

MINUTES OF HARRISONBURG PLANNING COMMISSION

December 13, 2023

The Harrisonburg Planning Commission held its regular meeting on Wednesday, December 13, 2023, at 6:00 p.m. in the City Council Chambers, 409 South Main Street.

Members present: Chair Brent Finnegan; Heja Alsindi; Vice Chair Adriel Byrd; Dr. Donna Armstrong; Richard Baugh; and Vice Mayor Laura Dent. Valerie Washington arrived late.

Also present: Adam Fletcher, Director of Community Development; Thanh Dang, Deputy Director of Community Development; Wesley Russ, Deputy City Attorney; Meg Rupkey, Planner; and Anastasia Auguste, Administrative Specialist/Secretary.

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

Chair Finnegan asked if there were any corrections, comments or a motion regarding the October 11, 2023 Planning Commission minutes.

Vice Chair Byrd moved to approve the November 8, 2023 Planning Commission meeting minutes.

Commissioner Baugh seconded the motion.

The motion to approve the November 8, 2023 Planning Commission minutes passed (7-0).

New Business – Public Hearings

Consider a request from Richard Germroth and Alexandra Vilela to rezone 1182 Nelson Drive

Chair Finnegan read the request and asked staff to review.

Ms. Rupkey said on June 6, 2023, the applicant submitted a minor subdivision for a boundary line adjustment associated with tax map parcels 83-B-6 and 16 (1182 Nelson Drive) and tax map 83-B-5 (1184 Nelson Drive). The owner of 1184 Nelson Drive unknowingly built a section of their driveway over the property line and onto their neighbor's property. The intent of the minor subdivision was to enlarge tax map parcel 83-B-5 by adjusting the property boundary with tax map 83-B-16 so the driveway did not encroach the property line. However, the proposed subdivision did not comply with the R-1 dimensional lot width regulations, which requires new lots to have 80 feet of lot width. This is because tax map 83-B-16 is currently a nonconforming lot, where its width is 50 feet and the proposed subdivision intended to reduce that width to 37.5 feet measured at the required setback line. Staff cannot approve a subdivision that decreases the lot width of a parcel that is already nonconforming to the required lot width.

While staff proposed other solutions that would have allowed the minor subdivision to proceed, the proposed solutions did not meet the desired outcome of the two parties, thus they chose to move forward with the proposed rezoning.

The applicant is requesting to rezone tax map parcel 83-B-16 and a +/- 7,438-square-foot portion of tax map 83-B-6 from R-1, Single Family Residential District to R-8C, Small Lot Residential District Conditional. The residual +/- 1,062-square foot portion of tax map 83-B-6 would remain zoned R-1 as the intent is to subdivide this parcel by transferring that square footage to the adjacent neighbor's property identified as tax map 83-B-5 so that their driveway would not encroach property boundaries.

By rezoning the identified area to R-8, the aforementioned proposed minor subdivision can be approved because the R-8 district's minimum lot width requirement for single-family detached dwelling lots is only 35-feet.

Proffers

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

- More than one dwelling is prohibited.

Regarding the proffer, in the R-8 district, single-family detached homes and duplexes are allowed by right so long as, among other things, lot area and dimensional requirements are met. The submitted proffer prevents more than a single unit within the R-8-zoned area.

Land Use

The Comprehensive Plan designates this site as Low Density Residential and states:

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.

With the submitted proffer, use and density conforms with the Low Density Residential designation. Know also that the R-8 district's occupancy regulations are the same as the existing R-1 district's occupancy regulations, which allow owner-occupied dwellings to be occupied by a family plus two individuals or a maximum of three individuals while nonowner-occupied dwellings may be occupied by a family plus one individual or a maximum of two individuals.

Transportation and Traffic

A traffic impact analysis (TIA) was not required for the rezoning request.

Public Water and Sanitary Sewer

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

Housing Study

Rezoning this property to R-8 will not impact housing because the property currently has one single-family detached dwelling, and the proffer restricts the property to having only one dwelling unit.

Public Schools

Rezoning this property to R-8 with the submitted proffer will not change the estimated student generation for the property.

Recommendation

Staff recommends approval of the request.

Chair Finnegan asked is the driveway moving?

Ms. Rupkey said the driveway would stay in the same location. The property line would move to the other side of the driveway so it would all be on the neighboring property.

Chair Finnegan said the driveway itself is not being relocated?

Ms. Rupkey said correct.

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.

Richard Germroth, the applicant, came forward regarding this request. He said my thanks to Adam Fletcher, Thanh Dang and Meghan Rupkey for coming out, well two of them, and putting eyeballs on what we are trying to do. Essentially, if you stand where the line is and put your arm out you are touching 1184's [Nelson Drive] mailbox and looking kind of into about a third of their house, it is just a kind of funny configuration. So, we thought 12 and a half feet does the job, that would open up the parking area. We have no intentions whatsoever of developing the property and just move to kind of realign things. It goes from 12 and a half feet down to zero as the driveway widens.

Vice Mayor Dent said not exactly a question, but I was amused to see the driveway portion and the house portion are two separate properties.

Mr. Germeroth said yes, to our surprise to be honest with you. We were not at all aware of that but they were at that time. I do not know if they are becoming one property at this point or not. If they stay what they are that is fine as well. What occurs is that when you enter the driveway, you are in the upper left hand corner of the property and when you exit toward the side load garage, you are in the...you go from the upper left corner to the bottom right corner. The driveway just works that way so you can get into the garage.

Vice Mayor Dent said I guess that is a question for staff, does it become one property? Are they merged or are they still two separate zonings?

Ms. Rupkey said it would be for the large lot in the back and the front lot is what the request is for and their proposed subdivision merges the larger lot and the smaller lot into one lot while also giving about 12 and a half feet to the other neighbor.

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.

Commissioner Baugh said I guess in the course of updating the Zoning Ordinance and the Comprehensive Plan amendments that will be up for us, are we giving any thought to...I mean as we see more of these R-8s and we know why we are seeing the R-8s, the R-8s are not really for why we thought we were creating R-8 it just created some flexibility that we are finding very useful and take advantage of. I recognize that...I know we are going to try to deal with that. I guess my question is maybe more on the lines of are there going to be any limits to conversion of R-1 to R-8? Any thoughts about that?

Mr. Fletcher said I am not sure I understand the question. What do you mean?

Commissioner Baugh said I guess, in theory, if you just look at a zoning map if we approve this, it looks like a spot zoning. Now, we know why we are comfortable with it but I guess are we okay with anybody in town with R-1 property converting to R-8?

Mr. Fletcher said well, that is a huge question, right? Because even in the draft regulations, correct me anyone, I believe our lowest density regulations are much less than what it is today.

Ms. Dang said meaning less than R-1, not less than R-8.

Mr. Fletcher said increased density and lower square footage requirements when you create it. So, the question that is a powerful question really.

Commissioner Baugh said that is why I said we are not going to take it up tonight but stick it in the back of our minds.

Mr. Fletcher said would one be comfortable in saying "every R-1 lot becomes R-8?" I am sure that there are people out there that would not like that idea.

Commissioner Baugh said but even without going that far...

Mr. Fletcher said I am not saying that staff does not like the idea, I am just saying that there could be opinions that they would not like that.

Commissioner Baugh said and I am not really expressing opinion on it. I was wondering if that was something that might be something for us to go through.

Chair Finnegan said I do have a follow up question to Commissioner Baugh's question which is, have any of these R-8's actually been R-8 or are they R-8 conditional.

Mr. Fletcher said well, let us pause there for a second. The lots that are on Virginia Avenue are R-8 conditional, those are the Habitat For Humanity ones I believe. You have got to remember that when you do not proactively rezone properties when you create a new zoning district, you actually do not get many un-proffered rezonings. It is the same thing that happened with R-5. I can think of one parcel and it will probably will never be developed at this point; I should never say never. There is a parcel that is R-5 that is off of Hunter's Road that I think was a straight R-5 property, it is a very unusually shaped property and in fact now JMU might own it. It just does not happen a lot but it can. I would just caution us for making a broad statement about that predicament that you are seeing.

Ms. Dang said I would say maybe what you are recalling are these recent one parcel rezonings from R-1 to something [R-8] have been a conditional rezonings where we are prohibiting additional dwelling units... not always. I am thinking of Clay Street recently, we rezoned that one to allow them to build one additional single-family home, but they have been pretty restrictive, it has not been a straight R-8.

Mr. Fletcher said you are right, R-8 has been used in ways that we did not anticipate, but if we were in a situation where we thought it was causing concern, you would not get a recommendation for approval from us. You also have to remind yourself that if R-8 did not exist, all the things that people have asked for would have been told no. They would not have been able to, like on Northglen and Hearthstone, keep their covered porch. These are things that are low impact.

Commissioner Baugh said there was one, I want to say East Rock Street, we did over there, was that conditional?

Ms. Dang said East Gay Street?

Commissioner Baugh said was there a condition on that too? That is the one that I am thinking about that seemed like the actual R-8 for what we thought R-8 was going to be.

Ms. Dang said that is correct. I even think Mr. Fletcher's Virginia Avenue example, I think the proffer might have been related to no entrances close to the intersection not about density or the type of dwellings. I do not think we had a condition on the East Gay Street one.

Commissioner Baugh said it is also the exception that proves the rule here because of the points well taken.

Chair Finnegan said I think there is a distinction between people whose existing properties they want to do something different with versus land where there currently is not a structure or a structure that gets demolished. It does feel like these are different.

Commissioner Baugh said I just thought I would throw that out there for down the road while I was thinking about it.

Chair Finnegan said it is a can of worms and we could put the lid back on it.

Commissioner Baugh said with that, I will move to approve the rezoning as presented.

Vice Mayor Dent seconded the motion.

Chair Finnegan called for a roll call vote.

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| Commissioner Armstrong | Aye |
| Commissioner Baugh | Aye |
| Vice Chair Byrd | Aye |
| Vice Mayor Dent | Aye |
| Commissioner Alsindi | 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 January 9, 2024.

Consider a request from Daniel R. and Naomi R. Shenk, Harrisonburg Cohousing LLC, and Brenda G. Castello & Ted A. Morris to amend the Comprehensive Plan's Land Use Guide map for properties addressed as 640, 650, 660, 670, 680, 690, 700, 710, 730 Kezletown Road

Consider a request from Daniel R. and Naomi R. Shenk, Harrisonburg Cohousing LLC, and Brenda G. Castello & Ted A. Morris to rezone 1816, 1820 Country Club Road, 640, 650, 660, 670, 680, 690, 700, 710, 730 Kezletown Road

Consider a request from Daniel R. and Naomi R. Shenk, Harrisonburg Cohousing LLC, and Brenda G. Castello & Ted A. Morris for a special use permit to allow attached townhomes of not more than eight (8) units at 1816, 1820 Country Club Road, 640, 650, 660, 670, 680, 690, 700, 710 & 730 Kezletown Road

Chair Finnegan read the request and asked staff to review.

Ms. Dang said before getting into the details of the report, know that since Friday when the report was published, the applicant has updated their proffer letter by adding three new proffers, and removing one proffer. With these changes, staff is recommending approval of all three requests.

With regard to the existing R-3C-zoned property, in August 1994, City Council approved the rezoning of +/- 3.04-acres identified today as tax map parcel 72-B-4 (1820 Country Club Road) from R-1, Single Family Residential District to R-3C, Multiple Dwelling Residential District Conditional. The existing, regulating proffers, include (written verbatim):

1. The property shall not be used for any of the following uses which are otherwise permissible in the R-3 zone under the Harrisonburg Zoning Ordinance:
 - (a) Multiple family buildings or townhouses

- (b) College or university buildings and functions, including fraternities and sororities.
- (c) Hospitals, convalescent or nursing homes, or funeral homes
- (d) Charitable or benevolent institutions.

With regard to the existing R-7-zoned property, in March 2020, City Council approved the rezoning of +/- 5.5-acres addressed as 640, 650, 660, 970, 680, 690, 700, and 710 Keezeltown Road and identified as tax map parcel 72-B-6 from R-1, Single Family Residential District to R-7, Medium Density Mixed Residential Planned Community District. The project for this site was known as Juniper Hill Commons and the R-7 zoning requires the community to be developed under an approved master plan that incorporates regulatory text for the community. Aside from particular provisions of the Zoning Ordinance (ZO) that must be met, an R-7-approved master plan is the “zoning” by which development must abide. In other words, the Juniper Hill Commons Master Plan regulates the type of development and where it can occur on this parcel. The developers of Juniper Hill Commons planned to construct 28 dwelling units including eight multi-family (apartment) units, 15 townhouse units, two duplex structures (four units), and one single-family detached dwelling. The maximum allowed density allowed by Juniper Hill Commons is six units per acre.

