

MINUTES OF HARRISONBURG PLANNING COMMISSION

December 11, 2019

The Harrisonburg Planning Commission held its regular meeting on Wednesday, December 11, 2019 at 7:00 p.m. in the City Council Chambers, 409 South Main Street.

Members present: Gil Colman; Mark Finks; Brent Finnegan; Zanetta Ford-Byrd; Sal Romero; Kathy Whitten; and Henry Way, Chair.

Members absent: None.

Also present: Adam Fletcher, Director of Community Development; Wesley Russ, Assistant City Attorney; Thanh Dang, Assistant Director of Community Development; Alison Banks, Senior Planner; Rachel Drescher, Zoning Administrator; and Nyrma Soffel, Administrative Assistant.

Chair Way said there was a quorum with all members in attendance. He asked if there were any corrections, comments or a motion regarding the November 13, 2019 Planning Commission minutes.

Commissioner Finks moved to approve the minutes.

Commissioner Whitten seconded the motion.

All members voted in favor of approving the November 13, 2019 Planning Commission minutes (4-0), with Commissioners Finnegan, Ford-Byrd and Romero abstaining.

New Business – Public Hearings

Consider a request from Jeanie Marie Turner for a special use permit to allow short-term rental at 1045 Carriage Drive.

Chair Way read the request and asked staff to review.

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

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

Site: Single-family detached dwelling, zoned R-1

North: Single-family detached dwellings, zoned R-1

East: Single-family detached dwellings, zoned R-1

South: County landfill, zoned M-1

West: Single family detached dwellings, zoned R-1

The applicant is requesting approval of a short-term rental (STR) operation at 1045 Carriage Drive, which is located in the southern portion of the City in the Greendale neighborhood. The applicant desires to rent one STR accommodation space for no more than two guests within the basement of their home. ("Accommodation space" means any room offered for sleeping. This would not include living spaces or rooms where guests would not be sleeping.) The applicant describes that the property is their primary residence and that the basement has a private entryway that guests would use for access to the accommodation space.

Section 10-3-25(28) of the Zoning Ordinance (ZO) requires STRs to "provide one parking space for each guest room or accommodation space, or as may be more or less restrictive as conditioned by a special use permit." With a request to rent one accommodation space for STR, the property would need to provide one off-street parking space. It should be acknowledged that in addition to the off-street parking spaces required for the STR, the ZO requires off-street parking spaces for the non-transient dwelling unit.

The applicant has explained that lodgers would park their vehicle in the driveway which can accommodate up to four off-street parking spaces. It appears that all the required off-street parking could be provided on the property in the existing driveway area. Staff believes the applicant should be provided the flexibility to meet the off-street parking requirements by allowing guests to park in the existing driveway or other area of the property without delineating parking spaces.

If the request is approved, staff recommends the following conditions:

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

Condition #1 helps to prevent the City's housing stock from being purchased by investors and then being reallocated from homeownership and long-term rentals to STRs. Condition #2 helps to protect neighbors from nuisances arising from absentee operators. Along with condition #1, for property owners operating the STR for whom this property is their primary residence (and to be consistent with Planning Commission's recommended conditions on other applications), they are not required to be present during the lodging period. However, long-term tenants operating a STR would be required to be present during the lodging period. Condition #3 prevents the ability for the STR operator to convert or construct an accessory building into space for a STR that was not previously vetted for impacts to the surrounding properties. If the applicant later wishes to create living spaces within an accessory building for STR, they must return to Planning Commission (PC) and City Council (CC) with a new SUP request. Condition #4 limits the total number of guest rooms and accommodation spaces on the entire property to one. Condition #5 limits the total number of guests at one time to two people. Condition #6 requires that prior to beginning operations that the operator shall submit to City staff a completed Short-Term Rental Pre-Operation Form and shall maintain compliance with the form when STR guests are present. The form includes a checklist to guide STR operators through a self-inspection of guest rooms and accommodation spaces and means of egress. Condition #7 provides flexibility for the property owner to maintain the residential appearance of the property by not requiring them to create parking spaces. Condition #8 allows PC and CC to recall the SUP for further review if the STR becomes a nuisance.

It should be acknowledged that while the applicant has explained their plans for using this property, the SUP is not restricted to the applicant or operator and transfers to future property owners. If the applicant were to sell the property, then future property owners could operate a STR so long as they meet the conditions for the SUP as approved. How the property could be used by any future property owner should be considered when deciding on SUP conditions.

