



# CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

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October 2, 2023

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

**SUBJECT:**

*Consider a request from DCI Partners LLC to rezone 810 Port Republic Road  
Consider a request from DCI Partners LLC for a special use permit to allow multiple-family dwellings and/or mixed use buildings within the B-2 at 810 Port Republic Road*

**EXTRACT FROM MINUTES OF HARRISONBURG PLANNING COMMISSION  
MEETING HELD ON: September 13, 2023**

Chair Finnegan read the requests and asked staff to review.

Ms. Dang said In May 2008, City Council approved a rezoning of the subject property from R-4, Planned Unit Residential District to B-2C, General Business District Conditional. The existing, regulating proffers include (written verbatim):

1. The property is limited to an additional 10,000 square feet of Gross Leasable Area.
2. No new additional entrances will be constructed onto Port Republic Road with this building addition.
3. Sign restrictions:
  - a. The total square footage of all free standing signs will be 150 sf.
  - b. The sign height is limited to 25 feet.
  - c. The current lot and any future lots created will not be allowed to have an interstate overlay sign.
4. The following B-2 permitted uses are hereby removed:  
10-3-90.6; 10-3-90.7; 10-3-90.8

The referenced additional 10,000 square feet of gross leasable area that could be added to the property was the amount that could have been added to the site based upon the total square footage of gross leasable area that existed in May 2008. The uses that are prohibited based upon proffer #4 includes the sale and repair of vehicles, recreation equipment, or trailers and also general service or repair shops.

Most recently, public hearings regarding the subject requests were advertised for the Planning Commission's August 2023 regular meeting; however, the public hearings were not held because the applicant requested to postpone their requests.

The applicant has submitted two applications. The first is a rezoning request to amend proffers associated with the B-2C property. Since new proffers are being offered, if approved, the site would remain zoned B-2C, but with new regulating proffers. The second application is a special use permit (SUP) request per Section 10-3-91 (17) to allow multiple-family dwellings in the B-2 district. The property is located at the intersection of Port Republic Road and Devon Lane. If the rezoning and SUP are approved, the applicant intends to redevelop the portion of the site shown on the Development Plan as "Future Lot 1" by constructing a multi-story building containing a convenience store, a restaurant, and 119 multi-family units marketed to the student population. All of these uses would be positioned within the same complex and above one or more stories of a structured parking garage. Surface parking is also planned. There are currently no proposals for Future Lot 2, but if the rezoning is approved, this area could be developed with allowed B-2 district uses and in conformance with the approved proffers.

#### *Proffers*

If the subject rezoning is approved, it would supersede and replace the existing 2008-approved proffers.

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

1. DESIGN STANDARDS. The Development Plan for The Vista at Forest Hills contemplates retail, restaurant and commercial uses in each case as permitted by the underlying B-2 zoning, plus residential use as permitted by special use permit. Applicant proffers that the Development Plan will be used as the basis for engineered comprehensive site plan approval of the proposed development/redevelopment of "Future Lot 1" on the Development Plan, to include without limitation:
  - The general location of the mixed-use building and other structures as illustrated,
  - The number of stories within such building and structures, which Applicant proffers shall be comprised of four (4) stories of residential dwellings atop either three (3) stories of parking garage or up to three (3) stories of combined commercial/retail space and parking garage,
  - Applicant proffers to provide a minimum of 1.35 parking spaces per dwelling unit,
  - One (1) large deciduous or evergreen tree shall be planted and maintained no less than every fifty (50) linear feet on center along the building façade facing the adjoining property along Village Lane, with trees sizes meeting the requirements as defined in Section 10-3-24 of the Zoning Ordinance at the time of planting, and
  - The general location of sidewalks and crosswalks within the Property.

2. **MAXIMUM DENSITY.** All traffic generating uses developed on site shall be limited to a total of vehicle trips in the AM peak hour and vehicle trips in the PM peak hour as set forth in the traffic impact analysis accepted by the City by letter dated July 21, 2023 (the “**Accepted TIA**”), calculated using the latest edition of the Institute of Traffic Engineer’s Trip Generation Manual, unless the Applicant first, at its cost: (a) completes a Traffic Impact Analysis accepted by the City Department of Public Works and (b) implements all identified mitigation measures or improvements shown as warranted by such Traffic Impact Analysis, whether on or off site, which are attributable to the then-existing and then-proposed traffic-generating uses on the Property on a cumulative basis (excluding any uses to be discontinued due to redevelopment as a part of such proposed plan). The City Department of Public Works may, in its discretion, waive completion of a Traffic Impact Analysis or any identified mitigation measures or improvements.

3. **TRANSPORTATION IMPROVEMENTS.**

a. Bradley Drive. As part of the initial phase of redevelopment of the Property for commercial and/or residential purposes, Applicant will concurrently design and construct, at its expense, the roadway shown on the Development Plan as “Bradley Drive” (“**Bradley Drive**”) as a private access road with the “Potential Future ROW Corridor” shown on the Development Plan intended for future public dedication under certain conditions, all as set forth in the Street Improvement Agreement between the City and Applicant entered into as part of this rezoning application (the “**SIA**”).

The entrance location of Bradley Drive onto Port Republic Road shall not be materially modified from what is shown on the Development Plan and the Accepted TIA, but the road design and alignment may deviate from what is shown on the Development Plan as necessary to address engineering considerations and site constraints, subject to approval as part of the City’s site plan review process.

b. Port Republic Road Improvements. Applicant shall participate in the cost of street improvements shown on the Development Plan within and along Port Republic Road in accordance with the SIA.

c. Sully Drive Median. The project site plan will include a median within Sully Drive at its intersection with Devon Lane substantially as shown on the Development Plan, to be constructed by Applicant concurrently with development/redevelopment on Future Lot 1.

d. Future Entrance from Port Republic Road. So long as the commercial entrances to the Property from Bradley Drive, Port Republic Road and Sully Drive (via Devon Lane) remain open substantially in accordance with the Development Plan and the Accepted TIA, Applicant shall only request a right-out connection to Port Republic Road to serve the northwestern portion of the Property shown as “Future Lot 2” on the Development Plan.

e. Pedestrian Interconnectivity and Bike Transportation.

i. Along Port Republic Road. The SIA contemplates the City’s design and construction at Applicant’s expense of a concrete sidewalk five feet in width and a separated asphalt bike lane of seven feet in width with adjoining buffer strips along the Property frontage with Port Republic Road substantially as shown on the Development Plan (the “**Trail Dedication**”), together with appropriate temporary construction easements, and Applicant proffers to dedicate such transportation facilities to public use and contribute to the costs thereof as provided in the SIA and shown on the Development Plan.

ii. Along Port Republic Road (Future). Applicant proffers to dedicate additional public right-of-way or public access easement for public use up to seven (7) feet wide adjoining the Trail Dedication, together with appropriate temporary construction easements, within thirty (30) days of written confirmation from the City that it intends to request authorization to bid construction of a second separated bike lane along the Property’s Port Republic Road frontage and which extends beyond the boundaries of the Property as part of a larger bicycle and pedestrian corridor.

iii. Along Bradley Drive. Applicant shall dedicate to public use a perpetual non-exclusive easement for pedestrian travel across the concrete sidewalk five feet in width along Bradley Drive to the boundary of the adjoining property substantially as shown on the Development Plan.

iv. Connecting Path Dedication. Applicant shall dedicate to public use, within thirty (30) days of written demand by the City, a 20-foot wide perpetual non-exclusive easement for shared use path being shown as “20’ Shared Use Path Easement” on the Development Plan.

v. Forest Hills Manor Connection. Applicant will grant a private access easement for the benefit of the adjoining parcel known as Forest Hill Manor (being City of Harrisonburg tax parcel 92-A-2) and construct as part of development/redevelopment of Future Lot 1 a pedestrian connection (including crosswalks) from such Forest Hills Manor property to the Bradley Drive sidewalk which leads out to Port Republic Road, all as generally shown on the Development Plan.

f. Dedication of Devon Lane Parcel. Applicant proffers that it will quitclaim to the City, without consideration upon demand, all right, title and interest of Applicant to the parcel on the southern side of Devon Lane (opposite side of Devon Lane from Future Lot 1) which is shown on the City’s GIS map as being a portion of City tax parcel 92-A-1.