The applicant has submitted three applications that are associated with portions or the entirety of three parcels addressed as 1816 and 1820 Country Club Road and 640, 650, 660, 670, 680, 690, 700, 710 & 730 Keezeltown Road. The first application is to amend the Comprehensive Plan’s Land Use Guide map, specifically to amend +/- 9.3-acres of land from the Low Density Mixed Residential to Medium Density Residential. The second is to rezone +/- 11.63-acres from R-3C, Medium Density Residential District and R-7, Medium Density Mixed Residential Planned Community District to R-5C, High Density Residential District Conditional and to R-8C, Small Lot Residential District Conditional. The third application is for a special use permit (SUP) to allow attached townhomes of not more than eight (8) units in the R-8C zoned areas. If the requests are approved, the applicant plans to construct 57 townhomes, 54 multi-family dwelling units, and one single-family detached dwelling. One of the existing single-family detached dwellings on the property would remain.

If the requests 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 the Design and Construction Standards Manual (DCSM) that might be needed to build the project. These matters should be considered when making a recommendation for this project as approving the rezoning could be perceived as also providing an endorsement for the variances that would be requested during the platting phase.

Vice Mayor Dent said one question about changing the map, I noticed that it was Low Density Mixed Residential, but they are talking about Medium Density Residential and dropping the mixed.

Ms. Dang said that is correct.

Vice Mayor Dent said I would probably prefer keeping the mixed in there to keep the option open for mixed retail or services in with the residential for the area as a whole even if it is not needed for this particular development.

Ms. Dang said in talking with the applicant, we talked about both of the Medium Density Residential versus Medium Density Mixed Residential. If I recall correctly the Medium Density Mixed Residential has a higher density allowed along with the fact that they were not proposing any commercial uses, we thought that the lower density of the Medium Density Residential was more fitting for this particular situation. I understand your point too.

Vice Mayor Dent said especially with the point of a catalyst to discuss adjacent properties, I think we might want to keep some of the mixed buffer areas.

Ms. Dang continued the presentation.

Proffers

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

1. Construct Public Street 1 from Country Club Rd to the eastern boundary of the development to provide connectivity for future development of City parcel TM# 70-A-1.
2. Construct Public Street 2 from Keezletown Rd to intersect the proposed Public Street 1.
3. A shared-use path along Public Street 1 will be installed to extend from Country Club Rd to the eastern boundary of the development. The shared-use path outside of the Public Street 1 right-of-way will be located within a 20 feet shared-use path easement.
4. The two large (approx. 50 ft tall) oak trees close to Country Club Road as shown on the Tuscan Village Conceptual Layout, and as located by a field survey; will be protected and preserved by the developer. In the event of the loss of one or both trees, during, or after construction is completed; the property owner will replace each tree with two 15 ft or taller (height at time of planting) deciduous trees.
5. Multi-family units within the R-5 district may be occupied by a single family or no more than two (2) unrelated persons.
6. Multi-family units within the R-5 district shall provide 1 parking space per dwelling unit with one bedroom and/or 1.5 parking spaces per dwelling unit with two or more bedrooms.
7. Ten (10) deciduous trees, no less than 6 feet in height at the time of planting, will be planted along the two proposed public streets, in addition to the trees required by the parking lot landscaping requirements of the zoning ordinance.
8. A playground area, no less than 1,800 sf in size, will be provided within the development.
9. The proposed multifamily buildings will be limited to 3-stories, and will not exceed 45 ft in height.
10. 28 feet and 36 feet of right-of-way will be dedicated from the center of the existing Keezletown Rd and Country Club Rd respectively. Additionally, a 15 feet temporary construction easements will be provided for the City's future roadway widening for both roadways.
11. The R-5C zoned area of the development shall not exceed 56 dwelling units.

12. The R-8-zoned areas of the development shall not exceed 62 dwelling units.
13. Dwelling units in the R-5 zoned area shall be two-bedroom, one-bedroom, or efficiency units only.

Between publication of the Planning Commission staff reports and the Planning Commission public hearing, the applicant submitted a new proffer letter that removed a previous proffer (numbered 4) which read “Public Streets 1 and 2 shall be constructed prior to issuance of any building permits north of Public Street 1.” The applicant removed this proffer because the proffer was more restrictive than they intended. Without the proffer, future plating and construction of the public streets will follow the City’s typical process.

The new proffer letter also included three new proffers numbered 11, 12, and 13.

The conceptual site layout is not proffered. For individuals who opened the application and supporting documents that were posted online, the correct conceptual layout is on page 10 of the PDF document. There was a mistake including an old conceptual layout at the end of the PDF; that layout is obsolete and is not part of the applicant’s supporting documentation.

While most of the remaining proffers are self-explanatory, staff offers additional information on Proffers 11 and 12 in the Land Use section of this report and Proffers 1, 2, 3, and 10 in the Transportation and Traffic section of this report.

Land Use

The applicant is requesting to amend the Comprehensive Plan’s Land Use Guide (LUG) map, specifically to amend +/- 9.61-acres of land identified as tax map parcels 72-B-6 and 7 that are addressed from Keezletown Road from Low Density Mixed Residential to Medium Density Residential. The remaining +/- 3.04-acres addressed from Country Club Road is designated as Mixed Use and no change to the LUG map designation is requested for that area.

The Comprehensive Plan describes the Low density Mixed Residential, Medium Density Residential, and Mixed Use designations 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.

Medium Density Residential

These 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.

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 proposed LUG change from Low Density Residential to Medium Density Residential forces the conversation about dwelling unit types and density for this specific area. In analyzing this matter, note that the +/- 3.04-acre area of the subject property that is designated Mixed Use—located to the west of proposed LUG amendment area—anticipates many different residential housing types at around 24 dwelling units per acre while also planning for nonresidential uses. The differences between the types of housing and density anticipated within the existing and proposed LUG change is that Low Density Residential focuses more on providing single family detached

dwelling, where in special circumstances duplexes could be appropriate with density around seven units per acre. The Medium Density Residential designation focuses on promoting single family detached units, duplexes, townhomes, and, in special circumstances, allowing multi-family units. Density is planned for around 15 units per acre, which is more than the Low Density Residential Designation, by lower than the adjacent Mixed Use Designation.

Given that much of the subject area is undeveloped, and that much of the adjacent property to the east is undeveloped, and provided that the City's Comprehensive Housing Assessment and Market Study suggested to increase density throughout the City, staff is comfortable recommending approval of the LUG change for this area. Changing the LUG could either serve as a good transitional area from the Mixed Use designation along Country Club Road or serve as a catalyst to discuss other LUG changes for the remainder of the adjacent undeveloped area.

As noted previously, prior to the Planning Commission public hearing, the applicant submitted a new proffer letter that added Proffers 11 and 12. Proffer 11 would restrict the R-5 area of the development to not exceed 56 dwelling units, which would allow up to 11.84 units per acre. Proffer 12 would restrict the R-8 area of the development to not exceed 62 dwelling units, which would allow up to 8.99 units per acre. Both densities are below the planned density for Medium Density Residential and Mixed Use areas.

Transportation and Traffic

The Determination of Need for a Traffic Impact Analysis (TIA) form ("TIA determination form") for the proposed rezoning is attached. The TIA determination form indicated that the project would not generate 100 or more new peak hour trips, which is the threshold for staff to require a TIA.

Proffers 1 and 2 address the construction of proposed Public Streets 1 and 2, specifically that the two streets shall be constructed prior to issuance of any building permits north of Public Street 1. City standards require that all new public streets be constructed with sidewalk on both sides of the street unless a Subdivision Ordinance and Design and Construction Standards Manual (DCSM) variance is approved by City Council providing a specific deviation to this requirement. With Proffer 3, the applicant is committing to construct a shared use path along the entire length of Public Street 1, which would be in lieu of a sidewalk on that side. Additionally, the conceptual layout illustrates there will be no sidewalks on the north side of Public Street 1 adjacent to tax map parcel 72-B-1. The applicant intends to request a Subdivision Ordinance and DCSM variance during the preliminary platting phase of the project.

With Proffer 10, the applicant has committed to dedicating land for public street right-of-way and temporary construction easements along both Country Club Road and Keezletown Road for future street improvements by the City.

Public Water and Sanitary Sewer

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

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." The Housing Study also notes that "[m]arket 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.

Public Schools

The student generation attributed to the proposed 57 townhome units, 54 multifamily dwelling units, and one single family detached dwelling unit is estimated to be 60 students. Based on the School Board's current adopted attendance boundaries, Smithland Elementary School, Skyline Middle School, and Rocktown 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.

Recommendation

As previously stated, prior to receiving the applicant's new proffer letter, staff had recommended denial of the rezoning to R-5. Additionally, with the SUP to allow townhomes in R-8, staff had recommended a condition to control the density of the area. With the new proffers 11 and 12, staff rescinds the recommended SUP condition to control density in R-5 because the applicant's proffer will control density.

Staff recommends approval of all three requests – (1) the Comprehensive Plan LUG map amendment from Low Density Mixed Residential to Medium Density Residential, (2) rezoning to R-5 and R-8, and (3) the SUP to allow townhomes in R-8.

Furthermore, staff is comfortable recommending approval of the SUP condition to extend the approval from 12 months to 24 months as requested by the applicant. As identified by Section 10-3-130 (c) of the ZO, unless City Council specifically grants a time period for which the SUP must be established, the default time period is 12 months. Staff believes the additional time is appropriate for this project.

At this time Commissioner Washington arrived.

Chair Finnegan asked if there were any questions for staff.

Commissioner Armstrong said Public Street 1 is how many lanes?

Ms. Dang said it would be a two lane street.

Commissioner Armstrong said it looks like from this conceptual layout that the highest density is to the north of that street, right?

Ms. Dang said yes. Well actually, density in terms of units? I would have to calculate the apartments to answer that question accurately.

Commissioner Armstrong said there is a high density and that is the side that has no sidewalk.

Ms. Dang said they are proposing that to be a private street and they are illustrating a sidewalk on one side of the street.

Commissioner Armstrong said not on the private street I am talking about Public Street 1.

Ms. Dang said if this were to get approved and there is a preliminary plat request, a variance would also be requested to allow sidewalk on just one side of the public street would be from [referencing the site plan map] this point to Country Club Road. The portion that I think you were concerned about where the townhomes are, they do plan to have sidewalks over there. Staff would want that.

Commissioner Armstrong said not on Public Street 1, that was only on the south side of Public Street 1 that there is a sidewalk.

Mr. Fletcher said that is a shared use path on the south side of Public Street 1. Typical five-foot sidewalk on the north side of Public Street 1 except in the location that Thanh had showed.

Commissioner Armstrong said the reason is obviously there is a high density of residential there and there is only a sidewalk on the south side of Public Street 1, I know I deal with that on Port Republic Road all the time. There is no sidewalk on one side where all the houses are and there is no way you can cross the road. But that is not true, there is a sidewalk on the north side also. Okay.

Vice Mayor Dent said from the topography of this, there is a very steep slope in the back where the townhouses are. Where public street 1 goes through, I would imagine it could have a lot of water runoff and see that there are three retention ponds for stormwater. I just wonder if that might be...is there an existing creek there or could that become a floodway?

Mr. Fletcher said there is not a recognized floodplain in this area, there is a drainage area. In fact, in the previous plans for Juniper Hill Commons our City Engineer and his staff worked along with Mr. Colman and his staff to accommodate higher elevated dwelling units even though there were no recognized floodplain to anticipate that. As would be the case for any development, they have to meet stormwater quantity calculations required by the Department of Environmental Quality, which is always the case.

Vice Mayor Dent said I see the parking lots around the multi family, where is the parking for the townhouses or do they have garages?

Chair Finnegan said we will get a chance to ask the applicant. I do have a question, on the back of the property, the private street is kind of a loop road it goes up and it goes back down, and then in the future Land Use Guide this is all Low Density Mixed Residential currently. Have we given any thought to, and maybe this is a question for the applicant, walking connectivity on the back of the division?

Ms. Dang said that actually has been discussed quite a bit. Given the complexity of the site in that area we were going to wait to figure out exactly where, if a connection can be made to connect to a future development when we get to the preliminary plat phase. They are aware that staff's preference is to see a connection go to the top of the page for future connectivity for at least a bicycle and pedestrian connection.