Multiple STR SUP applications with comparable operating situations in similar locations have been approved throughout the City. Considering those approvals and with the suggested conditions, staff recommends approval of the special use permit request.

Chair Way 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 the request.

Jeanie Marie Turner, 1045 Carriage Drive, came forward to speak to the request. This was originally for my mother. She has gotten extremely ill and cannot move in with me. I came to the City to see what I could do to recoup some of the finance that it cost me to redo this. I do live alone. I have a small business in Harrisonburg that I have had for forty years. I am self-employed. I am trying to recoup the money that I had to spend on my mother. If there is an issue anywhere, then I would like to know. Most of my neighbors are very nice, and I think they would tell me.

Commissioner Colman asked if the applicant has used the property as a STR before.

Ms. Turner said no. I am just now fixing it up and I do not want to do anything that I should not do. I am going to wait until you say that it is okay.

Commissioner Whitten asked if Ms. Turner has spoken with her neighbors.

Ms. Turner said yes. It is very private. My home sits back, close to the woods. The neighbors are a good distance away. When my mom was there, and my sister stayed, they did not know they were there. I am not going to tolerate a lot of noise because I have to work.

Commissioner Romero said that he happens to live up the street from the site. I am very familiar with our neighborhood. I have been there for fifteen years. I know that this is a very quiet neighborhood. I noticed that you keep your house very well.

Commissioner Finks said that the Commissioners were at the property for a site tour. According to the statement that you submitted, there is a private access to the lower floor, or a separate entrance to the residence. We noticed that the hill has a steep grade. Is it easily accessible through the house?

Ms. Turner said that it can be accessed from the front door because it has a split foyer. You can go up three steps into my part or down steps in to their part. That being said, I cut a little pantry at the bottom, when I had it finished. We can open it so that it is connected to my upstairs. It can flow. I can shut it off if they need to. Do you think it is too steep for walking down the side of the house?

Commissioner Finks said that it is not too steep. I noticed that it has a bit of a grade.

Ms. Turner said that she could put something there. My mom has been there and my sisters, and there has never been an accident. I can take care of that.

Commissioner Finks said that he is not suggesting that she do anything. I was just wondering how easily accessible it was through your house and would that be part of the plan?

Ms. Turner said that there is a lot of pebble gravel under that grass. The only time that I have noticed that it has been a problem is when we have a lot of leaves. If there are leaves, it can be slick. I never have had any issues. I did put down gravel because grass does not grow very well there because of the lack of sun. Maybe I should look into having something to make it a bit safer, if you feel like that is a problem.

Commissioner Finks said that he is not suggesting that it is a problem. I wanted to know if it was accessible through the interior.

Ms. Turner said that they can come through the front. I am going to be there. I will ask. If it is an issue, I will take care of it.

Chair Way asked if there was anyone else wishing to speak to the request. Hearing none, he closed the public hearing and opened the matter for discussion.

Commissioner Whitten said that this is R-1, but I think that the request is extremely reasonable. The STR is for two people and by right you can rent to two people. I will move to approve with the recommended conditions.

Commissioner Finnegan seconded the motion.

Commissioner Colman said that we will be looking at these types of situations tomorrow at our work session. I agree that two guests seems very reasonable and may end up being by right if we move in that direction. I agree that it is non-intrusive to the neighborhood, whether it is R-1 or R-2.

Chair Way said that there does not appear to be any neighborhood opposition.

All members voted in favor of recommending approval (7-0) of the SUP with conditions, as presented. The recommendation will move forward to City Council on January 14, 2020.

Consider a request from CFP Partners, LLC for a special use permit to allow businesses and professional offices at 1592 CF Pours Drive.

Commissioner Colman recused himself from the request for 1592 CF Pours Drive due to a conflict of interest and left the room.

Chair Way read the request and asked staff to review.

Ms. Banks said that the Comprehensive Plan designates this site as Industrial. These areas are composed of land and structures used for light and general manufacturing, wholesaling, warehousing, high-technology, research and development, and related activities. They include the major existing and future employment areas of the City.