Proffer 1 states that the Development Plan will be used for the basis of comprehensive site plan approval of the proposed development/redevelopment of “Future Lot 1,” establishes the maximum number of stories for the proposed building, establishes the minimum number of off-street parking spaces for dwelling units, and requires landscaping in the rear of the property that adjoins the townhomes on Village Lane. Note that the minimum number of off-street parking spaces required for non-residential uses on the site will be calculated based on the ZO requirements.

Proffer 2 restricts uses to be limited to the total number of vehicle trips in the AM and PM peak hour in the Traffic Impact Analysis (TIA). The TIA studied possible uses to include off-campus student apartments, a mixture of general retail, convenience store, and restaurants, as well as, a hotel. While the applicant contemplates the possibility of constructing a hotel on “Future Lot 2,” there are no immediate plans at this time. Any use allowed in the B-2 district may locate on this property (on either Future Lot 1 or 2) if the calculated total number of vehicle trips does not exceed the total in the TIA, or if a new TIA is completed and mitigation measures or improvements are constructed by the property owner. However, the proffer allows the Department of Public Works discretion to waive the completion of a TIA or any identified mitigation measures or implements.

Proffer 3 is addressed in the Transportation and Traffic section.

#### *Development Plan*

With regard to the details of the proposal, as specified by Section 10-3-93 (d) of the Zoning Ordinance (ZO), the applicant has submitted a development plan to be in accord with the requirements of the SUP. Section 10-3-93 (d) states that “[f]or multiple-family dwellings and mixed use buildings, the development plan submitted with the special use permit shall govern development on the site and shall be used as a basis for subdivision and engineered comprehensive site plan approval.” If the SUP is approved, then details of the development plan would be used to ensure that what is proposed and evaluated during the SUP review is what is developed. If significant deviations are desired by the property owner in the future, the property owner must apply to amend the development plan by going through the SUP process again.

Features of the development plan submitted with the SUP that would be used as the basis for an engineered comprehensive site plan approval include, but are not limited to:

1. The general location of buildings and structures as illustrated.
2. The general number of stories within proposed buildings and structures as illustrated.
3. The general location of parking areas as illustrated.
4. The general location of pedestrian connections as illustrated.

With regard to setback regulations and the position of the building on the property, the Zoning Ordinance requires that when a property zoned B-2 has boundaries that abut residential districts, then the side and rear yard setback increases from 10 feet to 30 feet and when structures on the B-2 property are taller than 35 feet (which in this case the building would be), an additional foot of setback is required for each foot above 35 feet. Forest Hills Townhomes and Forest Hills Manor, located to the rear and side respectively, are zoned residentially. Depending on the final height of the building, adjacent land transfers (or property boundary adjustments) may be needed for the proposed building to comply with setback regulations. The applicant has illustrated this on the Development Plan as a possibility with a note that states “Adjacent land may be obtained from one or both adjacent parcels, up to the amount shown, if needed, to achieve property building setback based upon final building height and foot print. If needed, land transfer shall occur after rezoning/SUP approval but prior to site plan approval.”

Within the applicant’s submittals, the applicant has provided a Building Height Profile to illustrate the height of the proposed building relative to the building addressed as 865 Port Republic Road

(known as “865 East”) located on the opposite corner at the intersection of Port Republic Road and Devon Lane.

A letter submitted by the applicant describes, and the Traffic Impact Analysis (TIA) evaluated, 440 bedrooms. The applicant discussed with staff that they anticipate constructing a total of 119 dwelling units and that the majority of the dwelling units (around 100) will be 4-bedroom units, and the remainder will be 1-, 2-, and 3-bedroom units. However, these details are not proffered nor specifically detailed in the SUP application.

### *Land Use*

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

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

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

With regard to the Comprehensive Plan, Traditional Neighborhood Development (TND) principles are encouraged to be included in all developments throughout the City. Adding multi-family dwelling units at this location would incorporate some of those characteristics such as: having a neighborhood that allows residents to work, shop, and carry out many of life’s other activities; and allowing residents to walk, ride a bicycle, or take transit for many trips between home, work, shopping, and school. Additionally, this development is proposed for student housing and the location is within close proximity to James Madison University (JMU).

If the property is subdivided as planned with 119 dwelling units on Future Lot 1, the density of the proposed project is just over 32 units per acre, which is above the planned density, but less than the maximum density allowed by SUP in the B-2 district.

#### *Transportation and Traffic*

While proffers 3.c., 3.d., 3.e.iii., 3.e.iv., 3.e.v., and 3.f. should be self-explanatory, the paragraphs below help clarify a few of the more complex proffers.

Proffer 3.a. describes how Bradley Drive will be extended through the property. The plan is to initially establish a private street, with the potential for it to become a dedicated public street in the future if the area known as Village Lane Townhomes redevelops and thus makes a public street connection possible.

The proposed project necessitated a Traffic Impact Analysis (TIA), which was completed and accepted by the City on July 21, 2023. The TIA recommended mitigations that the applicant is addressing through the additional proffers and by entering into a Street Improvement Agreement (SIA) with the City. A copy of the SIA is attached. The SIA is intended to ensure the necessary street improvements caused by the proposed project can be incorporated, designed, and constructed in conjunction with the capital street improvement project planned by the City.

The City's capital improvement project known as *Port Republic Road: Hunters Road to Devon Lane* is fully funded and under design. The project, anticipated to begin construction in 2025, will improve Port Republic Road within the block of this property's street frontage. As described on the City's project webpage, "[t]he project will add a traffic signal, including crosswalks with pedestrian signals, at the Port Republic Road and Bradley Drive intersection. A left-turn lane for westbound traffic on Port Republic Road will be added at this intersection, and a median will be constructed between Bradley Drive and Devon Lane. A physical change will be made at the intersection of Port Republic Road and Hunters Road to make it a right-in, right-out intersection." More information about this project can be reviewed at: <https://www.harrisonburgva.gov/port-rep-road-bradley-dr>.

Proffer 3.b. and e.i. reference the SIA and the Development Plan, and the applicant's commitment to dedicate land for public right-of-way and to participate financially in the construction of improvements along the frontage of Port Republic Road. The Development Plan conceptually illustrates improvements that include: construction of turn lanes, installation of a new traffic signal at the intersection of Port Republic Road and Bradley Drive, and the construction of frontage improvements that include a separated bike lane (in one direction towards Interstate 81) and a separated sidewalk. City staff believes that a separate bike lane and separated sidewalk will lessen the growth rate of vehicle traffic along Port Republic Road by allowing users of Port Republic Road to travel by alternative modes of transportation more safely and comfortably.

In Proffer 3.e.ii., the applicant proffers to dedicate additional right-of-way or a public access easement up to 7-feet wide if and when the City constructs a second separated bike lane along the property frontage as part of a larger bicycle and pedestrian corridor improvement project. There is presently no funding or schedule for this future project.

### *Public Water and Sanitary Sewer*

City staff has advised the applicant that available downstream sanitary sewer capacity may be inadequate for the proposed use and must be evaluated during a Preliminary Engineering Report prior to the engineered comprehensive site plan submittal.

### *Housing Study*

The City's Comprehensive Housing Assessment and Market Study (Housing Study) places the subject property within Market Type D, which has "neighborhoods [that] are characterized by the lowest growth of any market type and low housing volume turnover." Additionally, "[i]ncomes in different pockets vary greatly. Median household incomes across block groups in these neighborhoods have the broadest range: \$20,000 to \$91,000. This could point to a divergence of two conditions found within these neighborhoods: one of stable, high-income, low turnover neighborhoods and one of lower turnover in lower income neighborhoods. The Housing Study also notes that "[s]trategies that would be appropriate in the latter case include concurrent development of the housing and economic opportunities through mixed-use development to build commerce and housing centers across the City."

