposal is tripling the density of the current plot, which is going to cause all kinds of issues in our neighborhood. My husband and I canvassed our neighborhood last week and we did feel unsafe walking on both Star Crest Drive and Blue Ridge Drive. We need to talk about another solution here. We can meet in the middle. There can be development. We can have it both ways. I think that dropping that "C" in the R-8C is probably a good solution here.

John Graham, 621 Blue Ridge Drive, came forward in opposition to the request. We are having a really hard time getting out of house. When the police blocked off something for a walkout we had people cutting through off of Vine Street, down Meadowlark Drive, onto Star Crest, and down and not even in our neighborhood. We were trying to turn a left turn into our neighborhood, with our signal on and a guy passed us on the left, in that much of a hurry. It is unsafe. The whole neighborhood is runaway. It is not safe to walk anymore. I do not development, but you have to ask if it is affordable housing. If it is over \$120,000-\$130,000, it is not affordable. People cannot afford that anymore.

Wayne Wenger, 641 Broadview Drive, came forward in opposition to the request. We moved to Reherd Acres in 1976. I have been up in that area ever since, and I love it. Clyde Pugh, the realtor, Bill [unintelligible], and Jack DePoy, the former Commonwealth's Attorney, developed it. If you go there and look, there are a lot of cul-de-sac areas because it was to be kept private. Years ago, there was no Vine Street until the DePoy sons decided that Gunshot Acres was going to be made into townhouses. I like their plan of development, but if you look at how big that R-1 is, they could divide that up into duplexes or single-family homes and not townhouses. We are getting townhouses everywhere. This is okay, but we do not need it connected to Wren Way because our neighborhood is quiet and peaceful as a rule. One reason Blue Ridge Drive is so bad right now, instead of VDOT buying the land out there are the church and putting a new bridge in and then tearing down the old one, all that traffic from Neff Road is coming through. No one made any provisions for it to go down to the center of town and come back out. The center of town is empty during the week. I love Harrisonburg but I do not like crowdedness. This first thing where there were absolutely no other houses to conflict with is denied and this area where it is tight would be approved would be confusing to me. I sold houses for Clyde Pugh, and everything was done gracefully. There was no pushing or anything. All three of those guys are gone now. Thank you for letting me talk to you and thank you for keeping it an R-1.

Scottie Cales, 923 Morninglory Court, came forward in opposition to the request. I agree with everybody else. What is wrong with small houses? Why can we not have small houses? No one

seems to build that anymore. It is either townhouses or apartments, but there are houses on this thing. We can have some houses. That would be fine.

*[Unintelligible]* Cales, 923 Morninglory Court, came forward in opposition to the request. I appreciate everything they have said about Blue Ridge Drive and Star Crest Drive because they are right. Vine Street is the absolute worst of any place in this City. To go anywhere in the City, we have to turn left out of neighborhood, but you cannot. You cannot turn left off of Honeysuckle Lane because traffic is coming through on Vine Street cutting through all the other neighborhoods. If they do not let out, if they are not nice enough to let you out, you are not getting out unless you force your way. Traffic has to be considered even on Vine Street along with Blue Ridge Drive. I am opposed to this development.

Matthew Arbaugh, 881 Blue Ridge Drive, called in opposition to the request. I have two issues with that. I have listened to everybody tonight. I agree with all my fellow residents in the area. I own the house and I have lived here for about seven years in this house. I have seen a lot of things in my time here. I bought the place and I wanted to buy it for the community. I came from a small town like this. I came from heavily populated townhouse area and I knew I did not want to live anywhere like that again. That is one of the reasons why I bought this house in this neighborhood. I have had conversations with my neighbors about this. Two of the people who have spoken tonight informed me that this was happening, so I called to voice my opinion. Everybody has said what I was thinking. Single-family homes are fine. All these townhouses going in all over the City, I have seen it grow. It seems like the townhouses are overrunning the community around here. I know that there is a big need for housing and affordable housing. If you cannot afford it, then this City is not for you. Move to the country somewhere. That is how I feel. I bought my house and I want my property value to stay the same and not be devalued by a bunch of townhouses and overcrowding in my neighborhood. I will speak on the overcrowding because I have can say that I have one up on everybody that spoke tonight for the simple fact that the telephone pole in front of my house has been replaced twice since I have lived here. It has been knocked down by cars. I have had two cars on their roofs in my front yard in the seven years that I have lived here. I know how crazy Blue Ridge Drive can be. I do not want any more of that townhouse traffic, be it on Old Furnace Road or the Country Club Road or this place we are talking about. You are going to have people cutting through this neighborhood. I have talked with my neighbor who lives diagonally from me. He said there used to be a cul-de-sac at the end of the street. It did not even connect to Old Furnace Road. That is the way the subdivision is set up and that is the way it should stay. Joining Blue Ridge Drive to Old Furnace Road was a big mistake. They should have left the cul-de-sac and that would have preserved this neighborhood. That is my two cents, and I am opposed to it.