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

- Site: Vacant structure, zoned M-1
- North: Dog training/kennel facility and construction companies, zoned M-1
- East: Manufacturing, processing and warehousing facilities, zoned M-1
- South: Construction company, zoned M-1
- West: Construction companies, zoned M-1

The applicants are requesting a special use permit (SUP) per Section 10-3-97(3) of the Zoning Ordinance to allow business and professional offices in the M-1, General Industrial District. The property is located along the southern side of Acorn Drive, at its intersection with CF Pours Drive (a private street). Situated on the +/- 1.1-acre site is a vacant +/- 5,170 square foot frame building and a gravel parking area.

If approved, MEI Engineering, Inc. desires to locate its offices within the existing building. The applicant describes its business as engineering consulting services, which design HVAC,

plumbing, and electrical systems for permits and “bid” drawings. The applicant’s letter states that most of the client interaction occurs over email and through conference calls; however, they occasionally have client meetings at their current office.

This portion of the Acorn Drive corridor between North Liberty Street and Red Oak Street, along with the entirety of CF Pours Drive, where the subject parcel is located, is zoned M-1, General Industrial District. There are a mix of M-1 permitted uses in this area that include: vehicle sales/service; small furniture manufacturing; a dog kennel/training facility; contractor offices/material storage; State Police Headquarters; warehousing; and larger scale manufacturing (American Tire Distributors and Ariake). As well, three previous SUPs for business and professional offices, approved in 1997, 2001, and 2015 respectively, are located less than one-half mile from this site.

As noted with previous SUP applications for business and professional offices in the M-1 zoning district, the applicants should be aware that because the property is surrounded by properties zoned M-1, General Industrial District and identified in the City’s Land Use Guide for General Industrial uses, intense industrial operations could locate adjacent to or near the site and could create noise, odor, traffic, or other byproducts of industrial operations that may be seen as unpleasant or distracting for the office use, and which they may deem as undesirable neighbors.

Business and professional offices provide services to the general public of either a business nature (i.e. consultants, web designers, tele-marketing, a corporate headquarters, and others) or a professional nature (i.e. lawyers, accountants, architects, doctors, dentists, engineers, insurance agents and others). Therefore, any business or professional office operation would be permitted to locate at this site—it would not only be an engineering/construction-related business office. At this location, staff has concerns with business and professional offices associated with the health and medical field, such as healthcare facilities and doctor’s offices. The Institute of Traffic Engineer’s (ITE) Trip Generation Manual (a tool used nationally by transportation engineers) estimates that a medical-dental office occupying the existing 5,170 square foot building would generate 19 vehicles per hour during the morning peak hour, compared to 9 vehicles for a single-tenant office building such as engineering consulting services. While this is not an overwhelming amount of traffic during one hour of the day, staff is concerned that additional vehicles in this area from customers throughout the day who may be unfamiliar could be disruptive to trucks and other traffic associated with the surrounding industrial operations. Additionally, a healthcare facility or doctor’s office use at this location may discourage future industrial uses from locating within close proximity. Therefore, staff believes such uses should be excluded from the SUP ability.

Given the existing conditions and the varying intensity of the mixture of industrial operations along this corridor, except for healthcare related businesses as suggested to be prohibited in the condition below, staff believes that the proposed SUP is consistent with good zoning practice and will have no more adverse effect on the health, safety, or comfort of persons living and working in the area and will be no more injurious, economically or otherwise, to property or improvements in the surrounding area. Staff recommends approval of the SUP request with the following condition:

- Business and professional offices associated with medical and healthcare facilities and offices (i.e. doctor, dentist, and others) shall be prohibited.

Chair Way asked if there were any questions for staff.

Commissioner Finnegan said that two lots over is a veterinary clinic.

Commissioner Whitten said that it is training and boarding.

Commissioner Finnegan said that he is referring to the corner of Acorn Drive and Liberty Street.

Commissioner Romero said that it is Harrisonburg Veterinary Hospital.

Commissioner Finnegan asked if it is considered medical.

Ms. Banks said that the Zoning Ordinance defines it differently. The Zoning Ordinance states that veterinarians are allowed by right in the M-1. It would not be considered the same.

Commissioner Whitten said that they talked about this at the site visit. Does it make sense to keep doing SUPs in our industrial area for a use that is clearly not industrial. How does the Department of Economic Development feel about taking away the industrial space? I think that is something that should be on our radar to discuss further, at another time. We have seen a good number of these in the past few months. I think it bears looking at. Sometimes you get lost when you do these bit by bit. Then all of a sudden, the puzzle starts to fill in. We may be surprised when we realize all our industrial land is now business.