### *Public Schools*

The student generation attributed to the proposed 119 new residential units is estimated to be 16 students. Based on the School Board's current adopted attendance boundaries, Stone Spring Elementary School, Skyline Middle School, and Harrisonburg High School would serve the students residing in this development. Harrisonburg City Public Schools (HCPS) staff noted that schools are over capacity in many of the schools and while the subject rezoning is intended for off-campus student housing, most likely housing vacated by students would create the availability of 119 apartments in the community which may be occupied by families.

### *Recommendation*

Considering the proximity of this proposed student housing project to JMU and the Mixed Use designation of this area in the Comprehensive Plan's Land Use Guide that supports higher density and mixed uses, staff believes that this development can have a positive result for the community. Staff recommends approval of the rezoning and approval of the SUP with the following condition.

- The number of dwelling units shall be limited to 119 with no more than 440 bedrooms.

Ms. Dang concluded that Director of Public Works Tom Harman is available during this meeting on GoTo Meeting to address any traffic or TIA related questions.

Chair Finnegan asked if there were any questions for staff.

Vice Chair Byrd said just for clarification, when we say westbound, we are talking about going downhill and eastbound is going up.

Ms. Dang said yes.

Chair Finnegan said I did have a question about proffer one, the parking, it says 1.35 parking spaces per dwelling unit, is that over or under the minimum?



Ms. Dang said it depends on how you look at it. Traditional student housing, meaning if it was zoned R-3 and you think about Sunchase or something like that, a four bedroom apartment unit would require 3.5 parking spaces. However, this is a special use permit in the B-2 district, our Zoning Ordinance says that a multifamily unit in B-2 is only required to have one parking space per dwelling unit. So, this is proffering more parking than what our Zoning Ordinance would require for multi-family in the B-2 district.

Commissioner Armstrong said what would be multifamily B-2 traditional?

Mr. Fletcher said maybe see it like this, historically in Harrisonburg student housing has been developed in residential districts. Residential districts, the way our ordinance is set up, is that parking is based on the bedroom count. What Ms. Dang was stating was, when you have four bedrooms, the requirement is 3.5 parking spaces per that unit. You are essentially getting four ultimately, once you do all of the calculations. In B-2, which is relatively new, the minimum requirement is one space. There is flexibility built in that allows them to go up or down and they have decided to go up with their own stipulation.

Chair Finnegan said thank you, that does give clarity that they are proffering over the amount that would be required.

Commissioner Alsindi said I am not sure if my question falls under TIA, but proffer number three, the second paragraph, second sentence where it says "...but the road design and alignment may deviate from what is shown ..." and I would just like to know more about that.

Ms. Dang said this project, and I would invite the applicant to answer if I omit anything from this answer, this project and the road has not been fully designed yet and so when they get into further engineering and design, they may find that there is topographical or something else that might cause it to need to shift a little bit. Generally speaking, conceptually the road alignment for Bradley Drive will be as shown. So, there might be some minor deviations that could occur. It is just a way to say that. Then it goes on to say, "subject to approval as part of the City site plan review process" the City would ultimately need to approve that.

Chair Finnegan said we can ask the applicant for more details about that.

Commissioner Alsindi said with regard to Bradley Drive, there is going to be a traffic light in the middle of Port Republic Road, which intersects the new street. Now, my question is there is a traffic light right before that and I am just interested to know because the road is kind of incline in that case, how would that difference be calculated or considered? How would that effect peak times while you have that incline? The distance is, I am not sure what the usual distance is between one traffic light and the other, too short from what I have experienced over there, and I am just curious to understand if that would have any impact on the traffic.

Chair Finnegan asked if there was a way to pull up a slide showing the alignment of Bradley Drive.

Tom Hartman, Director of Public Works, was available virtually via GoTo Meeting to answer traffic related questions. He said in 2018 we at Public Works in conjunction with the MPO [Harrisonburg-Rockingham Metropolitan Planning Organization] and VDOT [Virginia Department of Transportation] did a small area study along Port Republic Road and that small area study went from Main Street to Devon Lane and it looked at functionality of the corridor, both in the current day and projected, I believe we went to 2035 with our design. In coordination with our planning effort and it recommended numerous projects along the corridor and this signalization at Bradley was one of those recommendations to help improve the corridor. Bradley is close to Devon, but the way we have our traffic signal systems built along Port Republic Road will be able to work in tandem and coordination essentially so that it will allow the peak flows to move through as best they can when they are busy with peak hours. The main benefit behind the signalization at Bradley, is it allows us to restrict left ins and left outs at Hunters Road which is the next intersection down the hill or west. When we install the signal at Bradley, we will add a median through the Hunters Road intersection so that you can only make a right in and right out of Hunters. We needed the signal on Bradley to allow for a safe left in and left out of a Hunters Ridge Community.

Chair Finnegan said have a follow up question, Mr. Hartman, which is the Forest Hills/ University Boulevard connection project, I do not know what that is being called, I know that work is being done to reconfigure that. I know that there is bike and pedestrian infrastructure on that, can you speak to any estimated timeline on that? How does that line up with improvements that we are talking about for the bike lane on Port Republic?

Mr. Hartman said our University Boulevard project, we are in the right of way phase now and the utility relocation phase. We plan to go out to construction in 2025 and have it completed by the end of 2025. That project realigns University through some of the neighborhoods and it also brings a shared use path down to the intersection of Forest Hills Road and Port Republic Road. We have to jump over two gas stations in then we hit this improvement as we go towards Devon. We are starting to build that infrastructure we are separating by facilities along Port Republic Road leading not onto JMU's campus, but it is the Reservoir Street corridor where we are building sidewalks and adding bike lanes. We are trying to add this connectivity for more transportation options around this corridor.

Vice Chair Byrd said I have a question for staff in general. So, B-2 only has a minimum requirement for parking in our ordinance?

Ms. Dang said that is correct. Our entire ordinance was all just minimums.

Mr. Fletcher said they are all minimums. In fact, I am glad you brought that up just because for clarity, there is no requirement for student housing. Student housing is classified as multifamily, I wanted to make sure that was clear. If you set the B-2 requirement aside for a moment when you look in our Zoning Ordinance, when you build multi-family units the calculation is based upon bedroom count. One bedroom unit is a one and half parking space requirement. Two and three is two and half. More than three it is three and a half. I just wanted to make sure that you understood that. Then, of course, the half, once you do the math and you end up with a half, you have to round up. Three and a half is the requirement and it has nothing to do with student housing. Going back to B-2, yes, anything that is residential it is one parking space per unit.