Mr. F. Koyee said thank you all for coming and for your comments and concerns. I do really appreciate that. I will consider all these comments. Let us not put all this blame and all this traffic to this project. Blue Ridge Drive has traffic issues. Let us think about Wren Way. If you get a fire truck or any big truck, that cul-de-sac is going to help a lot to arrange and to organize the traffic. I think it is a good way to have a cul-de-sac and to take down this house that needs to be demolished. I believe that it is going to be much nicer and more organized with the traffic.

Mr. A. Koyee said I think a lot of the sentiment that we have heard tonight is what we opened up with. The biggest concern that we are hearing is public safety. There are a lot of broader issues that need to be addressed, not just on Wren Way, but on Blue Ridge Drive and Star Crest Drive and all these neighborhoods that are going to be affected. We understand that this development will have some impact on that. This is a smaller development compared to what we are seeing going up in the City. This is one of the few lots that is available in town to do new development on. If we have to reduce the density, that is something that is possible. If zoned R-8, it is similar to the density of R-4. We are not here to disrupt communities. We come from diverse backgrounds. I know that you are a diverse community. We are not just in this for the money. We have been working with the City for a while now. We have had other projects approved. We are doing this for the community. I know that affordable housing is a very arbitrary term right now. Single-family homes certainly will not be more affordable. It is next to an R-1 neighborhood. I do understand that. It also next to townhouses. That is where our justification lies in doing townhouses. If it makes the community happy, we will switch to duplexes or single-family if that is what is needed. I think that we would be doing a disservice to the City to not develop houses for sale, for ownership, because of issues that are trickling down from surrounding streets that can be easily addressed with speedbumps and some traffic control. I think there is a way that we can reach a solution here. I look forward to continuing the conversation. I know that we have been here a long time, so I appreciate all of you coming out. Hopefully we can come to a good resolution.

Ms. Nelson said I feel that it is a little unfair for an investor to try to put a lot of infrastructure on the City because of the development that they are trying to develop. I want to reiterate the fact that sidewalks do not exist. Our streets are not large enough for sidewalks. They have offered to put a sidewalk in their development, but it does not help my neighborhood. It does not help my street. It does not help Wren Way, Star Crest Drive or Blue Ridge Drive. It is great that they have made those offerings, but there are a lot of questions that we still need to answer.

Chair Finnegan asked if there was anyone else in the room or on the phone wishing to speak to the request. Hearing none, he closed the public hearing and opened the matter for discussion.

Chair Finnegan said we heard from a lot of people tonight. I counted 17. The concern, as it usually is, is about traffic, about the high speed of the cars in this neighborhood. I agree and empathize with the folks in the neighborhood that we need to do better as a City. We need walking and biking infrastructure and engineering that slows the cars down.

Councilmember Dent said I have heard one suggestion from a comment and a response from the applicant that if it would be more amenable to the community they could switch to duplexes or drop the "C" from the R-8. This is a question for staff, as of now we are considering the proposal as is, R-8C with the townhouses. If there were further discussions to remove the "C," how would that take place.

Ms. Dang said first I need to correct the terminology that is being used. The "C" is the proffers. The conditional zoning refers to the three proffer statements. I believe what has been suggested, and maybe what you are referring to, is to not approve the SUP to allow townhomes, therefore leaving the ability in the R-8 district to have single-family detached and duplexes that are allowed by right.

Councilmember Dent said presumably, one way we could do that is to approve the rezoning but deny the SUP?

Ms. Dang said that is an option.

Commissioner Whitten asked what could be built then in that space? How many units?

Mr. Dang said we could go off of the density that is allowed, which I can do the math pretty quickly, but you have to consider parking, travelways, stormwater management. That would not be a true number.