Ms. Banks said it is stated in the staff report that, in previous years starting in 1997, 2001 and 2015, other SUPs for the same business and professional type special use have been approved along this section of Acorn Drive between the railroad tracks and North Liberty Street. Only one of them is still operating. One has converted to an M-1 permitted use. One building is empty at this time.

Commissioner Whitten asked are we encouraging business that need a business use to go into some of the already built out shopping centers that are empty. Maybe there is an economic advantage to go into this area, but it is something to think about.

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

Wesley Siever and Mike Irwin, Owners of MEI Engineering, also representing CFP Partners, LLC, came forward to speak to their request.

Mr. Siever said that they are under contract to purchase the property from CFP Partners, contingent on the approval of the SUP. We would like to move our firm there. Thank you for your consideration tonight. Our firm is in the City of Harrisonburg. We have been within City

limits, in multiple locations, since 1989. We are trying to maintain that history and still move into a space that would be appropriate for our operations.

Chair Way asked if there was anyone else wishing to speak to the request. Hearing none, he closed the public hearing and opened the matter for discussion.

Commissioner Finks moved to approve the permit with the recommended conditions.

Commissioner Ford-Byrd seconded the motion.

Chair Way said that he would like to echo what we were talking about before in terms of being careful about M-1 zoning. This is not a rezoning, but if it were a rezoning, we want to be thoughtful about those things here. I do not have too many problems with this.

All members voted in favor of recommending approval (7-0) of the SUP with conditions, as presented. The recommendation will move forward to City Council on January 14, 2020.

Commissioner Colman returned to the meeting room at the conclusion of this agenda item.

Consider a request from Soran, LLC for a special use permit to allow facilities designed for repair or storage of over the road tractors, their trailers, heavy equipment, industrialized buildings, or agricultural equipment at 3055 South Main Street.

Chair Way read the request and asked staff to review.

Ms. Dang said that the Comprehensive Plan designates this site as Commercial. Commercial uses include retail, office, professional service functions, restaurants, and lodging uses. Commercial areas should offer connecting streets, biking and walking facilities, and public transit services. Interparcel access and connections are essential to maintaining traffic safety and flow along arterials. Parking should be located to the sides or rear of buildings.

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

- Site: Illegal truck and trailer repair service, zoned B-2
- North: Retail uses and non-conforming residential uses, zoned B-2
- East: Retail uses and vehicle sales, zoned B-2
- South: Offices and retail uses, zoned B-2
- West: Retail uses and vacant properties, zoned B-2

The applicant is requesting a special use permit (SUP) per Section 10-3-91(3) of the Zoning Ordinance (ZO) to allow facilities designed for repair or storage of over the road tractors and their trailers in the B-2, General Business District to bring their illegal use into conformance with the

Zoning Ordinance. The property is located in the southern section of the City at 3055 South Main Street.

The SUP process began as a result of a zoning enforcement inspection due to an anonymous complaint. Upon inspection and further investigation of the property, the issue arose that the operation of repair and storage of over the road tractors and their trailers is not a use permitted by right on the property due to its B-2 zoning. Staff then verbally notified the tenant informing them that the repair or storage of over the road tractors and their trailers is not permitted by right.

The property owners are working to rectify the situation by applying for the SUP to allow repair and storage of over the road tractors and their trailers. The SUP in which they are applying is per Section 10-3-91(3) of the ZO, which states:

“Facilities designed for the repair or storage of over the road tractors, their trailers, heavy equipment, manufactured homes, industrialized buildings, or agricultural equipment served by a permanent building facility unless already incidental to an existing building. In addition, any outside storage or repair shall be located within a designated area and screened.”

Within the definition of “screening” as stated within Section 10-3-24 of the Zoning Ordinance, it states, among other things, that “[f]ences, decorative walls or other physical or structural enclosures used for screening shall be opaque to obstruct view of storage materials, with the finished face facing outside, and shall be at least six (6) feet in height with a maximum of eight (8) feet in height. If plant materials are used for screening purposes, they shall be three (3) to four (4) feet in height at planting time and shall meet the same intent as stated for fencing, etc. with the exception of height described herein.” The applicant plans to store over the road tractors and their trailers in the rear of the property and understands that screening shall be installed. The applicant is aware that screening around the designated area shall be installed within thirty days of SUP approval, unless alternative arrangements have been approved by the Zoning Administrator.