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

Ed Blackwell, from AES Engineering, came forward as the applicant's representative, to speak to this request. He said we have Lisa Hawkins, the attorney, so if there are questions about wording of the proffers and legal stuff, she is here and the manager for this project is also here if there are questions about uses. In general, we have been working with staff in both Community Development and Mr. Hartman's office for a while. We have gone back and forth and that is one reason we tabled it last month. We were trying to get the last little sticking points worked out which, I think we have done. They have been great to work with, City staff in general. We think we have come to a good solid plan here. We are going to kind of help things about setbacks. Part of that, the City needed 21 feet of our property for this bike lane. So, to make that work we were having height issues and setback issues, so we have some neighbors that are willing to help us in the rear. We can give up to 21 feet in places, in some places it is less, to help with the City's bike lane. I should not say that we are piggybacking it, Thanh hit it well, two people doing a project and overlapping and tearing stuff out, so we are going to work with the City. The City is designing it and building it and we are paying for our portion of our side, including paying for the bike lane on our side and some of that frontage stuff, it is all in that agreement. The details Lisa can speak to better. So, we are working with the City, given the right of way. There is even some right of way on the other side of Devon Lane that we own that we are going to give to the City incase Mr. Hartman is looking at some future intersection improvements to Devon Lane. It is some sort of excess property on the other side of the road, even though it is a part of our lot. We think what we are planning here is a good fit for the neighborhood. I gave you the drawing. [Referring to the drawing] Those two big circles, one circle is a one-mile radius from the ISAT building and the other circle is a one-mile radius from Wilson Hall on main campus. You can see we are one of the few places, other than Old Town and Newman Avenue and some of the housing up the street here, there is not a lot of student housing that are in within one mile of both campuses like this. We feel that this area of the school would stay student. Look at Village Lane that has been student for decades and what we are looking to build will fit right in that student corridor. I know traffic comes up, but what we are assisting with the City will help improve the traffic in that corridor. What we were already zoned and allowed to have on our property versus with what we are proposing is actually a neutral traffic generation. Not what is existing there, what we could build. We have worked all of that out with this TIA and we went through months and months of that. Working with Mr. Hartman's office and making sure that was right and VDOT even looked at it because it is close to the interstate. So, I think we have come up with a good solution where this is going to be a unique site. The thought came up of how tall it is, we are about 54 or 55 feet above grade on our front. An example is across the street, [referring to 865 East Apartments] 865 is 82 feet, we are about 30 feet lower than 865, our roofline to theirs. You see the renderings we have, we put a lot of effort and time and money into this, the site is so tight, it is a lot of building with the parking deck. We kind of designed it to a point that is the reason we were struggling with the setbacks. We are kind of, I should not say boxed in, but we have designed it and we have a fit that we like and we have made it work, working with staff. The neighbors behind us will graciously give us a few feet. We need several feet from one neighbor and about six or seven from another and they both said that they would be willing to transfer that, if we need it. If the architect in their final design brings our building down a few feet, we will not need that extra land. One of the neighbors to do

that, we will put a row of trees in the back to help on the backside where we have three stories of parking deck. Think of the parking decks that JMU has, they have a lot of mass, but you also have those windows. We are going to plant oak trees along those so as they mature out that will help soften that look. That is what the neighbor behind us wanted, he said “just plant some trees and we are good to go,” the letter is in the packet. In that courtyard, I think we have something unique. We are going to have a swimming pool. The building is like a sort of horseshoe. Not quite a horseshoe but it has two and a quarter sides of the three. It is called a platform building. You have three levels of parking deck and then you have a commercial area in the front and residential in the back going around and then residential on top of the commercial going up. We have this courtyard and on that we are putting a swimming pool. I put some examples that the architect has come up with, my client loves it, and we are designing towards that now. You will have the swimming pool, a picnic area for the tenants to go with a grill. We started to proffer a basketball court and Thanh said, “if you say basketball court, it has to be a basketball court” So, we wanted it fluid, we are going to have some recreation there. Pickle ball, basketball, volleyball, on that podium also we will probably do some outdoor grass type of a seating area for the residents to go out and sit. I sent in some examples that the architect has given us of some buildings in Baltimore and DC area. Looking at this over, I envision this to be a pretty modern style building for the City of Harrisonburg which we have not seen around here. If you have any particular questions, we work with staff on water, sewer, and stormwater management, all of that will be done on the site plan. The traffic we have really worked down on the front end.

Commissioner Armstrong asked are you renting this per bedroom?

Mr. Blackwell said yes ma'am. Regarding the parking, we proffered the 1.35, but we are really closer to 3.4 or 3.5 per unit.

Commissioner Armstrong said you are not actually building 1.3 spaces per unit?

Mr. Blackwell said well, that is the minimum. We had this underground parking and what we are trying to do is have parking close to one per bedroom. Typically, this is what we found college housing kind of needs. There is not always the case we need quite that much but in general, if the kids do not have a parking stall, then they do necessarily like renting because it is rented by the bedrooms. You get the bedroom, and you get your parking. We have a mix of one, two, three, and four bedrooms, but most of them are four.

Chair Finnegan said just a follow up question to Commissioner Armstrong's question about the parking, I mean you have this drawing showing the concentric circles of the one-mile radius. There are a lot of proffers in here about bike lanes, sidewalks...

Mr. Blackwell said well what we find is that kids come when they move off campus, we hope they park their car in this nice parking deck. It is protected, it has card access so the general public cannot go in there. When they want to go to school, we are actually planning in the parking deck bike storage areas that are in the levels in the parking deck for the kids to have their bikes, so that they do not have to take them up to their bedrooms. We are going to have locked storage for their bikes. [What we hope is] that they would ride their bikes or walk to campus and leave their cars in this covered parking deck.

Chair Finnegan said have you considered that there are students that do not have cars and do not want cars and would be willing to pay less for rent if they did not have to pay rent for a parking space?

Mr. Blackwell said yes, the old model for student housing was 1.05 spaces per bedroom. You had one per bed and then .05 for the guest parking. Well, in some of these student housing they are pretty full, but they are not always packed out. We have a commercial area where we need a certain amount, I think it is like 60 or 90. Then our underground parking is about 430 or 440, it has not been final designed. The architect says it could be somewhere between 400 and 440 for the underground parking and we have about 30 or 40 outside. We are pushing almost 500 total. We do not want to have any more than we need to because parking deck parking is expensive, but we want to have as much as we need for our tenants, so there is a balance.

Chair Finnegan said I understand that. I think there may be disagreement about what the word need means. We do not need to agree on that. That is my main question, we are talking 500 parking spaces here the structured spaces, I believe at JMU, we are somewhere around the neighborhood of \$23,000 per space for structured parking and it has probably only gone up since then. So, that gets folded into the cost of rent. I will just leave it at this, I hope that I live to see the day where we see applications for less parking, that there would be options for people who want to live car free and car light and pay less for rent.

Commissioner Washington asked how much per bedroom would you be charging?

Mr. Blackwell said I cannot speak to that. It has to go into the total construction costs and then it has to be rated down to how much per bedroom per month. It has to be competitive or the kids will not come, we have to be in that range. I do not know what the current average is out there per bedroom. For some of the newer nice ones in town it is not cheap. I cannot give you an answer to that.

Vice Mayor Dent said I have a question about the parking garage, are you going to have the infrastructure for EV chargers?

Mr. Blackwell said yes, the owner actually has EV vehicles and that was one of the things right out of the gate he wants to have. We are going to start with 10 overnight chargers but we are already talking with the architect and our electrical engineer to plan for 30 out of the gate with up to 60. As that grows, we need that backbone. We do not want to do 60 right out of the gate and 10 students have electric vehicles. As the need comes, we will just keep adding them.

Vice Mayor Dent said so, you have the infrastructure planned in place to add them?

Mr. Blackwell said yes ma'am. We have not gotten with HEC about the transformers. It does change the whole dynamic of the architect and the electrical engineer will be planning that. We wanted to have some of the student parking be the overnight, I guess there are different tiers. Then we wanted to have a few for the people coming for the commercial.

Vice Mayor Dent said would those be fast chargers?

Mr. Blackwell said coming in off of Bradley Drive, this is a three tiered parking deck. The students will have access to the back entrances, and they are separated from the commercial. We want that so they have a special pass and they have access to the underground parking for them. The commercial will be open to the public. We are looking to have the fast chargers for those. We have looked at and talked a little bit about proffering some solar on the roof but discussing with council and not knowing building design we have not gotten that worked out. But our goal is to have solar to help with the common area and have a fair number of underground EV chargers for the residents and for the commercial. Commercial will be a set amount. The fast chargers I know there is a different, I am not an electrical engineer, power requirement, 480 volts or something.

Lisa Hawkins, Attorney at Hawkins Law, came forward to speak to this request. She said I do not think they would be fast chargers. To be clear, it is my recommendation to the developer that we do not have any specific proffers relating to EV charging stations or solar. You may be aware there are a lot of tax incentives and other programs that are just starting new or getting off of the ground relating to those things and I do not want them to become ineligible because they have already committed to do something. Incentives are to incentivize you to do something and once you promise to do it, there is no reason to give an incentive. So, it was my recommendation that they do not proffer the two, but they are fully committed to making sure that they explore every opportunity to incorporate those as a part of the project.