Mr. Fletcher said that if you do not approve the SUP, you would end up with a property that is zoned R-8 that would allow single-family homes and duplexes. To get the arrangement that they have shown with the duplexes they have to return and request a variance to deviate from Subdivision Ordinance requirements. Could they build more duplex units? Only with your permission to deviate from that standard. If they did not build the townhomes, they may look at this economically, and decide to demolish the single-family home that we were looking to build to pick up the ability to even build the rest of the units. They would still need to come back to request that variance to deviate to subdivide the units to make them sellable. They have to. You cannot build two units on one lot in R-8.

Chair Finnegan said that is why we typically pair the rezoning with a SUP. It takes one to make the other work.

Commissioner Armstrong said I am still stuck with this fact that the rented single-family dwelling is accessing Vine Street, yet we are told that it is impossible.

Ms. Dang said it is there, but it is not wide enough for an entrance that would serve a development like this. It is also the proposed 18 additional homes that would have vehicles at an entrance on Vine Street versus the one or two units that are there. There are a number of considerations that make it different.

Commissioner Armstrong said it is the density that makes it not possible to access Vine Street, in your opinion?

Mr. Fletcher said when we looked at this now several times over several months, there is access from the subject property to Vine Street. It is this little section. I have looked at historical documents. Even if you look at our GIS, that is a remnant of Hawkins Street. Hawkins Street is across East Market. Hawkins Street right of way used to extend this way decades ago. This is an old remnant of when things were dedicated. It shows up as right-of-way. I do not know if that is true. It is just listed that way. It could be a remnant of Hawkins Street, but that is how it is identified. If I recall correctly, one of the original ideas was coming out onto that section, but you are still in a very precarious situation. You are on the inside of that turn. You are very close to Honeysuckle Lane. You are still putting the traffic out in very difficult scenarios with the stacking queue, right

in/right out scenarios. There were different scenarios that we played out. Where we ended up is what we believe is the best-case scenario given the situation.

Commissioner Whitten said it does not feel like the best scenario for Wren Way and Star Crest Drive. Obviously.

Mr. Fletcher said I do not know that I would agree with the “obviously” component of it but that is what we were looking at for the evaluation of all of it. We looked at right in only, right out only. We did not want traffic coming from Vine Street into this neighborhood which would then increase the cut through of people deviating going from Country Club Road and then using this space. What Ms. Dang pointed out earlier in the staff report, we did not want to isolate this neighborhood. We wanted to make it part of the existing neighborhood to create more family-oriented spaces for folks that want to live in the City.

Commissioner Armstrong said regarding Mr. Fletcher’s comment about isolating this from the R-1, but the housing that is being proposed is more compatible with across the street, the housing that is on Vine Street. Why it should be a concern to isolate it from the R-1 district when it is actually least compatible with that and more compatible with the Vine Street housing, I do not understand that. This big thing about this sidewalk, I did make two site visits because I wanted to double check about sidewalks on Vine Street. What is the use of making a sidewalk that goes from Wren Way to Vine Street when there are no sidewalks on Wren Way and no sidewalks on Vine Street? Where are you going to go?

Commissioner Washington said I have some concerns about this project because I also live near that space. I live on Founders Way. Like one gentleman said, my son is in middle school, once my son gets off of Founders Way, he cannot walk to school. He cannot go on Blue Ridge Drive. He cannot go on Vine Street. He cannot go on Old Furnace Road or Country Club Road. They are not walkable. Traffic is a big issue, especially for those in the community who have kids. You would be surprised how many kids I have to pick up on the way to school because I would not allow any child to have to walk those streets by themselves. There are two white lines. I do not know if they are supposed to be bike lanes or parking? No one is biking those roads. It is very dangerous. While I think that if infill development is done well people can benefit from that. The bigger issue here is infrastructure. To triple the density of this small space without the infrastructure being addressed first does not make sense to me. The increased density, the unsafe streets, the fact that you cannot bike or walk these streets, I would prefer if this development was to be looked at, for those things to be addressed first. As we talk about those things and traffic calming, you also have other developments that are in line to be developed in this space. If you go back to the housing study, you will see that based on the map, a lot of these developments are going to go around this neighborhood. While we need affordable housing, the burden of affordable housing should not be put in this space. It should be spread out because as of now, it is not just density, it is overcrowding. You have to think about the schools and the buses. If you look at these numbers, you see multi-family 114 units on Country Club Road. You see Pleasant Hill Road. You see Vine Street for 29 units. They are already slated for development. To not address the infrastructure first does not make sense to me. While I can appreciate how the applicant said these issues are easily address, based on what these folks have said tonight, they have been in conflict with the City for years and it has not been easily addressed. You talk about sidewalks and speedbumps. If it was that easy, it

would have been done already. I would say, fix the infrastructure first before seeing this infill development in this space.