The business currently operating on this property is named Mid Atlantic Truck Service and the business’ website describes the following available services for over the road tractors and their trailers: oil change, tire change, battery replacement, inspections, trailer maintenance, and repairs associated with over the road tractors and their trailers.

Given the size of the current business operation, the size of the property, and the property’s location along South Main Street, where there are other automotive repair and automobile-related businesses, staff believes that facilities designed for repair and storage of over the road tractors and their trailers that operate substantially similar to current operations at this location would have no more adverse effect on the health, safety, or comfort of persons living or working in the surrounding area. Staff recommends approval of this request with the following conditions:

1. The special use permit shall be limited only for the repair and storage of over the road tractors and their trailers.
2. Outside storage or repair of over the road tractors and their trailers shall be restricted to the rear of the property behind the principal building.

3. If in the opinion of Planning Commission or City Council, the use becomes a nuisance, the special use permit can be recalled for further review, which could lead to the need for additional conditions, restrictions, or the revocation of the permit.

Approval of the SUP request with condition #1 means that the storage and repair of additional things listed in Section 10-3-91(3) of the Zoning Ordinance, specifically heavy equipment, industrial buildings, or agricultural equipment is prohibited. Only repair and storage of over the road tractors and their trailers would be permitted. Condition #2 restricts outdoor storage and repair of over the road tractors and their trailers to the rear of the property behind the principal building. Exhibit A illustrates the area in which outdoor storage and repair would be restricted given the current principal building's footprint on the property. As previously described, this area must be screened as required by the ZO. Condition #3 allows PC and CC to recall the SUP for further review if the use becomes a nuisance.

Chair Way asked if there were any questions for staff.

Commissioner Romero asked how long the business had been operating without a permit.

Ms. Dang said that it was about September 2018 that the business opened.

Chair Way opened the public hearing and invited the applicant or applicant's representative to speak to the request.

Michael Sharp, attorney at Botkin Rose, came forward representing the applicant, Soran LLC. I have with me Karwan Sidig Saed who is sole member of Soran, LLC and the owner of Mid Atlantic Truck Services. Mid Atlantic Truck Services is a tractor and trailer repair business. It is a relatively low volume operation. They see about one to two customers per week. Those customers are met by appointment. The work being done on these tractors and trailers is similar to work that has already been done in those areas. There are several car dealerships and service repair shops in that area already. This operation is not a substantial deviation from what is already occurring in that district. The repair work is done inside, between 8:00 a.m. and 5:00 p.m., Monday through Friday. Those are the business hours. Drivers that bring in their tractors and trailers are not permitted to stay beyond those business hours. Soran is willing to move forward with staff's thoughtful recommendations on this matter. There is ample space on the rear of the property to construct and erect a screened fence to store what is needed for the operations. They will do that in compliance with any condition put forward. It will be constructed in a way that any outside observer from the public road or the adjacent properties will not be able to see what is stored behind it. We ask that the Planning Commission recommend approval of this SUP, with the conditions that staff is recommending. I am happy to answer any questions that you may have.

Commissioner Colman asked if the one or two vehicles is the business capacity or the kind of clientele that they have right now?

Mr. Sharp said that it is what they are seeing right now. I do not think that their capacity is much more than that in terms of what they would be able to store. In my discussion with Mr. Saed, I do not think that he anticipates that it will get much larger than what he has already seen.

Commissioner Whitten said that it was mentioned that drivers would not be staying overnight in the vehicles that are being stored.

Mr. Sharp said that they would not be. That is correct. The business is open between 8:00 a.m. and 5:00 p.m. They can wait if they want to, but they are not permitted to stay beyond the operating hours.

Commissioner Whitten said that sometimes refrigerated trucks have to idle because the refrigerating equipment needs the engine for that function to be maintained. That would be problematic because of the noise.

Mr. Sharp said that to his knowledge and in discussion with Mr. Saed they have not had any trucks idle. If that is a condition that is necessary to move forward, then Mr. Saed is happy to move forward with that.

Chair Way asked if there was anyone else wishing to speak to the request. Hearing none, he closed the public hearing and opened the matter for discussion.

Commissioner Finnegan said, in reference to idling trucks, if the truck is mobile, unless there is something mechanically wrong with it and it is stuck there, it is pretty close to the truck stop where trucks do idle. I would think that it would not be a problem to go down the road to the truck stop.

Commissioner Whitten said that she could see a driver being waylaid overnight. Most truck drivers are not going to go stay in a hotel. They are going stay in their truck. If there is refrigeration equipment, or any number of reasons, they may need to use the engine overnight.