Chair Finnegan said I did have a question about the special use permit condition suggested by staff, that first one, can you explain that? The "there shall be no more than 57 townhome dwellings and they shall not be located in the area where the planned single family detached dwelling lots are illustrated."

Ms. Dang said that one, we are actually rescinding because now they have offered the new proffer that puts a restriction on the density in that area.

Vice Chair Byrd said so [condition] number two is staying?

Ms. Dang said that is correct.

Chair Finnegan said is it on proffer number six... "one parking space per dwelling unit. 1.5 parking spaces per dwelling unit with two or more bedrooms," is that more than or less than what would be required?

Ms. Dang said that would be less than what our conventional parking requirements are for multifamily, which if you recall is based on one-, two- and three-bedroom configurations. This is less than. I will also point out, in case anybody is wondering, this proffer number six is for the R-5 district parking then R-8 requires only one parking space per dwelling unit.

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.

Amar Gogia, a member of the development team for Tuscan Village, came forward to speak to the request. He said today we just wanted to spend a few minutes introducing our team and we will tell you a little bit more about our vision. We will talk about some of the property types in a little more detail and how they meet the market needs as we see them. We will also get into some details on the design and amenities that are available. Like I said, my name is Amar, I have been involved in development locally for the last 19 years or so. We have Scott Rogers, he is our resident marketing and local real estate housing expert. We have got Kate Kelty here, she is our customer and design coordinator. We also have Courtney Leach, who helps with quality control and helps with designing the amenities as well. Gil Colman, who you are aware of. We figured between all of us combined we have about 50 years of working with Jerry Scripture, who you might be familiar with at this point. We have been around, we are all local, we live here, and we want to keep living here and continue to make it a nice community. [Referencing to the PowerPoint presentation on the screen] We have a few of our neighborhoods in the past that we have worked on. I want to just show you some of the things that we have done in the past and how we intend to promote this and continue to make this one of the nicer communities that we have done. Here is Stone Spring

Village, single family homes there. Avalon Woods, this is a townhouse neighborhood off of Reservoir and it is a similar layout to the townhouses we are proposing here as well. We have got Heritage Estates; this is by the golf course off of Garbers Church. Liberty Square, another townhouse community. I want to point out the amenities here, that is one of the things that we are proud of, creating communities that have amenities. This is an example of one that we have done, this was a while ago, and it is still being used and still in good shape. We have got the second section of Liberty Square there. The Glen at Cross Keys, that was a paired home community in the County. The Townes at Bluestone, that was a recent townhome community in the City here. I will point out too, the Townes at Bluestone that was one neighborhood that did not want to be completed by the original developers so we came in and made sure that got finished and put it up to our standard. Here are the Townes at Congers Creek, these are townhomes in the County that we are currently building. There is a second phase of that as well. We are closing up on that development and we are continuing to hear the need for housing in the City and so with Tuscan Village our goal here is to provide a high-quality community. We want to have a unique identity. All of these homes are going to have design elements that were inspired by Italy, so there is going to be a sense of arrival when you get there. We are going to have stone, stucco, and a lot of other design elements, which we will get into here a little bit more. The other thing we are working hard on is maintain these trees that are on site. As Ms. Dang pointed out, that is something that is important to us. We are hopefully going to improve the landscape through the process of this community. A few other things that are important to us; energy efficiency, you will hear a little bit more about that. We are working on incorporating renewable energy as well. Again, the amenities are a big part of what we are offering. Another important point is that we are intending to, and we will, sell the townhomes but we are going to keep these multifamily units and maintain them and keep them as an attractive part of the neighborhood for years to come. We are motivated to have this be long lasting as a desirable place to be. To Vice Mayor Dent's point, we voluntarily limited the density in Tuscan Village for that exact reason. With that, I will pass it on to Scott. While he gets up here, I will tell you one more thing too just as an example of some of the things we are committed to. We have spoken with our local Shenandoah Bicycle Company, and we are going to partnering with them to offer bicycle storage for every unit on site. The idea there is to encourage the use of that shared use path that we are going to have throughout the neighborhood.

Scott Rogers, a member of the development team, came forward to speak to the request. He said I am going to tell you a little bit about the products we plan to build, and the market need that we are seeing. [Gesturing to the slideshow on the screen] On the subdivision plat here for this community, you will see two different property types, which Thanh has explained. The yellow boxes towards the top are intended to be townhouses and then the multifamily apartment buildings will be in the second section there. The three-story townhouses will have two car garages on the first level, so parking will be as you drive into the townhouse and then two living levels above that. Those will be offered for sale. Again, most of the developments that has been proposed in the City over the last few years have been apartments for people to rent. We have been building townhouses for sale in the County. We believe there is a need and a desire for people who want to buy a home in the City and we would like to create housing for those folks to be able to buy. The orange color through the middle there would be apartments. We are intending for those to be one-bedroom apartments, there are not a lot of smaller apartments in the City and so we are trying to meet that unmet need as well. The townhouses would be...Here are some of the renderings that we have been working on of the townhouses. We will talk a little bit more about some of the

materials that we are using, but you can see some of the Tuscan themes that we are trying to work into this design wise. This is one of the streets that is going between the rows of townhouses. You can see the two-car garage is there underneath the townhouses. We are hoping to price the townhouses in the upper 200s and low 300s with a target market of first-time buyers. Again, the apartments would be intending to meet the unmet need of smaller and thus slightly lower price point apartments for rent in the City. [Referencing to the slideshow on the screen] This is looking off of that balcony on one row of townhouses. You would be looking across the street towards the next row and because of the topography of the site there, you would have backyards behind your townhouse off of the main living level and then be pulling into that main level into your garage and then walking up to that level. I will turn it over to Kate now. She meets with every homebuyer in our communities and customizes every home for them. She also plans the street presentation of the homes so that the colors and the futures of the homes are harmonious, and it is a good looking community throughout.

Kate Kelty, a member of the development team, came forward to speak to the request. She said I am excited to present to you our Tuscan Village. [Referencing the video on the screen] This is a video of our planned streetscape and as Scott mentioned to you, you can see the architectural elements here common to the streets of Tuscany. So, you can see here stucco in a variety of warm tones and finishes. Stone in several different cuts and applications. Window boxes, balconies, archways and terracotta tiles. Each home is designed uniquely and yet to compliment one another. I have been working with a local stonemason who has honed his craft is excited to bring a variety of options to Tuscan Village. Beyond our high-end exteriors, we are going to offer the same upgraded standard package that our current buyers are pleased with. Granite, stainless steel and luxury vinyl flooring just to name a few. Here are some of the features that we are excited about; energy efficient townhomes with six inch exterior walls, thoughtfully designed floorplans based on years of working with townhome buyers, pedestrian and bike friendly travel ways through the community, solar ready townhomes with solar orientation, electric vehicle charger ready, standard bike storage area in the townhomes, and a beautifully designed community with multiple amenity areas. Courtney, seated over here, conducts twice weekly quality control visits to all homes under construction. She also plans our amenities package and has started amenity planning for Tuscan Village. Here is the playground that Courtney has worked to design that we have planned. There will be other areas throughout the community where we will have other types of playground or leisure areas as well. Amar, I will hand it back to you to finish up.

Mr. Gogia said just to close, you have heard about the amenities, you have heard about the energy efficiency, it is really the community we are trying to create and we want this to be a place where people are proud to live for decades to come. One more quick point, everything we are going to be doing is going to be locally sourced. We are going to have local tradesmen and local suppliers, that is important to us as well. I know there are a lot of plans that have been approved that are in the works, we are ready to go. We are ready to meet the needs of the City as soon as we can. We also have the adjacent property owners here, Dan and Naomi. I do not know how you work getting them up here but they would like to speak as well. Thank you.

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

Commissioner Armstrong said what does solar ready mean?

Mr. Gogia said solar ready would be having the conduit structures in place.

Commissioner Armstrong said just not the panel?

Mr. Gogia said yes, the idea is that we are going to be saving people some time and money by having all of that ready to go ahead of time.

Commissioner Armstrong asked what type of heating is used?

Mr. Gogia said we have been using heat pumps.

Commissioner Armstrong asked so an electric heat pump?

Mr. Gogia said correct.

Vice Mayor Dent said a follow onto that about the solar ready, is that for the townhomes or the multifamily or both?

Mr. Gogia said the units that are going to be oriented for solar use, the south facing units is what we are anticipating to be. Places where you would not want to put solar, we probably would not do that.

Vice Mayor Dent said I just wanted to call your attention to the CPACE program, the Commercial Property-Assessed Clean Energy. That would be applicable to the multifamily because it is a business, as in that can include multifamily. That is a financing mechanism that Harrisonburg has recently joined the Virginia program and we had a kickoff meeting. That has the potential for you to find financing on the solar on the multifamily units as well as the townhomes that people will own.

Mr. Gogia said that is fantastic, I appreciate it, thank you.

Mr. Fletcher said our Department of Economic Development, contact them, they operate the program.

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.

Dan and Naomi Shenk came forward to speak to the request. Mr. Shenk said we currently own the three-acre piece that is on Country Club Road. We have had that since 1994, so next year that will be 30 years. We call it 1820, which is the address. There are two buildings, eleven offices of counselors, psychotherapists, acupuncturists, and massage therapists. We have been fortunate to have our offices stay full the whole 30 years we have been there, and it is a wonderful place.

Ms. Shenk said I would just like to add that we really appreciate that the buyer wants to keep our renters in the offices as they are. So, they are not requesting rezoning for that portion of the property where the buildings are located.

Mr. Shenk said we are really happy we found a buyer that wants to keep the renters and to keep that part of the property.

Ervin Stuzman, a resident at 1315 Harmony Drive, came forward to speak to the request. He said I represent Harrisonburg Cohousing, so we are the owners of that R-7 property that was shown in purple on that first screen. I am just going to speak in favor. I am grateful for the good plan they have for people to use that property. We had hoped for a cohousing place, it did not work out, but we are supportive of this.

Chad Wilsher, owner of the Wilsher Group at 1740, 1738 and 1742 Country Club Road, came forward to speak to the request. He said one of the things that I really think that I was surprised by the most is that the City does not feel that we need to do a traffic analysis on Country Club. I do not know how many people deal with that every day, I sat 20 minutes trying to get out of my parking lot just to get here tonight, that is a huge issue. We have had employees trying to turn into the parking lot this year and have had collisions where cars ram into the back of them at 55 miles an hour on a 35 mile an hour road. Every two weeks, at the Keezletown intersection, there is a car accident there. I certainly think that we should look at an incident report on that road. There has got to be something done about that. Now we are proposing this new road that is literally five feet from my property line. I was not able to add onto one of my offices to extend for more employees because of a 30-foot setback. Being that is residential I was not allowed to add an additional room onto one of my buildings where my estimators are but now, we are going to build a City street right there. For me, how does that work? We cannot do something to continue to grow business, but we can turn around and stuff a City street in right there. The concern I have with that is, it is literally 10 feet from one of my entrances. Cars trying to pull out of there and cars coming down the road turning into my parking lot, how are they going to distinguish where that car is turning? We are going to have more incidents on that road. Traffic is a huge issue on that road that I am concerned with. We have this shared use path so on and so forth, but Country Club Road does not even have sidewalks. How are we getting there? We constantly already have people walking through the front entrance in my parking lot. If any of you know the property, from our buildings to the road is not very deep to begin with so it gets kind of chaotic in there with customers coming in, it seems to be the Country Club turnaround for people that miss things. I am worried about more incidents happening on that road. I am not against the development; we need more housing for sure. I am a business owner as well and I want to see more happening in the City. I just do not think we put enough thought into this before we are at the approval phase for this. I have spoken to several police officers and firefighters, and they are panicky about this as well, they are not even staffed fully and we are talking about how many hundreds of additional residents. Let us say the national average is two cars per household now, we have not taken into consideration the math of all of this. For multiple reasons, I have objections to this. We need to do a little more studying before we approve something like this. Thank you.