Commissioner Whitten said I echo what Commissioner Washington said. I also want to point out that once again, this is a development that is being pushed up next to what is already an affordable neighborhood, which is what we say we want, but we are not protecting the affordable neighborhoods that we already have. We have to do that. It is categorically wrong not to.

Commissioner Byrd said I have some concerns because the existing property is currently facing Vine Street. The development changes its facing from Vine Street to Wren Way. Its neighbors change from Vine Street, which are townhouses and what look like apartments, to these single-family homes. I can understand people's concerns about having 18 duplexes and townhouses. There is going to be a jerry-rigged construction of roads to make that happen. There is something about that many units fitting into this space to feed into Wren Way. I used to live in Liberty Square, so I know about Blue Ridge Drive and traffic cut throughs through Meadowlark Drive or going around Smithland Road and taking the long way to get somewhere. The 18 units are my main issue and this strange piece of land owned by other people that prevents any real discussion of this parcel going out to Vine Street. I have had to drop off kids to houses on Honeysuckle Lane and leave them there. I understand the City's concern about an access being relatively close to there and creating the same problem that you still have on Honeysuckle Lane. These is a lot about this area that is bringing up issues that we have been discussing.

Commissioner Whitten moved to recommend denial of the rezoning request.

Commissioner Orndoff seconded the motion.

Councilmember Dent said I am struggling with this one. My favorite thing that I hear tonight was from Mr. Kettler, "we need new housing, no ifs, ands or buts." I am also tired of hearing, "yes we need affordable housing but not here." Where else if not here? This is the City. On the other hand, there are problematic issues with it. Either you dump it onto Wren Way and that exacerbates the traffic in that quiet neighborhood, or you dump onto Vine Street, if you can find a way to get there and the traffic issues in that direction. I am inclined to vote no, not in opposition, but to move back to the drawing board to see if there is a better way to have it more aligned with Vine Street, as Commissioner Byrd was saying. Perhaps lower the density to help alleviate some of the imposition on the neighborhood and the traffic. What I see as the adjacent neighbor is directly north of it is the medium-density residential. If it is oriented towards Vine Street, it is not so out of place. It would be a continuation of that medium-density residential. I hope that there is a way to go back to the drawing board to get that sliver of property so that you can have access to Vine Street. While not ideal, it would be better than putting it onto Wren Way, if it can be worked out.

Chair Finnegan said so many of things that we talk about in the modern world are very far on one side or the other. I agree with many of the comments that were made tonight about why they do not want this. It comes down to traffic. I agree with Councilmember Dent. I think that often times people like the idea of infill development until it is time to build infill development. There is no perfect site for it. I think that when this was built in the 1970s, this volume of traffic was not planned for. I intend to vote in opposition to the denial. The reasons for it are as staff stated. I agree

with staff's position on this. I do not love it. There are very few things that I have voted for that I love.

Councilmember Dent said I am still wavering. It is not perfect, but do not let the perfect be the enemy of the good. It would be better if we could figure out a different way.

Commissioner Washington said I am saying no on the rezoning. It is not perfect, but the applicant had said that they can go back to the drawing board to do something that the community will, not necessarily love, but there is an opportunity there to be more feasible for the community. I love infill development, but to cram 18 units into this space without the adequate infrastructure is dangerous. You are thinking about more kids on the streets and more traffic that is already slated to come, but the City has neglected to address these issues. Do we want to put more people in this dangerous position? That does not make sense to me. I think that being able to come to a conclusion with the neighborhood would be the better provision rather than we do not love it, but we are going to allow you to do it even though you have already said that you are willing to reconsider the project to better fit the needs of the community.

Commissioner Byrd said the applicant has sounded very reasonable to consider a lot of things. With me not feeling very comfortable with this, I do not like hearing the terms of "perfect" and these types of things. What we have here is what we have right now. When the applicant was considering the idea of other possibility, I think they can take some time between this and City Council and come up with some better ideas to present to City Council. I do not like this changing from Vine Street to Wren Way. That changes who the neighbors are. I will be voting in support of the denial.