Chair Way said that it would be captured with the third condition. If it becomes a nuisance, there is a recourse.

Commissioner Finks said that we discussed this at the site tour. I came to the conclusion that this property is surrounded by commercial businesses. The time that that could be an issue would be during the day. Even if there was a scenario where the truck would be idling overnight, there are no apartments or houses adjacent to the property. I assume that most of those adjacent businesses are going to be closed during the night hours. Even if there was a vehicle idling there, who would be in the area to be concerned or bothered by it. There could be future redevelopment where that could become an issue, but currently, it does not seem that there would be a problem. I do not see who it would impact.

Commissioner Colman said that, if they have one to two vehicles for repair per week, those vehicles would be there a couple days, two or three days. It would, probably, be decommissioned from transporting anything.

Commissioner Whitten said that there were two or three on the lot, yesterday, in the back.

Commissioner Finnegan said that there was one in the back.

Commissioner Finks said that there was one, and perhaps a trailer. I do not think that they all had trucks with them.

Commissioner Colman said that we are not imposing any limitations here on how many they can repair.

Commissioner Finnegan moved to recommend approval of the SUP with conditions, as presented.

Commissioner Whitten seconded the motion.

All members voted in favor of recommending approval (7-0) of the SUP with conditions, as presented. The recommendation will move forward to City Council on January 14, 2020.

Consider a request from Peale Properties LLC with representative John Sallah to rezone 129 West Wolfe Street.

Chair Way read the request and asked staff to review.

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

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

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

Site: Commercial building, zoned M-1

North: Non-conforming dwelling, zoned M-1 and commercial building, zoned B-1C

East: Commercial building, zoned B-1

South: Commercial building, zoned B-1

West: Parking lot, zoned R-3

This is a request to rezone a +/- 10,000 square feet parcel from M-1, General Industrial District to B-1C, Central Business District Conditional. The property is located on the southern side of West Wolfe Street, approximately 150-feet west of the intersection with North Liberty Street and is improved with a two-story masonry building with +/- 5,984 square feet of gross floor area. Currently, there is not a use operating from the property; however, in the past, it has been used as a small appliance repair business, a house of worship, business offices, and financial offices.

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

In connection with the rezoning request for the property located at 129 West Wolfe Street and identified as tax map parcels 35-S-5 the following permitted uses are hereby proffered:

1. Retail stores, personal service establishments, restaurants (except fast food restaurants and shops that primarily serve coffee/donuts/bagels/bread), food and drug stores (except marijuana dispensaries).
2. Governmental, business and professional offices and financial institutions excluding banks with drive-through service.
3. Hotels, motels and buildings used for dwelling unit(s), CBD, as defined under section 10-3-24. Dwelling unit(s), CBD, may be occupied by a family or not more than four (4) persons, except that such occupancy may be superseded by building regulations.
4. Theaters, community rooms, museums and galleries and other places of assembly for the purpose of entertainment or education. In addition, customary recreational and leisure-time activities which are compatible with surrounding uses are permitted.
5. Religious, educational, charitable and benevolent institutional uses.
6. General service or repair shops, when not employing more than fifteen (15) persons on the premises in a single shift (not including persons whose principal duties are off the premises) and providing that all storage and activities are conducted within a building. Examples: Cleaning and laundry establishments, printing and tailoring shops, appliance repairs, upholstery and furniture repairs.
7. Accessory buildings and uses customarily incidental to any permitted uses.
8. Small cell facilities, concealed wireless telecommunications facilities, industrial microcells, distributed antenna systems, and macrocells. Telecommunications towers are permitted only by special use permit. Wireless telecommunications facilities are further regulated by Article CC.
9. Public libraries.
10. Public uses.
11. Research and development activities which do not cause any more smoke, dust, odor, noise, vibration or danger of explosion other than uses permitted in this district and which involve no more than 15 percent of the gross floor area in the assembling or processing of products. Any assembling or processing shall only

involve products developed on the premises. All services and storage shall be conducted within the principal structure which is to be completely enclosed.

12. Home occupations.

13. Radio and television stations and studios or recording studios. All antennas and satellites and associated equipment shall be screened.

Special use permits shall be permitted as approved by City Council.