Greg and Ellen Bowman, residents at 735 Keezletown Road, came forward to speak to the request. Mr. Bowman said I am not necessarily opposed to the project; I think it is well designed and it

looks like it is a good intensive use of the space. I am concerned about the...we live right across from the end of Public Street 2. I wonder if there is any consideration for persons leaving Spotswood Terrace trying to go either direction, they see oncoming traffic out of this development, how would folks leaving Spotswood Terrace be able to make a left turn or a right turn without any light there. I was able to confirm the previous speaker's concern about traffic. We usually go left towards Kroger and getting to that intersection is very hazardous, especially between seven and nine in the morning and four and seven at night. That is already a place in need of some remediation and perhaps a light. I am wondering if people who do not have cars would want to walk from there onto Country Club, where they would go. There are already a lot of people leaving the trailer park across the street from this place and walking down towards Lowe's. There is a good bit of foot traffic there and there are no sidewalks on the left side of the road going toward Linda Lane. Any additional pedestrians there are going to really increase some hazards. We have only lived at our place 15 months, but residents in the area say anytime some high rainfall there are a lot of water that goes down the middle of that property. There has been a lot of flooding already on Country Club Road on high impact rain events. I am wondering how increased impervious surfaces with roofs and roads will increase runoff if the studies you mentioned really improve what is already a bad situation on Country Club. Those are the areas I am concerned about, not so much against the proposal, I was really wanting some interaction with planners on how traffic will be maintained coming out of Spotswood Terrace and maintain safety at the intersection at Country Club Road and Keezletown Road.

Nancy Haas-Salomon, a resident on Sandtrap Lane came forward to speak to the request. She said again, like the previous speakers I am not against the development itself, but I am very concerned about traffic. It already is very hazardous. In the mornings I walk around that area and the Country Club has even put a no trespassing sign because some of us who walk have to walk there because there are no sidewalks on Keezletown Road or on Country Club Road either. There are no places for us to safely walk if I come out of the street where I live. As far as cars, every time we are trying to leave, whether it is at the times that the previous speaker mentioned or even in the middle of the day, it is very hard to go onto Country Club Road coming from Keezletown Road. Keezletown Road has a lot of agricultural traffic, and many trucks with chickens. That kind of traffic is constantly there because of the nature of what is around. It is already pretty hazardous. The units that they have mentioned, you can multiply that by two, you are going to have that situation. On the flooding, we have had flooding. Not only on Country Club Road because there is a creek there but also on Keezletown Road there were times where we could not get out of the subdivision to go, for example, to Lowe's because it was flooded. Already we have a problem with adding more impervious areas. I think it is going to create a situation where they need to do some remediating before it becomes a hazard. Even though they have these two roads, I am still concerned about fire hazards with that community. Those are my thoughts, thank you.

Rebecca Morris, a former resident of 750 Keezletown Road, came forward to speak to the request. She said we lived there for 42 years and there has always been bad visibility there, we never had an accident coming out of the driveway. There is bad visibility up at Sandtrap Lane and always has been. The water situation across the road may have been once or twice across the road. I would say twice, but it is nothing, it was like a 100-year flood thing, maybe. It was nothing consistent with every time it rained the water ran across the road. We dealt with the times when it happened, but it was nothing consistent. I understand the traffic concerns, but it is Keezletown Road. Like I

said the visibility at the top of Sandtrap has always been bad. The water issue is not something that has been consistent.

Gil Colman, applicant's representative, came forward to speak to the request. He said this is a great project over all. I think it is providing what we need but also limiting the density to make it a good place to live. I had spoken before about other projects that I have been involved in, but I want the quality of life and this provides it. Nobody wants to deal with traffic and that is something we deal with all the time. As a growing city, we have that. Our streets, some of them are adequate and some of them, not so much. We are giving right of way and easements for when the time comes for the City to improve those roads, they have the room to do so. We are not necessarily building it ourselves but we are providing room for that. In terms of the traffic studies, the City has done several traffic studies in this area before. I do not have any data of that, but what it comes down to when a traffic study is triggered, in this case it depends on the number of... we do a light study to figure out what is the traffic generated by this site and based on that the City determines whether a traffic study is needed or not. That is standard, so it is not like we are going to require it here or there it is something that has a trigger based on numbers. There is an issue also with the visibility. We would prefer if that street went straight, but the problem with that is that the visibility is not there. That is something that Public Works was not open to, it was something we requested because the interest was "why do we not just go and front into their street, it makes a nice intersection" but then at the same time it creates more problems because you cannot see when traffic is coming. So, that was the reason why. This was also the previous development, Juniper Hill, where we have the entrance in that place for the same reason because as we are working with Public Works, they recommended the entrance to be there. That eases the issues with traffic there from the standpoint of visibility. When it comes down to stormwater, there is a channel there, there is a lot of drainage coming through that for sure. That is why we are strategically locating our development around that and working with that. We are going to have work with that to make sure the buildings survive a 100 year flood. We have to work with the Corps Engineers and DEQ in terms of delineating that. In terms of the water quality and water quantity we have to meet state requirements. So, those are across the board with the City and any locality in Virginia. What we are anticipating here is that we will likely use, some of what you saw in the renderings the backyards have those planting areas, some of those for stormwater so there is a form of microbio-retentions. Ideally, when you are doing stormwater, you want to capture that at the source as much as possible before it gets concentrated. If you can reduce the time that it takes for that water to reach the main channel, then that makes it so the water has an opportunity to go through before everything comes to it. We do not want to see a bunch of big ponds there either. We want to make sure that it is distributed throughout the site. We will make our effort to do that. We also do that because it is the best way to do it and it works for the development. I have seen developments with huge ponds, I do not like that, you can distribute that across that site. I do not know if I am answering all the questions, but yes traffic and water were the main concerns.

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.

Mr. Fletcher said I will just add to the comments about no sidewalk on Country Club Road, which is absolutely true. Our 2018 Comprehensive Plan specifically identifies our plans for widening Country Club Road for a three-lane facility, one way in each direction and a center turn-lane and

a sidewalk on one side of the street with a shared use path on the other. High ticket cost there, I think in 2016-2017 dollars was \$20 million dollars, it does not go unlooked, and we are much aware of the need for that and have already planned for that.

Commissioner Baugh said there is also some history, this is not the first time this has come up. Our big impediment is that there is a large property there that will not help us with sidewalks. That is talking about the larger arch. For example, you were talking about the pedestrian traffic out of the trailer park, it is not something we have not tried to address over the years. It is going to be really expensive and we are getting that on the list so hopefully staff and everybody will eventually find a funding source.

Vice Chair Byrd said being parallel to [Route] 33 does not help.

Chair Finnegan said not when there is a speed camera on 33.

Vice Chair Byrd said I can understand anyone who has to traverse that for just general living, not for me going to the grocery store, having concerns about that road and its traffic. For those of you that may not know, the tick that will cause the City to do a big traffic analysis is very high. You would have way more traffic than you are actually experiencing now for that particular tick to take over. Soon there are going to be multimillion dollar solutions. It is a thing that we all have considered in the back of our minds all the time. For me personally, that is an issue but there are a number of places in the City where that is an issue. I drive on all those roads and so I am very familiar with the concerns there. It is disturbing how people choose to drive on Country Club Road despite the fact that it is only two lanes, one going one way and the other the other way. All the mitigations to try to help with those turns, especially to turn onto Keezletown, it does not help that you have that other direction to go to Kroger. I can see how everyone would be concerned about that. I do not feel that should prevent us from improving residential areas and building more development in those areas. We would just have to keep in mind these things if we get to a point where they are in preliminary plat phase to pay attention how the roads would be perceived to be made at those particular intersections. More detail to the actual changing of the Comprehensive Plan, I have no issue with that. We have been trying to figure out how to get this area developed while taking into account that there is just this topography going down and then going up. When you have a bowl, the water wants to go to the bottom. Any project that tries to build there is going to have to figure out what to do with the water regardless of the project, R-1, R-2 it does not matter, everyone is going to have to figure out what to do with that water for the topography. The rezoning sounds like a lot of trying to make something that gets developed there work, I have no issue with that. The special use permit with the condition, that is fine. They are just trying to make it so we can get something to work there. I have approved the R-7 before with the preliminary plat for that one as well and that did not come to fruition. I have no issue of approving this and then waiting to see if it ever gets built.

Vice Mayor Dent said one thing about the opening part about changing the Comprehensive Plan map, I do not recall that we do that very often. Usually, we see the Comprehensive Plan as a loose guide and if we deviate from it, oh well. I did not recall that we go back and change the map to accommodate a development. Does that happen?

Ms. Dang said it has been done before, but you are correct that it is not a common occurrence.

Vice Mayor Dent said I liked your point about catalyzing further development, that is why I wanted to make the point about keeping the mixed in the mix. I remember the cohousing proposal and how I really like that concept, so this is a good inheritor, it is considerably more dense. Remember there was a lot of greenspace going up that hill that was really appealing but this has the added housing. Another point about traffic, I agree with Vice Chair Byrd that traffic is not a reason not to build something with a traffic impact analysis, whether it is performed or not, is really more about what the City would need to do to mitigate it. Whether it is to widen the road or add traffic lights or any such. If it tips over to the point where we are saying the road widening happens or a traffic light is required, that is a later phase. Finally, microbio-retention, I have never heard that before, but I get the concept. That to me says that you are thinking about the landscaping around and perhaps having rain gardens instead of just monocultural lawns.

Chair Finnegan said I do hope that when it comes time for the preliminary plat that there is thought given to what may happen on those properties nearby. If you are a pedestrian, if you are a cyclist, you do not want to go out there, so as other places get developed I think it would be really good to bookmark spaces where there are small alleyways, not wide enough for a car. As a pedestrian, as a cyclist it is much more pleasant to do that than to walk on a thin sidewalk next to high-speed traffic.

Mr. Colman came back up to speak to the request. He said there were several reasons for those but one of the main reasons why it ended up not being feasible was that we initially had a road going around it, we pushed it in through discussion with staff... and then as were talking about the possibility of putting a path going up, the slope is so steep that it is beyond the accessibility requirements. It would not be an accessible path; it could not be made without taking the whole side and going back and forth. That was one of the main impediments.

Chair Finnegan said I do appreciate the thought towards shared use paths on the public streets when trying to make that not miserable for people that cannot drive or do not want to drive.

Commissioner Baugh said on traffic, I think the Vice Mayor stated it more succinctly than I was going to. I think of that in some respects as the ultimate small deed democratic issue; everybody hates more traffic. Traffic impact analysis – when they do not do one, they should have done one, and when they did one, it was no good because they did not really understand the area. That is the type of thing we usually hear. The answers are really more of what it is about so we can have in mind adjusting the appropriate infrastructure. Or if you have a traffic impact analysis giving greater insight on things, we may go to the developer to contribute. I wanted to address just because it has been brought up and really, I think we all sort of sense this whether that is a benefit of the public or other folks here that on the flooding issue, part of what we are getting at is the rule is not that they have to fix the flooding problem, the rule is that they have to not make it worse. That is what the [unintelligible]. To the extent that you have had flooding there, this is necessarily a reason to vote against it. Now, if the project goes through and the flooding is worse, that is a whole other ball game for us to take up at that time. A lot of effort is put into these developments to make sure that does not happen.

Chair Finnegan said on the traffic piece, I do think there is a chicken and the egg issue. That whole east side of town is unwalkable. It is not just Country Club Road, you can see where there are bits and pieces of walking and biking infrastructure but until that gets filled in...The best that we can do is say when these come up, we want sidewalks and we want shared use paths because at some point, as Mr. Fletcher was saying, when these roads get redone, we want a network. There were decisions made a long time ago on Country Club Road before any of our time and that was not included. I do think that this is heading in the direction that we want to see given what is on the Comprehensive Plan.

Commissioner Baugh said the other thing that gets lost sometimes and it surprises me sometimes how it gets lost even on some major debates. To my mind how little time gets addressed that also is the fact that for the average person, they are comparing what is proposed to what they have now. Of course, in my view, that is not what we are looking at. We are looking at what is proposed versus what happens if we do not do anything. Which starts of with the Comprehensive Plan amendment here because it is designated as a Low Density Mixed Residential area, and I think that is why staff is doing this. It is in conflict with that and I think the idea of being the...let us be honest about it, the thing is the rational for voting no is more along the lines of we really like that low density designation and for some reason we want to keep it slash this proposal just is not good, I guess that would be the rationale. With that, I think it does make sense, so on the first issue I will go ahead and move approval of the Comprehensive Plan amendment as presented.

Vice Chair Byrd seconded the motion.

Chair Finnegan called for a roll call vote.

| | |
|-------------------------|-----|
| Commissioner Armstrong | Aye |
| Commissioner Baugh | Aye |
| Vice Chair Byrd | Aye |
| Vice Mayor Dent | Aye |
| Commissioner Alsindi | Aye |
| Commissioner Washington | Aye |
| Chair Finnegan | Aye |

The motion to recommend approval of passed (7-0). The recommendation will move forward to City Council on January 9, 2024.