Chair Finnegan called for a roll call vote.

|                         |     |
|-------------------------|-----|
| Commissioner Armstrong  | Aye |
| Commissioner Byrd       | Aye |
| Councilmember Dent      | Aye |
| Commissioner Orndoff    | Aye |
| Commissioner Washington | Aye |
| Commissioner Whitten    | Aye |
| Chair Finnegan          | No  |

The motion to recommend denial of the rezoning request passed (6-1). The recommendation will move forward to City Council on December 13, 2022.

Commissioner Byrd made a motion to recommend denial of the SUP request.

Commissioner Armstrong seconded the motion.

Chair Finnegan called for a roll call vote.

|                        |     |
|------------------------|-----|
| Commissioner Armstrong | Aye |
| Commissioner Byrd      | Aye |

|                         |     |
|-------------------------|-----|
| Councilmember Dent      | Aye |
| Commissioner Orndoff    | Aye |
| Commissioner Washington | Aye |
| Commissioner Whitten    | Aye |
| Chair Finnegan          | No  |

The motion to recommend denial of the SUP request passed (6-1). The recommendation will move forward to City Council on December 13, 2022.

Ms. Dang asked the Planning Commission to take action on the request to permanently terminate Wren Way. It is not a formal application. It is part of the request to Planning Commission.

Commissioner Armstrong said that would be a permanent decision because it does not go to City Council.

Ms. Dang said, hypothetically, if City Council were to approve the rezoning and SUP, the proffers cannot be accepted if the street is not terminated.

Mr. Fletcher said the applicants are considering tabling the request. It might not go to City Council anyway. If that is the case, they would continue to work with us, talk through different scenarios, and come back to this body again.

Chair Finnegan asked is it okay if we do not take action on this? If we have to take action, I will vote no because I do not know what I am voting on.

Mr. Fletcher said it is okay to not take action. We discussed whether it should be now or during the preliminary plat. We saw it appropriate to do it now if it was approved.

The Planning Commissioners were in agreement to not take action on the termination of Wren Way.

***Consider a request from Greendale Road LLC to rezone six parcels addressed as 2744, 2752, 2758, 2762, 2766, and 2770 Dorval Road***

Chair Finnegan read the request and asked staff to review.

Ms. Dang said the Comprehensive Plan designates this site as Low Density Mixed Residential. These areas have been developed or are planned for residential development containing a mix of large and small-lot single-family detached dwellings, where commercial and service uses might be finely mixed within residential uses or located nearby along collector and arterial streets. Duplexes may be appropriate in certain circumstances. Mixed use buildings containing residential and non-residential uses might be appropriate with residential dwelling units limited to one or two dwelling units per building. Attractive green and open spaces are important for these areas and should be incorporated. Open space development (also known as cluster development) is encouraged, which provides for grouping of residential properties on a development site to use the extra land for open space or recreation. The intent is to have innovative residential building types

and allow creative subdivision designs that promote neighborhood cohesiveness, walkability, connected street grids, community green spaces, and the protection of environmental resources or sensitive areas (i.e. trees and floodplains). Residential building types such as zero lot-line development should be considered as well as other new single-family residential forms. The gross density of development in these areas should be around 7 dwelling units per acre and commercial uses would be expected to have an intensity equivalent to a Floor Area Ratio of at least 0.4, although the City does not measure commercial intensity in that way.

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

- Site: Undeveloped parcels, zoned R-2C
- North: Single-family detached dwellings, zoned R-2C
- East: Single-family detached dwellings, zoned R-2C (City) and PSF (Rockingham County)
- South: Single-family detached dwellings under construction, zoned PSF (Rockingham County)
- West: Single-family detached dwellings, zoned R-2C

The Crossings Subdivision is located at the southeastern edge of the City and straddles Greendale Road near its intersections with Dorval Road and Ramblewood Road. The portion of the subdivision within the City was rezoned to R-2C, Residential District Conditional in June 2007, with a proffer that there will be no more than 52 single-family detached dwelling lots within the City. In 2007, the overall design of the subdivision proposed a total of 91 single-family lots within the City and County. The property was subdivided in 2007 and in 2021. There are 35 lots located entirely within the City that is part of The Crossings, Phase 1. The Crossings, Phase 2 subdivision created 9 additional single-family lots in the City and 40 lots in Rockingham County.