Vice Mayor Dent said just as an aside, just last night in City Council we approved Harrisonburg to be part of the Virginia C-PACE program.

Ms. Hawkins said I am so excited to hear that. That would create incentive opportunities for developers to do that type of technology. Congratulations on being one of the first communities in Virginia to do that.

Chair Finnegan said I know that you have to go comprehensive site plan and all of these things need to happen but that is a very steep hill behind there. What stormwater...

Mr. Blackwell said we actually have a 45-foot grade change. So, our stormwater there at the bottom where the little creek is there is a City sewer down there, we are going to move the sewer. We had to do that when we built some units at Forest Hills years ago. We are going to take that stream and we are going to pipe it and fill some of that in there and our detention will be underground underneath our parking deck. We will use some of that water for some irrigation, it gets some credits for irrigation and using some of the water. The parking deck is three tiered, the lowest tier is small, the next one is either the same size or a little bigger. Think of the back walls here and Port Road is up here, as you are going up that hill, the parking deck gets bigger as we go. Our parking decks are going to kind of go with the slope to help build us up to this platform up to elevation 1380. The Port Road intersection is about 1385, so our platform deck where our pool and all is, that would be at about 14 feet below the intersection Devon and Port. We are kind of building into the slope. The architect, Mosley Architects, are doing a phenomenal job fitting this building into the site. So, that is why we have those renderings because we were just seeing how it could work, and it is working.

Chair Finnegan asked if there were any more questions for the applicant's representative. Hearing none, he closed the public hearing and opened the request for discussion.

Commissioner Armstrong said I have a lot of notes here, you ready? Now, we are not taking into account some already approved developments, like the development up behind the Food Lion shopping center there, if I recall correctly that was adding another 400 vehicles to Port Republic. There is also a considerable amount of development that has already been approved by the County right across the City line out Port Republic around the Sentara area, they have already done...I do not remember the number, but it impressed me and it was multifamily, it was dense housing. That has already been approved. Those are already vehicles that are going to be coming down Port Republic. It is impossible to turn on the news these days and not see some emergency response person standing in water up to their knees, it is everywhere. Right now, it is in the northeast, all over. It is just catastrophic, and we are going to have a meeting on this on the 19<sup>th</sup> and hear about Virginia specific flooding problems and stormwater management and coastal management. I think it is an incredible disservice to these next generations to be inducing them through cars to gain market share. We want more rentals therefore we will sell you on parking spaces. These are exactly the generation that will very soon, now, will be inheriting unbelievable costs and problems. So, to me it is wrong, it is just wrong. Now, another aspect of this is that when you pave, you are creating impermeable surfaces. So, whatever design feature you build into it to do stormwater management, you are still paving that entire space. You have got your quad in the middle, which will also have pavement to it. 45 feet grade change in elevation, they did the same thing in the development above Food Lion because all of that is going to be paved right above Food Lion and when we get an 11-inch rain in 8 hours, which is happening all over routinely now, it is going to fill Food Lion. This is ludicrous to me to approve this. I will just throw this out there that whenever we look at undeveloped pieces of land, the vegetation that is on it there is kind of a tone of voice, a kind of attitude, that comes in that presents this space as wasted space because it has not been paved over yet, it has not been built on. But I am aware that particularly this summer, more than other summers, there has been enormous stress on the wildlife in this area. We are not even talking about stormwater management here. I have deer who are now browsing my fruit trees down in an urban area because of habitat destruction. So, all of this construction of all of these residential, the wildlife has nowhere to go and they are hungry and they are thirsty. Now, there is a rule in Harrisonburg that you cannot capture and relocate any of this wildlife, but it is cruel to not do some habitat protection and we are not doing any of it. It is just not considered at all. It is like this is just wasted space let us build parking garages on it. I hope people will come to the 19<sup>th</sup> meeting and hear about what is really happening about climate change in this commonwealth. Sooner or later, we are going to get the 11-inch rain in 8 hours. We had Mr. Collins of the water department tell us that we are not ready for that because we cannot afford to be ready for that, it is simply going to flood. I am saying wake up and I will definitely vote against this. I think it is adding yet another 500 cars to Port Republic. I live off of Port Republic and there is only so many cars you can fit onto Port Republic and we are already there. I say vote against this.

Vice Chair Byrd said I have a number of thoughts. I am a proponent of parking garages being below residences or businesses. I think it is weird that in dense areas you have parking separated. If you are going to have parking, I feel it should be under the buildings. A friend of mine might disagree for other reasons that were not mentioned on this board and unlikely will be mentioned

and I do not feel like it is necessary. I tend to be in favor of parking below or above, depending on how you want to design your building. I have no concerns about the parking. Traffic, as people are always concerned about, I have my own personal view about traffic in that the more traffic you have, the more incentive to not drive a car and therefore more incentive to use things like public transportation, bikes, or walking. This is one of those situations of being dense. You have to give people a reason to not do it a thing. The easiest way to make people not do a thing is to make more people closer to each other and one of the things they have to do closer to each other where they do not need a car to do those things. The longer we stay spaced out, the more incentive to have a car. I tend to, when I hear about traffic unless someone is pointing out some major danger, I am never moved by those types of concerns regarding traffic. I look at this property and I go the water argument is a good argument, but the engineer in me also goes the reason why we do not have the funds to deal with any of those problems is because no one takes those problems seriously until it is a real problem and that is just unfortunately how humans behave. New Orleans is built as a bowl to receive water, no thinks about it until all of a sudden, they forgot to build the walls high enough on that bowl and the water goes into the bowl. Humans being silly and not thinking things through is just a thing we have to deal with. If water management cannot figure out how to press that on to the state to let them understand how important that is. If citizens do not press that make sure the State takes it seriously, if the Federal Government takes it seriously. How much money do you think the City has? I do know who wants to increase their taxes even more, everyone was complaining about the high school and we need that because we have students. In light of all of those things, I see no issue with the building. Its footprint, if we approve this, would be what they said it was going to be. Everything else is based on height. I did not hear anyone discussing concerns about height. I would be more likely to be in favor of this application.

Commissioner Armstrong said I can just say that I am an older person and I afraid to ride my bicycle in this City. I would never ride my bicycle on Port Republic Road. Maybe the older you get, the closer you get to going naturally. The idea that intense traffic motivates, I disagree with that. I also know I talked about it, but the staff said they believe that this is a positive result for the community, I disagree. I do not think this per bedroom rental is good for community either.

Commissioner Washington said just to clarify, the location we are talking about is a gas station right now?

Chair Finnegan said it is a non-functioning...is it still a gas station?

Mr. Fletcher said it is still functioning.

Chair Finnegan said it is currently a gas station. The restaurant is not functioning.

Commissioner Washinton said I do think that housing versus gas station, I do not think there is a better use. When we talk about density and having students in a space that is convenient for them is a plus, but when we talk about parking, I do not feel like there is a need for that much parking in a space where students are close to everything. When you look at these photos and when you look at all of things that are proposed, I think of luxury. When you talk about marketing towards students, students are students who, when I asked about price, I do not know how you all were as students but who can afford luxury on a student [budget]. I feel like this is marketed towards a



certain type of student who can afford the convenience to being close to campus. I know we talk about multifamily but renting per bedroom definitely excludes what we talk about as family whether it is students or someone who is struggling to find housing and this would be the only option if there is the option for those folks. I do think it is also a benefit because more housing for students near the University would be less students imposing on affordable housing in the community that needs it right now, but would it be accessible for those students in that space? So, that is my concern.