Vice Chair Byrd said I would like to make a motion to approve the request for the rezoning.

Commissioner Baugh seconded the motion as presented by staff.

Chair Finnegan called for a roll call vote.

| | |
|------------------------|-----|
| Commissioner Armstrong | Aye |
| Commissioner Baugh | Aye |
| Vice Chair Byrd | Aye |
| Vice Mayor Dent | Aye |

Commissioner Alsindi Aye
Commissioner Washington 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 January 9, 2024.

Vice Chair Byrd said I would like to make a motion to approve the request of the special use permit with the condition as listed.

Commissioner Baugh seconded the motion.

Vice Mayor Dent said I am glad to see 24 months instead of 36. I mean, I wish it could happen in a year, but we have seen them push it out and I am glad to have that middle ground at least.

Chair Finnegan called for a roll call vote.

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

The motion to recommend approval of the special use permit passed (7-0). The recommendation will move forward to City Council on January 9, 2024.

Consider a request from 865 East LLC to amend Section 10-3-91 (9) of the Zoning Ordinance's B-2, General Business District regulations

Chair Finnegan read the request and asked staff to review.

Ms. Dang said presently, a B-2 zoned property's side and rear yard setbacks are different depending upon the zoning district of adjacent parcels. Section 10-3-92, Area and dimensional regulations within the B-2 district requires a 10-foot side and rear yard setback when the adjacent parcels are not zoned residentially. However, when a B-2 property abuts a residential district, the side and rear yard setback increases to 30 feet and when structures on the B-2 property are taller than 35 feet, an additional foot of setback is required for each foot above 35 feet. Section 10-3-91 (9) presently allows, by special use permit, a B-2 property to reduce the required side yard setback up to zero feet along the lot line of an adjoining lot or parcel zoned B-2 or M-1.

The applicant is requesting to amend Section 10-3-91 (9) within the B-2, General Business District to allow by special use permit (SUP) the reduction in required side and/or rear yard setbacks of up to zero feet. The ordinance amendment is associated with separate but simultaneous requests

including a rezoning and two SUP applications for the property addressed as 865 Port Republic Road. The specifics of the requested rezoning and SUPs are addressed in a separate staff report. The following is the proposed amendments to Section 10-3-91 (9):

Reduction in the required side ~~and/or rear~~ yard setback ~~up~~ to zero feet ~~along the lot line of an adjoining lot or parcel zoned B-2 or M-1.~~

While this will open the opportunity to both reduce setbacks along the side and rear yards and to reduce setbacks adjoining residentially zoned parcels, staff is comfortable supporting this request because SUPs are evaluated on a case-by-case basis.

Vice Mayor Dent said I am slightly perplexed by the wording “up to zero” meaning that it can be less than zero? I cannot quite wrap my brain around it.

Mr. Fletcher said you mean down to zero.

Vice Mayor Dent said I cannot quite figure out what the wording is but that just strikes me as really strange.

Chair Finnegan said Mr. Russ is that standard language, “up to zero” meaning down to? The only reason I am asking is because we are amending the Zoning Ordinance. I just want to make sure that if there is a legal challenge or something, is the word up an issue or is that reasonably understood by courts to mean what we think it means?

Vice Mayor Dent said to as little as zero feet is what you are trying to say right?

Chair Finnegan said yeah, but there is certain standard language that is used in the Zoning Ordinance?

Ms. Dang said I hear what you are saying. I am laughing because I did not think of it that way.

Vice Chair Byrd said zero is the smallest it can be.

Mr. Fletcher said in our world when you are talking about setbacks it is sort of like “I want to move my building up to ten feet from the property or up to zero feet” and I think as people speak, you are moving it closer to the public street. You are not moving it back...honestly it does not matter to us, we just want to make sure it is clear.

Ms. Dang said we could remove the word up if you want. In one iteration that we had, “reduction that required side and/or rear yard setback to zero feet.” It was understood the same way and we have not had issues.

Chair Finnegan said as long as it holds up in the courts if it is ever challenged. As long as attorneys and folks know what it means, it seems like it is not a problem. If that is a problem then we can change it to down to zero.

Vice Mayor Dent said I think I would like something like to as little as zero, to a minimum of zero. Maybe just skip the up entirely because that was the thing that glitched my brain.

Chair Finnegan said do we need the word up?

Mr. Fletcher said yeah, we can eliminate it, but you want to make sure that people do not get confused that it is only zero feet. If you wanted it to be...as Thanh described it is 30 feet or more than 30 based on the height of the building that you would only want it to be 10. It is clear that you can request that.

Vice Mayor Dent said so that is why 'to as little as zero' makes more sense.

Mr. Fletcher said that is where I was headed, "to a minimum of zero."

Vice Mayor Dent said I think allowing for that range is important too, not just to jump to zero.

Chair Finnegan said as long as we understand the spirit of it, I am comfortable with giving staff the flexibility to...we know what we are talking about here, we can wordsmith it.

Vice Chair Byrd said because down to or to a minimum of...the idea is that regular people tend to think of setbacks and you tell them a number and they go "well, I want it reduced." Anything that highlights that would make it easier for anyone else reading it to go "oh, we are going in that direction."

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.

Todd Rhea, applicant's representative, came forward to speak to the request. He said this revision actually came up in the context of the Peach Grove rezoning that happened back in February of this year. We ended up not having to get to that issue because the topography there pushed the buildings down from a high density student housing community next door. When the City adopted its B-2 special use for multifamily in the B-2 district in February of 2022, where everyone thought of that in context it was going in the middle of a B-2 zoned property that abutted other B-2 zoned property. In fact, sometimes as in the case of these examples it is next to a residential property but we did not want to blanket change to where if you are next to an R-1 or R-2 neighborhood, you can automatically go up to increased heights. That is why the ordinance was suggested in numerous conversations with staff to be on a special use permit basis, sort of a case-by-case basis, that increases the utility by allowing a special use or multifamily in B-2. But in those cases where you are against a residential district provides some commonsense flexibility.

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.

Vice Chair Byrd said the gentleman earlier who was talking about being beside a residential area and having to deal with a 30 foot setback, would have been very useful to be here to hear this. As

long as staff sets the language in the spirit of what we have already discussed, I would have no issue with this special use permit. I would like to make a motion to approve.

Vice Mayor Dent seconded the motion.

Commissioner Baugh said I was just looking at the pervious one, I think he is M-1, so this would not cover that but might be a reason to think about whether we would do anything similar with M-1 at some point but that is not in front of us so. This would not help him as is.

Chair Finnegan called for a roll call vote.

| | |
|-------------------------|-----|
| Commissioner Armstrong | Aye |
| Commissioner Baugh | Aye |
| Vice Chair Byrd | Aye |
| Vice Mayor Dent | Aye |
| Commissioner Alsindi | Aye |
| Commissioner Washington | Aye |
| Chair Finnegan | Aye |

The motion to recommend approval of the Zoning Ordinance amendment passed (7-0). The recommendation will move forward to City Council on January 9, 2024.

Consider a request from 865 East LLC to rezone 865 Port Republic Road

Consider a request from 865 East LLC for a special use permit to allow multiple-family and/or mixed use buildings at 865 Port Republic Road

Consider a request from 865 East LLC for a special use permit to allow the reduction in required side and/or rear yard setback at 865 Port Republic Road

Chair Finnegan read the request and asked staff to review.

Ms. Dang said in December 2007, City Council approved a rezoning of the subject property from B-2C, General Business District Conditional to R-5C, High Density Residential District Conditional and approved three special use permits, which included: (1) to allow multiple-family dwellings to have more than 12 units per building, (2) to allow multiple-family dwellings to be greater than four stories and/or 52 feet in height, and (3) to allow retail stores, convenience shops, personal service establishments, restaurants (excluding those with drive through facilities), and business and professional offices. The existing, regulating proffers, include (written verbatim):

1. The density and layout of the development will be in substantial conformity with the plan of development. Landscaping shall be provided as generally shown and common and recreational amenities will be provided as generally shown on the plan.
2. Ten parking spaces shall be reserved for exclusive use of the Devonshire Townhomes. The neighboring property owners association will regulate these parking spaces.

3. The single primary structure shall not exceed a maximum dimension of 90-feet in width, 310-feet in length, and 91-feet in height. The structure will contain no more than 100 individual apartment units with a maximum of 290 bedrooms. The project will contain a maximum of 16,000 gross square feet of commercial/retail space on the first floor of the structure. The project will have on-site laundry, exercise and game room facilities.
4. The structure will contain a varied and complimentary exterior finish consisting of a mixture of brick, drivit [*sic*], and other non-combustible materials. The exterior appearance generally as shown on the sample exterior elevation submitted herewith as Exhibit A.
5. The structure will contain all refuse collections facilities within the building.
6. All commercial spaces will have delivery service via a consolidated loading dock area with internal fire-rated service access to the rear of individual commercial units.
7. Site lighting for parking will be installed with downward lighting to minimize light pollution.
8. The applicant or its successor will retain operation and control of the project and retain responsibility to govern and approve all architectural, signage, regulatory, and other management functions of the project. The applicant, or its successor will maintain control and regulation of on-site parking.
9. All commercial signage will be restricted to either a pylon sign along Port Republic Road and/or along the first floor sign marquee area above individual commercial units.
10. The structure will contain an interior secure bike rack area for residents.
11. The structure will contain security features to control access to the residential areas of the building.
12. The applicant proffers the construction of a turn lane on Devon Lane materially shown on the plan. The entrance from Port Republic Road will be designed as a “right-in right-out” entrance subject to further discussions and design approval by the Public Works Department.
13. Applicant hereby proffers that it will provide a weekday private van/bus shuttle service during peak hour traffic periods (at minimum 7:30am to 10:00 am and from 3:30 pm to 6:00 pm) to and from the JMU campus for project residents only. This service will be limited to times when JMU is in full enrollment operation. This service will commence once the building has reached residential unit lease rates of 75% and be maintained for a minimum period of three years from service commencement.

The engineered comprehensive site plan for the development as it exists today was approved on April 25, 2008. Building permits were applied for that same year and the 6-story building (as viewed from Port Republic Road) was completed in September 2009. While the proffers identified that the height of the building would not exceed 91-feet in height, 100 residential units, and no more than 16,000 square feet of commercial/retail space, the building today stands at 70.2-feet in height with 96 dwelling units and 15,564 square feet of commercial/retail space.

In all, the applicant has submitted four applications to make way for the proposed project. The first application is a Zoning Ordinance (ZO) amendment that, if approved, would create the ability for property owners of B-2-zoned properties to request a special use permit (SUP) to allow for the reduction in required side and/or rear yard setbacks of up to zero feet. The specifics of the ZO amendment are described in a separate staff report. This report presumes that the ZO amendment is approved as submitted by the applicant.

The second application is a request to rezone the property from R-5C, High Density Residential District Conditional to B-2C, General Business District Conditional. The third application is a SUP to allow multiple-family dwellings and/or mixed use buildings per Section 10-3-91 (17) while the fourth application is a SUP to allow for the reduction in required side and/or rear yard setbacks per Section 10-3-91 (9).

The property is located at the intersection of Port Republic Road and Devon Lane and addressed as 865 Port Republic Road. If all four requests are approved, the applicant intends to construct an addition to the existing building as shown on the Development Plan for 60 multifamily dwelling units. Given the terrain of the property, the new building addition will have 7 to 8 stories exposed. The new building addition would be elevated on columns above the existing surface parking area and connected to the existing building by a breezeway.