In October 2018, City Council approved a public utility application to provide water and sanitary sewer services to the portion of the subdivision within Rockingham County. Later, in January 2019, the portion of the subdivision within Rockingham County was rezoned from R-3C, General Residential District Conditional to PSF, Planned Single Family. The approval authorized an increase of lots within the County from 32 to 40 and approved an accompanying Master Plan depicting 30.9 percent of gross area reserved as open space.

The project's engineered comprehensive site plan was approved by the City and County on February 6, 2020, and is actively under construction.

The applicant is requesting to rezone six parcels totaling +/-1.27-acres from R-2C, Residential District Conditional to R-8C, Small Lot Residential District Conditional. Approval of the request would allow the homes on the six parcels to reduce the minimum front yard setback from 30 feet to 10 feet. The applicant explains in their letter that the rear yards of tax map parcels 97-L-7 and 8 are "encumbered by an existing stormwater detention pond that serves the subdivision, resulting in a relatively shallow buildable area" and that tax map parcels 97-L-12, 13, 14, and 15 have "shallow lot dimensions, and exceptional topographic conditions" that make building upon the lots difficult.

As noted in the Background section of this report, the six properties are part of a larger single-family detached housing development that are currently zoned R-2C, Residential District

Conditional (City) and PSF, Planned Single Family (County). The 2007 proffers for the City properties state (written verbatim):

1. The uses will be limited to all uses in Article H-R-1 Single Family Residential District. Only area and dimensional regulations for single family from the R-2 Residential District will govern for lot sizes.
2. Existing Ramblewood Road will be straightened with right and left turn lanes on Greendale Rd.
3. Greendale Rd. will be widened with curbs and gutter and sidewalk per city standards. In addition, a left turn and through lanes will be provided at the Ramblewood intersection.
4. There will not be more than 52 lots in the City of Harrisonburg.

Recognizing that a rezoning to R-8 without proffers would open the opportunity to further subdivide the lots to create more dwelling units and would allow duplexes by right, the applicant has proffered the following (written verbatim):

1. Duplex dwellings are prohibited.
2. Area and Dimensional Regulations

Except as provided in article T, and as required in article CC for wireless telecommunication facilities, the following area and dimensional regulations shall apply:

| Lot Area<br>Sq. Ft.                     | Minimum Feet  |              |               |              |              | Maximum |        |
|---|---------------|--------------|---------------|--------------|--------------|---------|--------|
|   | *Lot<br>Width | Lot<br>Depth | Front<br>Yard | Side<br>Yard | Rear<br>Yard | Stories | Height |
| Single-<br>Family<br>Detached:<br>7,000 | 60            | 100          | 10            | 10           | 20           | 3       | 35     |
| Other<br>Uses:<br>6,000                 | 60            | 100          | 10            | 10           | 25           | 3       | 40     |

\* Measured at the point of require front setback line

By prohibiting duplex dwellings, the proposed proffers would maintain the same by right uses as proffered in 2007. The proposed proffers would also maintain the same area and dimensional requirements as proffered in 2007, except that the minimum front yard setback would be 10 feet instead of 30 feet.

Given that all the use and area and dimensional regulations of the 2007 proffers would remain in place except for the front setback requirement and that the County properties within the development require only a minimum front yard setback of 5 feet., staff believes that this neighborhood would not be adversely affected and therefore, staff recommends approving rezoning the properties from R-2C to R-8C.

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

Jeff Oswald, Blackwell Engineering, came forward as the applicant's representative in support of the request. Thank you for considering the request and thank you to staff for the accurate representation of our reasons for seeking the rezoning. She mentioned that the lots were difficult to build on. One of the other issues was with the current 30-foot setback, the homeowners are going to have little to no usable rear yard space. Part of the reason for moving the house forward, closer to the road, would be to create some flat space in the back that they can at least walk on. Without out that, you have the back of the house then the hill. With 40 other lots in the same subdivision that have a 5-foot front yard setback we are not creating oddball lots. We are actually making them more similar to the lots already in the subdivision.

Chair Finnegan asked if there were any questions for the applicant.

Chair Finnegan said it seems like a tough job at that site. It is steep.

Mr. Oswald said it was tough before development, but it was compounded...

Chair Finnegan said it is a steep hill, so I understand the setback variance that you are requesting. How do you keep the detention pond at the bottom of the steep hill safe from kids falling in there?

Mr. Oswald said you can put a fence around something like that.

Chair Finnegan is that not on this property?