Chair Finnegan said I agree with many of the points that have been made by Planning Commissioners here tonight. I do think it is too much parking. I will say that there is an entity that is not the City of Harrisonburg and not the developers who could make a decision to do high occupancy vehicle parking on campus and that would shut down the need for a lot of this back and forth that is going to clog up the roads. I do have concerns about that much parking. If this was housing only to Commissioner Washington's point, I would not have a hesitation to say "housing, we need it. It's there with minimal parking." I would not hesitate. I do have hesitation and it does not have to do with students, it does not have to do with density, it has to do cars. To the point about electric vehicles, I do think it is an improvement on gas powered vehicles. An electric vehicle sitting in traffic on Port Republic is a vehicle sitting in traffic on Port Republic. It makes me wonder the more of these that we approve, with all of this parking, it is not about the students, are we incentivizing James Madison University to build another parking deck because that seems to be their response to more students. I came in here thinking that I would be in support of this, but I am on the fence and it is not about the density and it is not about the housing, it is about the parking. I would also say to Vice Chair Byrd's point, the structured parking adds a lot of cost. Surface parking maybe you are looking at \$5,000 to \$10,000. Structured parking you are looking at \$25,000 per space. I am struggling with this one. Any other thoughts?

Vice Mayor Dent asked what is the suggested condition on the special use permit?

Chair Finnegan said this is one that we will need two motions on. Two motions and two votes.

Ms. Dang said it might help if I put it on the screen.

Vice Mayor Dent said well, what is occurring to me is could we add another condition to the special use permit with a lower parking requirement?

Chair Finnegan said if you are asking could we legally do that, yes. When it comes to market if they are trying to sell, I think that would change it for them.

Mr. Fletcher said you do have that ability, if you want to. If somebody is thinking if I am voting for this, I am voting for this with certain conditions, you have the ability to limit the recommendation for approval with additional conditions.

Vice Mayor Dent said they have their proffers for the number of parking but we could add the condition to the special use permit, if we so choose if that really is a blocking issue.

Ms. Dang said with the proffer, the Planning Commission can recommend not accepting that proffer and also recommending a new condition.

Mr. Russ said does the TIA take away consideration for the number of parking spaces? Presumably, if there are no parking spaces there then it is not going to be generating nearly as much traffic as there were a place to park.

Ms. Dang said that is a good point. I do not think the TIA, the way it is modeled, considers that.

Mr. Flether said I know Tom is still with us but I do not think it is the number of parking spaces, it is the generated traffic. The ITE would have broken this down in the number of units. Having nothing to do with the number of parking spaces, correct?

Ms. Dang said let me add, had the proposal had been for no parking spaces or much fewer parking spaces, does a TIA give the ability to do an adjustment later on? If that was hypothetically proposed.

Mr. Hartman said the trip generation is based on dwelling units and within the definition of a dwelling unit based on that use, it gives them some context to parking. If they would have had a development that would have zero parking or something with much less parking than what would be required, I do not know if there would be a specific use code that we could use. Then we would be working through engineering judgement to find what that trip generation factor would have been based on the uses and the limitation of parking. The way we looked at it now, it is based on dwelling units.

Mr. Fletcher said Tom, is there also so when we do these and we are talking about developments that are downtown that we know that they do not have to provide parking and they are telling us the number of units; we have a percentage or the ITE might even recommend a percentage of pedestrian...the trips that you can produce.

Mr. Hartman said not the trip generation manual, but within the, and it is called the VDOT TOSAM, it is a traffic operation's manual that we use to develop Traffic Impact Analysis reports. There are abilities in there for us to reduce the number of trips based on pedestrian facilities, bike facilities, transit facilities, but we have not had a project in the City that has yet qualified for any of those mitigations yet. There is an avenue to do that if we need to.

Chair Finnegan said to Commissioner Armstrong's point about the approvals that have been given for the bottom of Port Republic so that the other side, the Food Lion side, there are two properties there that have been rezoned but have not been built and this in addition...Public Works staff does not have concerns about the amount of traffic that is going to generate on Port Republic, assuming that this gets approved and that those get built.

Mr. Hartman said we in this study, the design year and the build year assumed growth on Port Republic Road and it knew about those other developments. Those growth numbers were in the design and the build year within the study. So, when we interjected these trips into the network, it knew that Port Road had already grown by that that number of volume trips. With the turn lane

recommendations of signalization, they proved that they had mitigated their impact on Port Republic Road, their impact. Port Republic Road is still going to be a busy road for two to three hours a day and we are going to spend millions of dollars on Port Republic Road in the next five years; adding capacity to turn lanes, adding stabilization, and adding sidewalks. They have mitigated their impact based on that design build year growth. We took into account those other developments.

Commissioner Armstrong said Mr. Hartman, that does not take into account development that is right across the City line in the Rockingham approved developments out Port Republic.

Mr. Hartman said well, we assumed not only that the growth from the developments that we approved with the City we also applied a one percent growth per year factor to current volumes. That one percent growth per year is taking into account some of the growth that happens outside of the City limits. We also have to remember that not all of those trips generated outside of the City limits are going to drive on Port Republic Road, some might go to Stone Spring, Reservoir, Neff, Peach Grove or they might go further into the County. We felt comfortable with, taking into account, the TIA that we have approved in that one percent growth rate for that design and build year. That is the standard approach that we take on all of our TIAs. There is only so far down the rabbit hole that we can before we have to have assumptions that this is the best set of information that we have at the point when we do the study.

Vice Chair Byrd said to move things along, I will just make a motion, even though I am in favor of this, to deny to see what happens.

Chair Finnegan said to be clear, you are making a motion...

Vice Chair Byrd said I am making a motion to deny the rezoning.

Commissioner Armstrong seconded the motion.

Commissioner Alsindi said I just wanted to bring to my attention as well as everyone in the hall here that I went back to the vision statement for the City of Harrisonburg in the Comprehensive Plan and it just says "...the City of Harrisonburg presents its vision where citizens are inspired to work together to create a great place to live, to raise a family, to learn, to work and to prosper." When I go to the context, I see different things on both extremes of it. I see a clean place, I see bicycles and I see the word safe, but I also came across the word modernity, a modern city is it. The question is, such a project picking up from it is modern, do we need a modern concept like this on Port Republic Road, which then comes afterward this will be discussed over here. I think it would be incomplete if we just tackle something like public parking, which is a concern to me as I started beginning my discussion on whether this is going to bring a traffic jam to Port Republic Road or not and having the traffic light on Bradley Drive or not. Again, and hopefully this just facilitates more of where we are heading with this, is this a modern concept that is necessary and needed for Port Republic Road than the City itself. Or it is just a business, which is fine, that is going to bring return on investment, which is again fine and understandable, but it is not going to be that added value to Port Republic Road and eventually to the City itself. Let us not just tackle the project itself and take it out of context in the vision of the City. Hence, put it back into the

vision and look at the big picture of the implications and the benefits of such a project there in that place exactly. If it is not this project, would it remain the same? I honestly look at it as something unusual. It is not good it is like a cyst within a body. It looks like nothing, there is nothing over there now, with all due respect.

Chair Finnegan said on the current site there is a gas station and an empty restaurant.

Commissioner Armstrong said I am sorry to interrupt you, but no, it is not a cyst. That is wildlife habitat there.

Chair Finnegan said let us let Commissioner Alsindi finish.

Commissioner Alsindi said from the urban planning point of view generally speaking, I hope it becomes a good cyst eventually. Having nothing there also effects the City eventually. I just wanted to add the point that we need to consider this project within the broader picture of the City and Port Republic eventually.

Chair Finnegan said what is your position on this or is that all you would like to say about it? I do not want to lead you into saying something that you do not want to say. There has been a motion and a second and I want to allow folks to say where they stand.

Commissioner Alsindi said I would say I am more in favor of it. Considering the parking, yes, it is an issue to me, but why not add to the modern city if it is bringing benefit to the City and eventually the community, then yes.