Proffers

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

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

1. Only the following non-residential shall be permitted on the Property: retail stores, convenience shops, personal service establishments, restaurants (excluding those with drive-through facilities), and business and professional offices.
2. Special use permits shall be permitted as approved by City Council.
3. The Existing Building and the Building Addition shall contain no more than 160 individual apartment units containing a maximum of 470 bedrooms.
4. Non-residential uses may only be located on the first/ground floor of the Existing Building and shall not exceed 16,000 gross square feet. The Building Addition shall have no additional commercial square footage, but may have on-site laundry, exercise and game room facilities and other customary resident amenities to encourage on-site convenience.
5. Ten (10) designated parking spaces shall be reserved for the exclusive use of the Devonshire Townhomes, as shown on the Development Plan, to accommodate for street parking along Devon Lane that was removed as a consequence of the development of the Existing Building. The neighboring property owners' association, for which the spaces are reserved, will regulate the ten (10) reserved spaces via a permit system.
6. The Building Addition shall contain a varied and complementary exterior finish consisting of a mixture of brick, dryvit, and other non-combustible materials with architectural offsets, angles, and finishes to create an exterior appearance similar to the Existing Building.
7. Applicant shall install and maintain the following as bonded improvements as part of any engineer-submitted comprehensive site plan for the Building Addition, and as generally shown on the Development Plan:
 - A. Construct a five-foot (5')-wide sidewalk where none exists at the back of the curb bordering the slip lane at the intersection of Port Republic Road and Devon Lane;
 - B. Dedicate a right-of-way for the existing slip lane and sidewalk referenced below, to be located one-half foot (0.5') behind back of the sidewalk;

- C. Reconstruct the crosswalk across the slip lane including the existing island sidewalk section, such that the crosswalk ramp for the slip lane connects to the crosswalk ramp for the Devon Lane crosswalk, adhering to the Public
8. Right of Way Accessibility Guidelines to the maximum extent feasible, and eradicate the existing crosswalk.
9. Applicant shall grant the City a twenty-foot (20’)-wide easement for a shared use path and pedestrian accessway to be finally located and granted upon City request in the general location shown as the yellow hashed area on page 1 of the Development Plan.
10. Any new or relocated site lighting for parking shall be installed with downward directional lighting and shielding to minimize light exfiltration into neighboring properties.
11. The maximum height of freestanding signs along Port Republic Road is eighteen feet (18’) and the maximum height of freestanding signs along Devon Lane is eight feet (8’).
12. The height of the Building Addition shall not exceed the maximum elevation of the Existing Building as measured from the Existing Building frontage on Port Republic Road

Between publication of the Planning Commission staff report and the Planning Commission public hearing, the applicant submitted a new proffer letter that amended proffer number 11 regarding sign height. The B-2 district allows freestanding signs to be 35-feet tall and the proffer has reduced the allowed maximum height.

Additionally, the applicant requested that staff include with the supporting documentation a letter dated November 17, 2023 and titled “Zoning Administrator Determination on How Building Height is Calculated for Proposed Development Plan at 865 Port Republic Road.” The letter describes how building height is calculated for the proposed project. Proffer #12 restricts the maximum height of the Building Addition to not exceed the maximum elevation of the Existing Building.

While some of the proffers are self-explanatory, staff offers additional information on Proffers #1, 3, 5, 6, 7, 8, and 9.

Proffer #1 would retain the non-residential uses currently allowed with the property’s R-5 zoning and approved SUP, while prohibiting other by right uses in the B-2 district. If in the future, the property owner desires to add other uses typically allowed by right in the B-2 district, they would have to rezone the property to amend the proffers.

Proffer #s 5, 6, and 9 are similar to proffers #2, 4, and 7 from the 2007 rezoning.

Proffer #3 is addressed in the Development Plan section of this report.

Proffers #7 and 8 are addressed in the Transportation and Traffic section of this report.

Development Plan

As required by Section 10-3-93 (d) of the 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.

Additionally, the applicant has proposed the following conditions, which are described on the development plan as “Owner/Developer Self Imposed Conditions” (written verbatim):

1. The density of the development and layout of improvements will be in substantial conformity with the Plan of Development (“Plan”) submitted in connection with this request by AES Consulting Engineers. Minor alterations to the “as constructed” layout for topographical features, utility installation, and other contingencies shall require approval by the Zoning Administrator. Further, landscaping and open area shall be provided as materially shown on the plan.
2. The existing building and the building addition shall not exceed the dimensions shown on the Development Plan. Said maximum dimensions are excluding projecting balconies, covered walk or entry areas including residential area unloading canopy.
3. The existing building and the building addition will contain all refuse collection facilities within the building as to avoid the need for a separate exterior dumpster or trash collection structure or area.
4. The existing building and the building addition will contain security features to control access to the residential areas of the building.
5. A minimum of two (2) “Level 2” (equivalent or better technology at the time of construction) electric vehicle charging stations at the property shall be installed prior to issuance of first certificate of occupancy and the occupancy of any residential unit in the building addition, and thereafter maintained in operating condition.

Conditions #3 and 4 are similar to proffers #5 and 11 from the 2007 rezoning.

As previously described, the new building addition is proposed to have 60 multifamily dwelling units. Note that proffer #3 restricts the existing building and building addition to no more than a total of 160 individual apartment units containing a maximum of 470 bedrooms. The number of dwelling units between the two buildings can change so long as they do not exceed the maximums proffered.

The building addition would be elevated on columns above the existing surface parking area and connected to the existing building by a breezeway. Sheet 2 of the Development Plan shows that the applicant would maintain the majority of the existing surface parking and anticipates the loss

of 14 off-street parking spaces. The ZO requires for multifamily units in the B-2 district a minimum of one off-street parking space for each dwelling unit or as may be more or less restrictive as conditioned by the SUP. At the end of the applicant's letter, a Summary Table describes that there are 343 existing off-street parking spaces on the property, 219 off-street parking spaces would be required by the ZO for the existing building and proposed building addition, and that the applicant plans to provide 329 off-street parking spaces, which exceeds the number required.

Between publication of the Planning Commission staff report and the Planning Commission public hearing, the applicant submitted an updated Development Plan reflecting a change made to their SUP application to allow for the reduction in required side and/or rear yard setbacks per Section 10-3-91 (9). The Development Plan now shows the proposed B-2 setback for the side and rear yards to be a minimum of 30-feet.

Land Use

The Comprehensive Plan designates this site as High Density Residential and states:

These areas have been developed or are planned for development that have the highest residential density ranges outside of the downtown area and properties designated Mixed Use by the Land Use Guide. Density is planned to allow up to 24 dwelling units per acre. While a number of existing multi-family developments and areas adjacent to such developments are identified as High Density Residential, residential land use could include small-lot single-family detached and single-family attached neighborhoods. In special circumstances, non-residential uses may be appropriate.

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).

The proffered maximum density of the proposed project is just over 29 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

The Determination of Need for a Traffic Impact Analysis (TIA) form ("TIA determination form") for the proposed rezoning is attached. The TIA determination form indicated that the project would not generate 100 or more new peak hour trips, which is the threshold for staff to require a TIA.

With Proffer #7, the applicant has committed to constructing new sidewalk facilities and dedicating right-of-way at the intersection of Port Republic Road and Devon Lane.

With Proffer #8, the applicant has committed to grant the City a 20-foot-wide easement for a shared use path in the rear of the property. Know that there are no current plans for a shared use path project at this time, but staff requested this easement for planning purposes.

Public Water and Sanitary Sewer

Staff has no concerns with the requested rezoning regarding water and sewer matters.

Housing Study

The City's Comprehensive Housing Assessment and Market Study (Housing Study) places the subject property within Market Type C. Along with other details of this market type, it is the smallest but fastest growing market type in the City. Among other characterizations, Market Type C has a large number of university students. The Housing Study states "[l]ike Market Type A, Market Type C has above median overall access to amenities such as public transit within walking distance, full-service grocery stores, and multiple parks and recreation facilities." It goes on to say that "Market Type C has above median access to amenities yet is the most affordable market type in the City. The creation and preservation of affordable housing and construction of middle income housing would be appropriate here as there are already amenities in place that would make these areas attractive locations for housing..." The Housing Study also notes that "[h]aving an adequate supply of smaller apartments in Market Types A and C is important because these block groups have higher scores for access to amenities such as jobs, parks, full-service grocery stores, and public transit."

Public Schools

The student generation attributed to the proposed 60 new residential units is estimated to be 7 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 60 additional apartments in the community which could be occupied by families.

Recommendation

Considering the proximity of this proposed student housing project to JMU and the High Density Residential designation of this area in the Comprehensive Plan's Land Use Guide, which supports higher density and in special circumstances non-residential uses, staff believes that this development can have a positive result for the community. Staff recommends approval of the rezoning and approval of the SUPs with the following conditions:

For the SUP to allow multiple-family dwellings and/or mixed use buildings per Section 10-3-91 (17), staff recommends conditioning the "Owner/Developer Self Imposed Conditions" described earlier in this report.

For the SUP to allow for the reduction in required side and/or rear yard setbacks per Section 10-3-91 (9), staff recommends the following condition:

1. The SUP shall be applicable only to the existing building and planned building addition in the location shown on the Development Plan with the ability to deviate up to 10-feet in any direction.

The condition would prohibit other structures not vetted by the SUP process from being constructed with reduced side and/or rear yard setbacks.

Chair Finnegan asked on page six of the staff report talks about being elevated, “the development plan shows that the applicant would maintain a majority of the existing surface parking. Anticipates a loss of 14 off street parking spaces”, is there new parking being constructed? So, the parking was overbuilt back in 2007 with the original building. We are talking about putting a building over top of the parking lot?

Ms. Dang said that is correct.

Chair Finnegan said like a giant dingbat. I do not know if anyone is a fan of those buildings from southern California with parking underneath.

Mr. Fletcher said to clarify, they will lose a few spaces because of the piers.

Chair Finnegan said that what it is saying an estimated loss of 14, I am guessing that is what that number is.

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.

Todd Rhea, applicant’s representative, came forward to speak to this request. He said good evening, Chair Finnegan, fellow Commissioners, and City officials. I am Todd Rhea, a local land use attorney with the firm of Clark & Bradshaw here in downtown Harrisonburg. I am presenting on behalf of the applicant, 865 East LLC. Also, here with me this evening is Brian Kinzie with Blackwell/AES Engineering. We are the same entitlement team who presented the original 865 East for zoning approvals in 2007. We are proud to remain associated with this groundbreaking project which is one of the first R-5 zoning approval entitlements in the City. The owner has demonstrated the ability to deliver and operate a high-quality community under committed proffers and has the reputation and expertise to give the City confidence that the proposed expansion will exemplify the same level of design and construction quality and operational competence. As staff has outlined in detail, the owner is requesting approval for rezoning to a B-2C classification coupled with a multifamily special use. This location is tailor made to utilize the City’s B-2 multifamily special use category. The site lies in a high-density residential area as designated in the City Comprehensive Plan. The applicant seeks to provide additional housing density with zero to minimal additional public infrastructure outlay. The site contains underutilized tiered surfaced parking areas based on objective vehicle permitting data. There are currently 274 bedrooms on the site and there are about 185 vehicle permits for 343 existing spaces. There are that many spaces because that is what the R-5 zoning ordinance required in 2009. The requested approvals would allow for the expansion of this successful mixed-use property by more efficiently utilizing the parcel, which is located within easy walking distance to James Madison University, and well developed bike and pedestrian infrastructure. The site already contains a HDPT transit stop and multiple onsite restaurants and other commercial amenities. The rezoning request would add a building addition complementary to the existing structure connected by an elevated breezeway. The structure addition provides the same level of controlled access and safety security for its

residents. 865 East already has an established space and plan for secure indoor bike parking and storage, which is actively utilized for both bicycles and scooters owned by residents. Given its proximity to the University, 865 East also has a history of housing students including international transfer students who do not have cars or require parking. The structure addition also works with the existing topography which slopes down to the south and west rear of the site so that the proposed addition would have the same top level elevation when viewed from Port Republic Road. The applicant confirmed that the building addition meets City height code requirements and there is a recent memorandum to that effect from the City Zoning Administrator in your file. The addition would be built over and retain the majority of existing onsite parking, which can supply the added units based on a decade of parking use history. Building above existing underutilized surface parking accommodates additional residents on site without adding to gross impervious surface area and stormwater runoff. The owner has plans for auxiliary temporary parking service with shuttle service and alternative access points to the lower parking tiers during any future construction. As part of the preapplication and staff comment process, the applicant has provided building addition tables containing detail unit elevation and parking data for staff and Commissions consideration. 865 East is located in the perfect location to provide the benefits encouraged by the City when it adopted the B-2 multifamily special use category with reduced parking ratios. I will expand a bit here to say that the City has operated for 50 years under parking requirements that have yielded acres and acres of excess surface parking. City Council, City staff, and this Commission have been consistent in encouraging more efficient use of surface parking spaces to house people and encourage biceped and public transit modalities. This application meets these goals and objectives. The requested Zoning Ordinance text amendment...well I will skip that part because we already covered that in our previous discussion. Finally, allowing the requested building addition provides fiscal benefits to the City in the form of increased revenues from a more intensive use of the site through additional constructed improvements on already developed land and in place public infrastructure. We greatly appreciate your positive considerations of the merits of the rezoning, special use and ordinance amendment requests this evening. The applicant has worked closely with staff, as you all can see from the proffer and development condition details to iron out numerous technical details and development conditions and we are pleased to have received their recommendations for approval. We are happy to field questions and address concerns from the Commission or public this evening. I have tried to anticipate and answer a few. If you have others, we welcome the chance to respond. Thank you all for your time.