Mr. Oswald said the detention pond is on the back of two of the lots that we are requesting the rezoning for. Sometimes people put a safety fence around a pond like that. If the homeowner buys it and has that pond on their lot, they can put a fence around it.

Chair Finnegan asked if there were any more questions for the applicant's representative. Hearing none, he asked if there was anyone in the room or on the phone wishing to speak to the request. Hearing none, he closed the public hearing and opened the matter for discussion.

Chair Finnegan said this is a perfect reasonable request. I am in favor of this request.

Commissioner Whitten said my father was a civil engineer. When I saw this, I thought this is an engineering nightmare. It can be built on because of engineering.

Commissioner Whitten moved to recommend approval of the request.

Councilmember Dent seconded the motion.

Chair Finnegan called for a roll call vote.

Commissioner Armstrong     Aye

|                         |     |
|-------------------------|-----|
| Commissioner Byrd       | Aye |
| Councilmember Dent      | Aye |
| Commissioner Orndoff    | Aye |
| Commissioner Washington | Aye |
| Commissioner Whitten    | Aye |
| Chair Finnegan          | Aye |

The motion to recommend approval of the rezoning request passed (7-0). The recommendation will move forward to City Council on December 13, 2022.

**New Business – Other Items**

*Consider a request from Northside LLC to close a portion of Wilson Avenue*

This item was discussed and acted upon with the other requests from Northside LLC above.

**Unfinished Business**

None.

**Public Comment**

None.

**Report of Secretary and Committees**

*Proactive Code Enforcement*

On hold.

*Rockingham County Planning Commission Liaison Report*

Chair Finnegan said that there were two items. One was a housekeeping item. It was a Master Plan amendment. Rockingham County lived up to its name. They went to dig up a retention pond and it was all rock, so they made an adjustment to the Master Plan. It was approved (5-0). There was a request to rezone from B-1C General Business with conditions and A-2 General Agriculture to B-1C General Business with conditions on Port Republic Road and Stone Spring Road. There were several people who spoke. One spoke for a long time and was opposed to it. The issue was about a property line that was wrong. It was a civil matter. If the property line is wrong, you need to talk to the courts not the Planning Commission.

Commissioner Whitten asked if it is a car wash.

Chair Finnegan said there was a property owner's association that got involved. Yes, I do believe it was a car wash. There were issues with private road access, issues with traffic. Ultimately, it was approved (5-0). They have one more public input meeting for the Comprehensive Plan tomorrow

evening at Spotswood High School. They hope to have a presentation of all the input. Their process sounds different from ours. They hope to have a joint session in July where they will approve it.

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

Commissioner Orndoff said we had a meeting on Monday. It involved a nonconforming piece of structure on the back of a house on East Market Street. They had intended to refurbish it, then the building inspector told them that they could not do it because it did not meet code. They had already begun the process, so they came to the BZA for help. The request was approved (3-2). The Chair and I voted against it because you are not supposed to do that.

Commissioner Whitten asked where on Market Street?

Ms. Dang said the address was 558 Market Street. It is on the corner with Hill Street and has Elizabeth Street behind it.

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

Councilmember Dent said there is nothing to report for this week's meeting as all agenda items related to the Planning Commission were continued. Last time, we did approve the major family day home request on Jefferson Street. There was some good discussion about that. I repeated that I like this neighborhood model. Councilmember Baugh had an interesting comment. He said that we seldom see that mid-level of the major family in-home day care. People tend to go for the minor day home that they can do by right, or if they are opening a facility, they build it, and it is a steeper climb. The more that we can ease the process to encourage those major in-home day cares the better, including help for the licensing process. Maybe some of the local community colleges doing a program that help people get set up to do day care. Those are options that we are looking at to help disperse the childcare need throughout the City.

### **Other Matters**

#### ***Review Summary of next month's applications***

Ms. Dang said we have provided the summary of next month's applications. The meeting dates are December 14 and 20, 2022. We recommend holding one meeting to consider all the agenda items. There are eight unique items to be considered.

Councilmember Dent asked how many unique items did we have tonight?

Ms. Dang said we had six unique sites with nine items.

Commissioner Byrd said the last two are Zoning Amendments. The street closing might have some conversation.

Ms. Dang said that is a street closing initiated by the City where the adjacent properties are the City and Wellness Center.

The commissioners discussed the various items on the list to determine which are likely to generate discussion. The commissioners agree with staff to hold one meeting in December.

The meeting adjourned at 10:26 p.m.