Commissioner Washington said just to go off of what you just said in terms of modernity, I think this is, like when you think about what students want and what students need, I do not think this particular project, just based on what it looks like, really hit home to what students want and what they need at this point. When we talk about sustainability and where we are in the climate, there are a lot more students and a lot more younger people worried about these things. Some things like the pool, the pool is great, the pool is gorgeous, but in terms of where this project comes in... yes, it is dense, but when you talk about what students want and what students need, I do not think students want more parking, but I would love to see more ways to also participate in fixing the issue while providing housing. What would that look like? Maybe natural light or maybe solar panels, I do not know but I would love to...maybe there is some research out there of what JMU students want and what they need. Better public transportation would get rid of cars. They are in walking distance from where they live, work and play and go to school. So, in terms of modernity, I would love to see how that is defined in regards to students and their needs and wants.

Chair Finnegan said [referring to Commissioner Washington] to your point about public transportation, I did want to say that during the Comprehensive Plan process in 2018 Mr. Gatobu from Harrisonburg Public Transit did come and say when JMU opened the main parking decks, the ridership dropped. There is a correlation between being able to take a bus and if it is more convenient to take a car, they take a car. It is a complex problem.

Vice Mayor Dent said from when I was teaching at JMU in technical writing and I gave an assignment for a proposal and every single time they would propose more parking on campus until I finally said no more parking proposals, think outside the box. The most creative I heard was a subway system, not likely. At any rate, they were thinking transit once I said not parking. In any case, that is what they are habituated to and it is an interesting statistic that when they build more parking, the ridership of transportation drops. We are just perpetuating the problem if we keep approving. I mean even if we change a condition to a minimum of one parking space, that is still a minimum, we are not talking maximums yet. I am still in favor of it.

Mr. Fletcher said you can condition the maximum number of parking spaces.

Vice Mayor Dent asked do you want to do that? I mean that takes some math that we are not quite prepared to do on the fly here.

Chair Finnegan said I will say also, we can do something like this. We can change the recommendation to City Council. City Council can strip it out and make it go back to the original. I would like to send a message to City Council that we do not want to see parking forever everywhere.

Vice Mayor Dent said one thing I will add, I do agree with Vice Chair Byrd that I like the parking on the inside then because then you do not have the eye sore and the heat island effect of acres of asphalt with cars on it. It is more cost, but that developer is willing to absorb in order to have that amenity.

Commissioner Armstrong said they may not be absorbing it. That might come out in rent. The term that we have heard repeatedly over the last year is luxury student housing and they are not using it here, but what has happened is the pricing gets compared to the luxury student housing and justify some high prices. It becomes biofeedback for the feedback system.

Chair Finnegan said just as a footnote to that, I will say that there is no legal definition of luxury housing. There are luxury apartments and there are apartments. A new apartment building and a luxury apartment building, I do not know that I would be able to tell the difference between a new one and a luxury one. I think it is in the eye of the beholder.

Commissioner Armstrong said the proposals that have called them luxury student housing, like the one that is on University [Boulevard] in the theatre parking lot, they had some definitions for that. It is a cultural term, it is not a business term.

Chair Finnegan clarified that the development was called Armada-Hoffler.

Commissioner Baugh said I do not know what I am going to contribute to this, but I am mindful as I listen to this it is sort of a couple of points and a couple of things that we are not talking about. I would like to feel more comfortable with how it is getting worked into our thinking. I have three different things here. One of them will just pick up on what we were just talking about. I apologize to anyone who thinks I am stating the obvious or heard me say some of these things so many times over the years that they do not want to hear them again. I really think a lot of what this discussion

is exposing is what really has been the central driver dynamic for housing in this community for as long as anyone can remember. It is certainly top five, probably top three, and yet we are still kind of talking around it. I think maybe in some respects...even I kind of came in here this evening not really focusing on how significant this potential development is in the greater scheme of things and what I come back to is really the points from Commissioner Washington. When you start thinking about who is this for? This is not rocket science. If you have been in this community. This type of housing for this segment of the market is in fact the type of housing that this community has built for 25 years. Why is that the case? Because it is where the money is. The way we have always answered the question that you asked is we have sort of lucked into for a long time not having to answer that question because the driver for this type of housing...We are in this weird section and now suddenly we have an under supply of housing. Now we have an overlay of we sort of need housing in general and that influences the debate here, but historically, we have built this type of housing periodically. Even now nobody is saying we have to build this because JMU enrollment is increasing. That is not why you are building it, it is not driven by that at all. Now, it has the effect of freeing up housing at other zones of the market, which is where the students who are looking for "I cannot afford it, or I just like to save the money" to try to find a place to live. We do not build that housing directly, but we have managed to get enough over the years because we have approved these types of projects periodically throughout generations. To the extent it ties into our visions. What is really our vision? We have always had spirited debates about that and we can grab people at random to have debates with.

Vice Mayor Dent said a City for all.

Commissioner Baugh said yeah. What I have also found frustrating over the years is we have these spirited debates and this ends up being the elephant in the room, but you have these market factors in this community that the energy and the creativity at least of the sort of the development community is always going for this type of project. I do not know if I have the answer for it, but I do think we certainly should be focused on it. It kind of...that is just it, there are a lot of moving parts to this. One of them, I think, is that the root is so much of the talking that we do about our planning and our vision and everything does not ever focus... but then these developments come up and we just have these siloed debates about them. Some of them we approve and occasionally we do not approve them. But are not doing it in this sort of appreciation for what really is our vision long term and how are we going to influence things. Which, by the way, nice that we can get good things from staff from time to time but that is not primarily their job description. One of the things that I think that was missed when you talk about traffic a lot of the times is how much we have good people, but their job description is more about trying to make work whatever the decision makers plan. Not be the decision makers themselves and not be the policy makers. We cannot rely on them, and we sure as heck should not blame them, if we are not getting what we want. Who do you look to? You look to the elected officials; you look to a body like this that is specifically created to vet things and assist the elected officials in this. I am going to talk out of the other side of my mouth a little bit and mention how on the other hand over the years I have tended to be critical of people who have wanted to come up with standards on the fly. Really, that is sort of specific to the project that we have and it is like when are we going to try to get our brains around this whole thing at one time. I have said a lot, I do not know if it meant anything. The other thing that I do not think has come up in the debate yet other than peripherally and it is what kind of hit me in your comments Mr. Alsindi as I am sitting there going "why am I not ready to just go

all in with what you are saying”, there is something holding me back here. The fact that we are having a debate and discussion of this yes, that is good. The thing that, again, I have often been the shmuck bringing this up when people got to talking about other things is that unfortunately given constraints, including legal ones, the fair comparison here is probably not what we have always wanted to do which is...Commissioner Armstrong you have got me. Your points about habitat are really taken. We have no mechanism to preserve habitat for this. It currently has a zoning on it that is currently planned for some sort of mixed use development, which is what this looks like. The actual comparison is not the empty land versus what is proposed, it is what could be there of right as what is proposed. I will say this, if we do want to entertain the view of a maximum of parking, I think we should table it. The worst thing we would do would try to come up with a number on the fly. In that case we should table it. If there is a majority that is there, I would definitely be an advocate of not trying to just horse trade and come up with a number now. It is something that conceptually has come into the discussion. I may not be the only one up here thinking like this. I do not think I am so firm in my thinking that I think it is impossible that somebody can say something and change my mind. In light of that point that I am making of remember to make the comparison between what could go there by right and what is proposed. Are you saying no because you think Council is going to go create some habitat protection rules anytime soon?

Chair Finnegan asked for private property?

Commissioner Baugh said yeah.

Commissioner Armstrong said for the rezoning. I want to make this quick, Mr. Collins of the water department, I want to clarify, I did back and forth with him a bit and what he was saying is that we cannot put enough underground infrastructure to accommodate these extreme weather events. We cannot afford that, it is impractical. What did not ever get said is if we do different land management then we can accommodate a lot of this extreme weather, but we are not doing it. This is not just about habitat protection, it is also about trying to use our land to prevent flooding catastrophe in the City, which the City is prone to.

Chair Finnegan said the reason why this discussion is going the way this is going is because Planning Commission reacts to requests on a case by case basis and we are having discussions that have to do with the big picture, which I think is our job. There is not agreement and there does not have to be agreement, but I will ask staff, can you give some examples of what can be built by right in B-2C? I hate to put you on the spot. If someone wanted to not come before this body and just bypass this entirely and not change the zoning with the proffers that are currently attached, what can be built by right on this property?