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

Vice Mayor Dent said I am curious about that breezeway and what do you expect people to use that for, just to get over to the retail for example?

Mr. Rhea said yes, well 865 East is designed for one residential entrance with fob security. There will be an added entrance in the building addition, but residents can still move throughout the building without having to go outside, so it allows the entire building to a secure perimeter. It is high enough and designed at a floor, we talked to fire and rescue, where fire and rescue equipment can easily get under there.

Chair Finnegan asked can you just say that part again that you said about how many spots were required at the time that it was built or rezoned?

Mr. Rhea said it has 343 spots if you look at the parking table contained with the zoning justification letter, it showed how many of those were generated by the commercial uses and how many were generated by the initial 96 units with the 274 bedrooms. That came out to the 343 number, of which we have ten years of history now, not much over 50 percent of those spaces have been used, they are all permitted vehicles.

Jeffrey Gehrs, an adjacent homeowner called in to speak to the request. He said I wanted to discuss a few issues that I have brought up, I sent a letter in and thankfully the gentleman that just presented covered many of them. The one issue that I do have is with the parking, he is saying there are 184 parking permits issued for 274 currently available bedrooms, that is more than 50 percent that he stated at the end which is what they would have to achieve in order to use only the amount of parking that they will have after they put their addition on. The other issue that I brought up, and I guess somehow they covered it, that they are calling this an addition I guess somehow to circumvent what is really a new building, by putting a breezeway. Somebody gave them some ruling that it is an addition but if you build a garage next to your house and put a breezeway, it does not become an addition, it becomes a garage and a new building. My other issue is the height of the building. They use 71 feet for the front of the building out there on Port Republic Road but at the back of the building it comes up, from what I can assess, at least 114 feet, which seems pretty substantially high when the zoning is 75 feet. They did not really address that outside of fact to say it is an addition and it is going to be level across the top. Those are my concerns and on parking they address some of the construction parking which I appreciated.

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.

Chair Finnegan continued he said you know I am going to use this as an opportunity to talk about the parking requirements. We are overbuilding parking in the City. The parking requirements are making the City less walkable. More impervious surfaces. Higher cost of housing. I will say that compared with the one that we heard two months ago across the street from this, I voted against that one based on the amount of parking that they were building. So, this is sort of in some ways the opposite. We are putting housing overtop of parking that already exists, that was overbuilt more than a decade ago.

Vice Mayor Dent said maybe this was more of a question for the applicant, but I am curious how the parking under the building will work. [Referencing to an image on the screen] From a sideview it looks like there are two big hollows that are open underneath. Apparently could have built that for amenities and such too if we have that much more parking than we need.

Chair Finnegan said there is more parking in Harrisonburg than there is housing.

Vice Chair Byrd said I have actually been trying to figure out the correct question I want to ask staff because I was reviewing the statement from the Zoning Administrator. We talk about rear setbacks all the time but when we discuss the heights of buildings, we are not referring to how the height looks from another direction besides the curb. I think that can throw the community off because they go “well, I am looking up a hill and that building is tall and you are going to build

this other building that is the same height.” From my perspective, I am going “well you are still looking up a hill, so it is always going to be that tall.” But I can see how the community might go “well, does that not make that height many more feet from that perspective?” I understood what the Zoning Administrator...I do not think I actually have a question. I just wanted to make sure the community knows that is a thing that I am aware of to think about. Construction-wise, I do not know how we would have tapered buildings. Back more to this particular application, since the shuttling was mentioned by the applicant, that addressed my concern about during the construction because I was going well, you do have... this is pretty close to the upper part of that parking, so I was going that part is going to not exist while you are building the structure. You have already addressed that with some other locations for people’s cars. I would be in favor of this as I have stated previously, I am for buildings overarching like literally built above the parking. It would be odd for me to change my position and that was my position a couple of months ago.

Commissioner Baugh said as somebody who also is on the losing side of the vote with the Chair on the one kind of diagonally across the street with a lot of the same concerns about parking. I mean I understand the concerns. I know we are all still, in many ways, trying to get our brains around this. In many ways, I keep going back to the presentation we heard on council at the end of last year when talking about some of these issues. I do think at least a corollary to that is yeah, if your commitment is going to so everybody comfortably has a parking space then everybody is going to have a parking space and everybody is going to have a car and they are going to be...and one of the ideas behind this R-5 area when it was created and recognizing it as a natural place for more dense JMU related housing is the idea of more available public transportation. It is interesting because again, I think what bothered us about that other development was that it reflected such a strong commitment to tell the marketplace hey if you move here, you will have all the parking you need. You will be paying for it, but you will have all the parking you need. There is an element in here of well when we want to encourage people to use other alternatives part of that, I hate saying this out loud, but it is the harsh reality, part of it is making it less convenient for people to use their car. I am open to other thoughts everybody has but I am finding it easy to support this one.

Vice Chair Byrd said I feel that this particular building is in a prime location for less parking anyway. One, just walking down the hill, there is a grocery store therefore you can do your shopping within reasonable walking distance. There is a bus stop beside it and the location to those main parts of a person’s life especially a college students’ life, this is a prime example for them. There are other areas of the City where I go where grocery stores are further away and I would be a little bit more resistant to that idea, but this location and this area which I can see how the other side of the street would also include that. I definitely can understand the idea of the reduction of parking. Therefore, I will make a motion to approve the rezoning.

Commissioner Baugh seconded the motion.

Vice Mayor Dent said one more follow up question from the statement about the signs that B-2 would allow 30-foot signs, are those proffered? The condition, whatever it was, was to keep it at the current 18. That just sort of triggered my recognition that staff must have had to comb through and see what other unintended consequences there might be for going from R-5C to B-2C.

Chair Finnegan called for a roll call vote.

| | |
|-------------------------|-----|
| Commissioner Armstrong | Aye |
| Commissioner Baugh | Aye |
| Vice Chair Byrd | Aye |
| Vice Mayor Dent | Aye |
| Commissioner Alsindi | Aye |
| Commissioner Washington | 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 January 9, 2024.

Vice Chair Byrd said I will make a motion to approve the special use permit to allow multifamily and mixed-use buildings in B-2 with the conditions.

Commissioner Baugh seconded the motion.

Chair Finnegan called for a roll call vote.

| | |
|-------------------------|-----|
| Commissioner Armstrong | Aye |
| Commissioner Baugh | Aye |
| Vice Chair Byrd | Aye |
| Vice Mayor Dent | Aye |
| Commissioner Alsindi | Aye |
| Commissioner Washington | Aye |
| Chair Finnegan | Aye |

The motion to recommend approval of the special use permit request passed (7-0). The recommendation will move forward to City Council on January 9, 2024.

Vice Chair Byrd said I would like to make a motion to approve the special use permit with conditions presented by staff.

Commissioner Baugh seconded the motion.

Chair Finnegan called for a roll call vote.

| | |
|-------------------------|-----|
| Commissioner Armstrong | Aye |
| Commissioner Baugh | Aye |
| Vice Chair Byrd | Aye |
| Vice Mayor Dent | Aye |
| Commissioner Alsindi | Aye |
| Commissioner Washington | Aye |
| Chair Finnegan | Aye |

The motion to recommend approval of the special use permit request passed (7-0). The recommendation will move forward to City Council on January 9, 2024.

At this point in time, the Commission took a 3-minute recess.

Consider a request from Devon Lane LLC to rezone 716, 720, and 722 Foley Road

Chair Finnegan read the request and asked staff to review.

Ms. Rupkey said in December 2021, City Council approved a special use permit (SUP) to allow multiple-family dwellings of up to 12 units per building on property addressed as 716 and 722 Foley Road. The conditions of that SUP include:

1. All newly constructed multiple-family units shall be efficiency, or one- or two-bedroom units.
2. Prior to issuance of any certificate of occupancy for multiple-family dwellings, the property owner shall dedicate necessary public street right-of-way to encompass curb and gutter plus 0.5-ft., and deed a public sidewalk easement to include the remainder of the two-foot-wide grass strip, a five foot wide sidewalk, and 0.5-ft behind the sidewalk. The future curb and gutter location shall be equidistant from the street centerline similar to what exists across the street.
3. The entrance at Foley Road to serve multiple-family building(s) on the site shall be no greater than 30 feet wide.
4. The special use shall be established, or any construction authorized shall be commenced and diligently pursued within five years from the approval date of the special use permit.

It was understood that to be able to build the multifamily units that were planned, the dividing property line separating 716 and 722 Foley Road had to be vacated so that lot area requirements could be met for the existing single family detached dwellings and the multifamily dwelling units. SUP condition #2 also required the owner to dedicate necessary public street right-of-way and a sidewalk easement prior to the issuance of certificates of occupancy for the allowed for multi-family units.

In May 2022, City Council approved a special use permit to allow for a reduction in parking. The conditions of that SUP include:

1. Reduction in required parking shall only be permitted for efficiency or one-bedroom multi-family units up to a total of 11 such units, where one parking space per unit may be provided.
2. The special use shall be established, or any construction authorized shall be commenced and diligently pursued within three years from the approval date of the special use permit.

Then in December 2022 the property owner applied for building permits to construct an 11-unit multi-family building. Ultimately, the permits were approved and construction commenced. These units, however, do not yet have certificates of occupancy as the necessary minor subdivision was just recorded on December 5, 2023. City tax map and geographic information system (GIS) maps will be updated to show the area as one parcel. While those updates are pending, this staff report will describe the property as two parcels.

The applicant is requesting to rezone a +/- 26,000-square foot portion of a +/- 1.06-acre area from R-3, Medium Density Residential District to R-5C, High Density Residential District Conditional. The property is addressed as 716, 720, and 722 Foley Road and is identified as tax map parcels 84-B-15 & 16. The applicant intends to build three, one-bedroom or efficiency units behind the existing building addressed at 716 Foley Road. Although not proffered, the applicant intends to construct these units as three fully accessible ADA units.

Additionally, the applicant is requesting to subdivide the +/- 1.06-acre parcel addressed as 716, 720, and 722 Foley Road (tax map parcels 84-B-15 and 16). The applicant is proposing to subdivide the property to place each single-family detached dwelling on its own lot and to place all multifamily units on one parcel. Additionally, the applicant is requesting a variance to the Subdivision Ordinance to allow the proposed +/- 25,782 square foot multi-family lot to not have public street frontage.

Proffers

If the rezoning is approved, it would supersede and replace the existing R-3 (Medium Density) zoning and associated SUPs.

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

1. Dwelling units on the referenced property shall be one bedroom or efficiency units only.
2. Dwelling units on the referenced property may be occupied by a family or no more than three (3) individuals per unit.

The submitted conceptual site layout is not proffered.

The R-5 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, only one parking space per unit is required by the ZO.

Land Use

The Comprehensive Plan designates this site as Medium Density Residential and states:

These 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.

While the applicant did not proffer a maximum number of dwellings units, with R-5's minimum 1,800 square foot lot area requirement per multi-family unit, and because they are requesting to rezone +/- 26,000 square feet, the allowable number of units in the R-5 area would be 14, which is what the R-5-zoned area would contain if the applicant built the three planned units. If the rezoning is approved, and if the subdivision is approved, the maximum density of the subject

properties could be 18 units. In this case, staff believes such unit types and density would be in conformance with the Land Use Guide.

Transportation and Traffic

A traffic impact analysis (TIA) was not required for the rezoning request.

Public Water and Sanitary Sewer

Staff has no concerns with the requested rezoning regarding water and sewer matters. With the approval of the proposed subdivision, the applicant would be providing a 20-foot public sanitary sewer easement.

Subdivision Variances

The proposed subdivision includes a variance request to deviate from the Subdivision Ordinance Section 10-2-42 (c), which requires “[a]ll lots shall front on a public street and no lot shall embrace any portion of a street or alley.” As part of the subdivision, the applicant would provide an appropriate access easement for the parcel that does not have public street frontage.

Housing Study

The City’s Comprehensive Housing Assessment and Market Study (Housing Study) places the subject site within Market Type A. Among other things, this Market Type is characterized by high population growth. The study notes that Market Type A has “above median overall access to amenities such as public transit within walking distance, full-service grocery stores, and multiple parks and recreation facilities.” The study also notes that “policies that are appropriate to Market type A areas include an emphasis on increasing density through zoning changes, infill development and housing rehabilitation to maintain the quality of housing.”

Public Schools

Harrisonburg City Public Schools does not anticipate the three planned units impacting student generation numbers.

Recommendation

Although staff would typically expect for the applicant to construct street frontage improvements of curb, gutter, and sidewalk, decisions were previously made to forego such improvements at this location. Staff believes the proposed rezoning is conforming with the Comprehensive Plan and speaks to appropriate policies and actions identified by the Comprehensive Housing Assessment and Market Study. With regard to the proposed subdivision, aside from the requested variance, the subdivision would meet all other Subdivision Ordinance requirements. Staff recommends approval of both the rezoning and the plat variance request.

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.

Frank Gordon, the applicant representing Devon Lane LLC, came forward to speak to the request. He said I was just thinking to myself that was in the ALICE part of the program now. We do not have a team of 12 or a budget of tens of millions but hopefully we will be able to still do something useful for our community. This application has grown out of a conversation with the Planning

Director regarding practical ways of achieving meaningful responses to the Harrisonburg Housing Report. In that report the consultants recommended that zoning changes be made to increase density in type A neighborhoods of which this is one given its location to amenities, sources of employments, healthcare, recreation, etcetera. Also, the housing report recommended an increase in efficiency units due to their inherent affordability and this will provide three additional of those units. I did not hear any talk this evening or recently of any other developers looking to actually build efficiency units, so I hope that even with the small size of this... I think it will make a meaningful contribution to the number of those units available on the market. Also, in initial discussions with stakeholders who have residents who might like to occupy the nearly completed building, as my certificates of occupancy are obtained, it has become clear in my discussions with them that the more accessibility we can provide, the better that will be particularly given the aging of our population which was also mentioned in the housing report. An additional benefit of this is that currently the two single family homes are rented and if the rezoning and subdivision is not approved, then for all practical purposes, they will remain rental houses forever because to buy one you would have to buy both plus the apartment building being on one lot. So, this subdivision would also allow for the possibility of owner occupancy down the road. Houses tend to outlive their builders and this will probably be no exception in my case. As a special note of congratulations to Councilwoman Dent for her recent environmental post appointment, I wanted to just point it out as a brief note and brag on myself for a moment to say that the 716 Foley Road hosts a voluntary rain garden, which this gentleman over here referred to as a microbiome which I thought was also very interesting, which has been in place almost 10 years and was developed with cooperation with the Department of Environmental Quality. I will also say that I was not overwhelmingly impressed by two level two chargers for 140 parking spaces at this giant building and that the 11 unit building here and the three anticipated each unit will have a level three charging and the available electrical infrastructure will support that for everybody there. In the interest of time, I am not going to try to anticipate all possible objections because I trust that I will also be granted the opportunity that the team of 12 were given to respond thoroughly to any objections. If that is in fact the case, then I will wait.

Vice Mayor Dent said as I saw on the site there is a wonderful tree there, are you keeping that?

Mr. Gordon said the current layout for this anticipates that, however, I also will note that is a silver maple with a multi-stem habitus and I have been in consultation with my arborist about whether we would be better in the long term maintaining that tree or substituting it for one with a better structure and they have not given me a final report on that, but I appreciate your interest in that tree.

Chair Finnegan said as Vice Mayor Dent mentioned earlier the CPACE [program], there is also the HCAP program which the City can help reimburse for the planting of trees. So, that is something worth looking into.

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.

Vice Chair Byrd said reviewing the preliminary plat, I see nothing that stands out. Reviewing the rezoning, I have also not seen issues with that.

Chair Finnegan said I have been on this commission for seven years now and we have approved a lot of things, City Council has approved a lot of things, this is one of the few multifamily buildings that has been approved that has gotten built during my time here. There was a lot that has been approved and ground is yet to be broken on many of them. I have a good feeling that if this gets approved that this will get built.

Vice Chair Byrd said Chair that is a good point. I remember when I was very new to the commission, I saw this one. The building that is there now, it just got finished being built just waiting for a Certificate of Occupancy, we were considering if that should even be and I remember approving that. So, to see it built, that is interesting and now to see these other things. Interesting is there is not as much resistance to this as much as the first one. If anyone has nothing else to say then I will make a motion to approve the rezoning.

Vice Mayor Dent seconded the motion.

Commissioner Baugh said I want to note for the record that I have not spoken on this. I do not intend to speak on this. I will, unless Mr. Russ has a better idea, submit to the clerk tomorrow the standard statement. For ethical reasons related to my sense as a member of the Virginia State Bar I am going to recuse myself. I have recused myself and will recuse myself from anything further on items 4i. and 5a.

Chair Finnegan called for a roll call vote.

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|-------------------------|---------|
| Commissioner Armstrong | Aye |
| Commissioner Baugh | Recused |
| Vice Chair Byrd | Aye |
| Vice Mayor Dent | Aye |
| Commissioner Alsindi | Aye |
| Commissioner Washington | Aye |
| Chair Finnegan | Aye |

The motion to recommend approval of the rezoning request passed (6-0). The recommendation will move forward to City Council on January 9, 2024.

New Business – Other Items

Consider a request from Devon Lane LLC to preliminarily subdivide 716, 720, and 722 Foley Road

Vice Chair Byrd said I would like to make a motion to approve the plat variance as submitted.

Commissioner Armstrong seconded the motion.

Chair Finnegan called for a roll call vote.

| | |
|-------------------------|---------|
| Commissioner Armstrong | Aye |
| Commissioner Baugh | Recused |
| Vice Chair Byrd | Aye |
| Vice Mayor Dent | Aye |
| Commissioner Alsindi | Aye |
| Commissioner Washington | Aye |
| Chair Finnegan | Aye |

The motion to recommend approval of the preliminary plat variance passed (6-0). The recommendation will move forward to City Council on January 9, 2024.

Unfinished Business

Chair Finnegan said I did just want to just take a moment to note appreciation for staff. This is a lot. We are doing two meetings this month so thank you for your work.

Mr. Fletcher said along with all of the things that you never see staff do.

Public Comment

None.

Report of Secretary & Committees

Rockingham County Planning Commission Liaison Report

Commissioner Baugh said they took up an ordinance amendment that essentially was reducing setback height and area requirements for certain accessory buildings. Basically, I think the way it turned out was that 580-square feet, that is where their rules require a foundation. Congratulations, you are in the county and you have a building smaller than that, they have also reduced some of those requirements. They took up briefly under unfinished business another ordinance amendment that has to do with some poultry operations. Poultry Operation what your requirements are for separating everything when you have adjoining parcels. That has gone onto... I think it was officially tabled, but the supervisors are setting up a kind of Blue-Ribbon commission to report back to them specifically on that. They discussed a matter that was tabled that still remained tabled and so having convened at 6:30 they adjourned at 6:45.

Chair Finnegan asked who has January?

Ms. Dang said that is my question for the group I need a volunteer for January.

Chair Finnegan said I should be able to do that. Do we have February?

Ms. Dang said I will present to you all the schedule with this. We can probably do it next week. I will include it with the agenda packet and if you all can take a look at that and we can discuss it next week.

Vice Chair Byrd said I will take February.

Board of Zoning Appeals Report

Vice Chair Byrd said the BZA did not meet which means good job staff. Good job Planning Commission. Good job City Council.

City Council Report

Vice Mayor Dent said this is a complicated one because I have three meetings to report on because last month was one of those weird ones where Planning Commission happened to meet before, so I have the two November plus one December. November 14 was a weird one because there were only three of us there because Councilmember Jones and Councilmember Robinson has already gone down to the NLC [National League of Cities] thing so we postponed a few things; the Bluestone Town Center, the Board of Zoning Appeals and Parks and Recreation appointments. We picked them back up November 28. Meanwhile, we approved the thing about Northfield Court. That was the rezoning with half of a duplex. We did not do much else.

Mr. Fletcher said to clarify, the Bluestone Town Center matter on the agenda was not associated with matters associated with the Planning Commission but had to do with designating it for...

Vice Mayor Dent said as a revitalization area to get a Virginia Housing grant that they had already gotten, I will get to that in a minute. We also appointed Andrew Hirshberger to HEC, reappointed Kevin Coffman to HRHA and postponed the other two appointments. Again, the Bluestone Town Center went through, again that was just declaring it a revitalization area. That was an interesting discussion because typically a revitalization area is declared when an area is in blight. Well, it is not blight because it is an open field, so they had to make the case that it is for the economic development of the City, we need housing, so we need this, so that went through. From the public hearing the thing that would not die, the short-term rentals, we postponed to early spring because Councilmember Fleming and I went to the report from the CSPDC [Central Shenandoah Planning District Commission], a follow up to the housing study that is focusing particularly on short term rentals, but they had gotten to everybody but Harrisonburg for whatever reason. So, we wanted to get their data about short term rentals for us in particular before voting on that thing. Stay tuned and come back. Yes, we designated Bluestone as the revitalization area as I said. The HRHA bonds for the senior living facility that we have improved down on Mosby, we passed. HRHA can issue bonds on its own but the City Council has to approve it even for other jurisdictions like Alexandria. This was the biggest news, we announced buying the big chunk of real estate to put up the new fire station on Mount Clinton Pike right by Virginia Avenue. That was a big celebration. Matthew Phillippi was reappointed to the Board of Zoning Appeals, that is one of the ones we postponed. Last night, from Planning Commission we approved the one on Clay Street, rezoning. We approved the one on Northglen Lane. Now the strange one was the recovery residence. That one hit a snag when several council members were really concerned about the inclusion of children because what would that do to children being in an environment that is recovery based, long discussion. Short version is we wanted more information from best practices or experience with it. Oxford House has lots of these recovery houses. Some of them designated for families with children or single gender or what, how do they deal with the children? They really objected to the amendment that staff made since Planning Commission instead of just individuals calling it adults and any number

of children, that just raised a major red flag. Big financial report we got. Big news on the ARPA housing development fund, the 2 million that we had set aside got awarded a \$700,000 grant to Suter Street with a collaboration with Habitat there, an interest only loan. I was curious how that works, I think it is massively deferred or something. For Commerce Village II, that is \$1.3 million. That was good to have that come full circle because that was one of the things we were discussing at the beginning of ARPA. Changed some of the permit parking in Old Town to take away the permit on one side of the street on Franklin. Where by now all the buildings on that side of that block are business. Council vision, taxes. Now, things got sort of excited at the boards and commissions. We reappointed Kyle Lawrence for the Transportation Safety Advisory. Then for Planning Commission, it was the four of your reappointments. There was some discussion on do we always want to keep reappointing the same people, what about new people? It seemed like it might have been about to derail. All of these are strong people, I am going to move to reappoint them one by one, so you are still here.

Commissioner Baugh said over the next three years they get to appoint an average or less than...one year they would not have anybody probably, they had just gotten bunched, that is all.

Chair Finnegan said I am glad to hear that because this came up in the CIP that the Fire Department was looking for a new fire station. I did have a concern about it going on the west side of 42 on Mount Clinton Pike. I am glad it is going on the east side; it is more industrial. It is that big field with the big security fence around it for no apparent reason.

Vice Mayor Dent said yeah, it is right next to next to Valley Imports. I raised a question of wait a minute it is by a railroad track and the City Manager said yeah but Fire Station 1 is by two railroad tracks.

Other Matters

Review Summary of next month's applications

Ms. Dang said a reminder that we are meeting next week on December 19 on a Tuesday at 6 o'clock here. We expect that there will be five items on the agenda for three different sites. So, Bluestone Town Center preliminary plat and then Cobblers Valley rezoning and special use permit and Zyphr Hill rezoning and special use permit.

Mr. Fletcher said if I could just add to as I have been doing for the past couple of years for the CIP [Capital Improvement Program] review is to give you ahead of time just the packet of projects so you can begin to review them. Just today I was speaking with a department that I am still awaiting some information on. I hope they can get me what I need by Friday. I hope to be able to provide you the projects only next Tuesday as well. Would you like hard copies or would you like it a digital format?

Ms. Dang said moving on to the January Planning Commission meeting, we have three items on the agenda for two different sites and so we recommend having one meeting. If Commissioner Alsindi is up for it January 10 could be a good time for him to do the presentation you offered that we discussed last meeting.

The board agreed to have one meeting for January.

The meeting adjourned at 9:02pm

Brent Finnegan, Chair

Anastasia Auguste, Secretary