Ms. Dang said the piece of information I do not have is between 2008 until today what additional gross square footage of leasable area has been added. Whatever was existing at that time, I believe the proffers from 2008 says “you get that square footage plus you can add another 10,000 square feet of gross leasable area” The proffers in 2008 did not speak to prohibiting uses except for those uses that are vehicle sales, vehicle repairs, things like that. In effect, you could have in whatever the building of 2008 plus additional 10,000 square feet you get to have by right; fast food, coffee

shop, movie theater, basically any of the typical B-2 uses that you can think of except for the vehicle type of uses. Think of things on East Market Street.

Chair Finnegan said I am not disagreeing with Commissioner Armstrong about impervious surface, but I do have a question about the same square footage of impervious surface could be filled up by right with a Starbucks, a McDonalds or whatever.

Ms. Dang said they also could pave the whole property. There is nothing that restricts them from doing that except for the fact that they would have to do stormwater management.

Mr. Fletcher said what Thanh is saying is that you can have a parking lot. They could lease a parking lot. They can build a parking deck. They would just have to comply with parking lot landscaping regulations and stormwater management regulations. Of course, during construction erosion and sediment control, provide water and sewer, do all of those things. Thanh answered that very well about the existing proffers because I cannot even remember exactly how big the existing building was in 2008.

Vice Chair Byrd called the question.

Chair Finnegan said the motion on the table is to deny the rezoning request as submitted, flat denial. I will just say this, I am not trying to delay this any further, but you did say should we table it and I do think that does further delay the project when we table it. Knowing that City Council is probably going to see this differently, I would like to send a message to City Council that, speaking for myself, I do not have a problem with 440 bedrooms, but I do have a problem with 500 parking spaces. I will probably vote in favor of denial.

Ms. Dang said when you do the roll call, just to remind everybody, if the vote is yes, you are voting to deny it.

Commissioner Armstrong	Aye
Commissioner Baugh	Aye
Vice Chair Byrd	No
Vice Mayor Dent	No
Commissioner Alsindi	No
Commissioner Washington	No
Chair Finnegan	Aye

The motion to recommend denial of the rezoning request failed (3-4).

Vice Chair Byrd said I would like to make a motion to approve the rezoning. The rezoning, does that include the proffers?

Ms. Dang said the rezoning would include all the proffers that the applicant has offered. When you make the next vote, the special use permit, you would consider staff's recommended condition.

Vice Chair Byrd asked or added condition?



Mr. Fletcher confirmed, or any added condition.

Vice Mayor Dent seconded the motion.

Commissioner Armstrong	No
Commissioner Baugh	No
Vice Chair Byrd	Aye
Vice Mayor Dent	Aye
Commissioner Alsindi	Aye
Commissioner Washington	Aye
Chair Finnegan	No

The motion to recommend approval of the rezoning request passed (4-3).

Vice Chair Byrd said I will make a motion to approve the special use request with the suggested condition.

Vice Mayor Dent seconded the motion. She also asked we are going to leave the condition at just that?

Chair Finnegan said I agree with Commissioner Baugh that to do this kind of stuff on the fly after the applicant and staff have been working on this for months, I would not like to do that.

Vice Mayor Dent said I will keep that in mind for the zoning rewrite.

Vice Chair Byrd said in line with that spirit, I would like to send a message to the City Council that if they felt a need to consider a maximum on that condition, I have no issue with a maximum. I just felt that we should move this along.

Chair Finnegan said just a heads up, I am probably going to vote in the affirmative on this, I am not changing my mind on the parking. This is for the special use permit.

Mr. Fletcher said I want to make sure the Commission is aware of this when you said that staff and the applicant have been working on it for a very long time, it does not offend staff if you table something for us to continue to work with the applicant. It does not offend us at all. We want to do what it is best in serving the Commission and the public, but it is not out of the ordinary that if somebody wanted to table it that you can then have us continue to work with the applicant and have them even present to is there a maximum number that makes sense to you and then they can then present that number to you at the next available opportunity and then you can continue to take that into consideration. I would have been remised to not say that, I just wanted to make sure you were aware of those things.

Chair Finnegan said I appreciate that, I just do not trust myself to do that kind of math and we do not have the data in front of us.

Mr. Fletcher said you would table it and give us the opportunity with more time to go back with the applicant over the next couple of weeks.

Commissioner Baugh said that was what I was suggesting. Not to do it generally. Although we made the point, somebody tell me what I am missing because I think maybe I am in the same place as the Chair again. We have sort of stated concerns. I think I am overstating this when I say I am solely about the parking where you said you were but that is a big driver for me on this. But the special use permit is about the mixed use aspect, I do not have an objection to that.

Chair Finnegan said Vice Mayor Dent when you are explaining this to City Council why the votes are mixed up like this, you can say at least for the people voting yes to the special use permit that voted no to the rezoning, it had to do with parking, not with the land use.

Vice Mayor Dent said in your case.

Chair Finnegan said in my case, I will speak for myself.

Commissioner Baugh said I agree with Commissioner Armstrong, it is broader than that if you talk about all three of us that voted against it. The special use permit is about should these guys get the residential in the B-2.

Commissioner Armstrong said if this were a by right building as described by Ms. Dang, I would support it. The by right would actually add more to the community of this area than creating these multifamily dwellings. I am going to vote against this one also for the reason that the by right is more positive than this.

Chair Finnegan said you are saying a McDonalds and a Starbucks or whatever, the businesses are a better use even if they take up the same amount of impermeable surface.

Commissioner Armstrong said well it is complicated. They may or may not take up the same amount. They are certainly not going to be generating the kind of traffic that target a JMU student population with everything, it would be more intermittent.

Commissioner Baugh said I respectfully disagree. I am probably not going to vote with you on this one and I am just going to throw in one of these historical observations which is we have said in our planning, and some of us have fought for this and at times fought hard against the alternative. Yes, there are pros and cons of it, but this is the right location for JMU housing, that is the right spot. I think I do agree some sort of student housing there is better than commercial that is not tied into supporting the student community who want to live there. The alternative, which we have at this juncture, fought somewhat successfully but was not say the case 15 years ago of getting these proposals on the other side of town. Part of what we have done is that if we are going to have it, this is where we want to have it, it makes sense. Because among other things the demands on the infrastructure... You talk about how we are going to deal with moving people when you are in that proximity to JMU. When they are spread out in large complexes over in town you have people here who have Charlottesville backgrounds, it is a whole different set of issues. We were at least in the position that as JMU grew, there was undeveloped or redevelopable property in the

immediate proximity so we could do that. I went to a football game in Charlottesville last weekend and listened to these people complain about parking at Scott's Stadium and thinking you have obviously never been to a game at Scott's Stadium before. It was exactly the way it is because of the way everything is configured including the fact that it is difficult for the non-campus student housing...it is not even right there next to the University.

Commissioner Armstrong	No
Commissioner Baugh	Aye
Vice Chair Byrd	Aye
Vice Mayor Dent	Aye
Commissioner Alsindi	Aye
Commissioner Washington	No
Chair Finnegan	Aye

The motion to recommend approval of the special use permit request passed (5-2).

The recommendations for the rezoning and special use permit will move forward to City Council on October 10, 2023.

Commissioner Washington [on why she voted no] said we talked about the condition about a parking maximum in which we are not going to do on the fly today. Also, while we talk about sustainability and the climbing prices, I do not think it is fair for us to pit the environment versus housing because there are still so many folks who need housing which is also a part of the climbing prices. As we talk about students really imposing on all of the other affordable housing in the City, I do think that we need housing, but I am not in love with this structure.

Commissioner Baugh said Madame Vice Mayor your job is to affirm to them that when one of them starts talking about we do not know, we do not think they discussed it at least say yeah whatever we did, we talk about it a lot.