Additionally, I proffer that 10 parking spaces shall be located on the property. I also proffer that should the lot ever be redeveloped in the future, no parking lot (including travel lanes and drive aisles) shall be located between W Wolfe St. and the closest building to W Wolfe St.

With regard to the use proffers, the applicant would retain all the uses permitted by right in the B-1, Central Business District except for convenience shops, drive-through banks, fast food restaurants, shops that primarily serve coffee, donuts, bread or bagels, and marijuana dispensaries. The applicant has removed these uses from the list of by right uses in order to address staff's concerns about traffic generation and to stay below the threshold for the City to be able to require a traffic impact analysis (TIA). The Institute of Traffic Engineer's (ITE) Trip Generation Manual (a tool used nationally by transportation engineers) assigns a trip generation rate to these five uses that would have put the peak hour trip generation for this site over 100 vehicles in both AM and PM peak hours, thus triggering the requirement for the applicant to complete a TIA study for staff review. Staff acknowledges that the excluded uses could serve residents and visitors of this area well. While the TIA Determination Form, which is required as part of the rezoning application, uses the ITE Trip Generation Manual to calculate the number of peak hour trips, this is only a starting point. If the applicant was interested in having any of the excluded uses on the property associated with this rezoning request, a TIA study could have been performed to assess the impact of the proposed uses to the traffic network. During this time, assumptions could have been made about a higher level of pedestrian activity and a lower rate of vehicular traffic generation for sites located in the downtown area. The applicant chose to instead proffer the exclusion of these uses from the list of permitted uses.

Currently, there are approximately 15 parking spaces located on the site, and on-street parking is not allowed within this block of West Wolfe Street. Since there are no minimum off-street parking requirements in the B-1 district, if the City approves any B-1 rezoning request, the City is also accepting the responsibility of the parking demand such properties place on the downtown area. In this particular case, the building could be enlarged, or the property redeveloped, eliminating any parking area on the site, and operate uses that are more parking intensive. The applicant understood staff's concern and has proffered ten on-site parking spaces to ensure that any uses within the building will have options for parking.

The existing building located on the site is situated directly along the front property line with West Wolfe Street and parking is located along the side and rear of the building. If rezoned to B-1, the site could redevelop with new buildings placed further away from the public street to allow parking between any new buildings and the public street. The last proffer is intended to promote pedestrian friendly design by not allowing parking lots and drive aisles between buildings and public streets, which creates barriers for people wanting to walk to uses/buildings. By placing building(s) closer to the street it concentrates people and places along the public street and creates an environment

that is more accessible, interesting, and safer for pedestrians, which are designs and environments that staff promotes, especially for areas designated Mixed Use by the Comprehensive Plan's Land Use Guide. The Comprehensive Plan Land Use designation of Mixed Use supports the rezoning request to B-1C for this parcel and the listed proffers address future redevelopment concerns. Staff recommends approval of the rezoning request as submitted.

Commissioner Finnegan said that this is the first time that he has seen the prohibition of a marijuana dispensary come before the Planning Commission. Is that something that is common elsewhere in Virginia or is it in anticipation of a potential change of laws?

Ms. Banks said that there were changes recently made to update the Institute of Traffic Engineers Trip Generation Manual. This is not just a state manual.

Commissioner Finnegan said that, currently, in the Commonwealth, there are no marijuana dispensaries.

Ms. Banks said that this manual does not just address Virginia.

Commissioner Finnegan said that it is, therefore, in anticipation of potential changes of state law in the future.

Ms. Banks said that it applies to other states that do have dispensaries.

Commissioner Ford-Byrd asked if the proffers convey with the property if it were to exchange hands.

Ms. Banks said that is correct. The proffers become the property's zoning.

Ms. Dang said that with the Traffic Impact Analysis (TIA) determination form, the Department of Public Works looks at the square footage of the use and the rate of vehicular traffic that is generated during a peak hour for different types of uses. The list of uses that Ms. Banks provided are uses that, along with the square footage of the existing building, would have triggered a TIA study. The TIA study costs thousands of dollars to be done. The applicant was not interested in doing the study, so they removed the uses. Staff and the applicant agreed that the removal of those uses was appropriate.

Commissioner Romero asked if staff knew what the intended use of the facility was going to be.

Ms. Banks said no.

Chair Way opened the public hearing and invited the applicant or applicant's representative to speak to the request.

John Sallah, representing Peale Properties, LLC, came forward to speak to the request. This building was constructed in the early 1900s for Wilton Hardware. Joshua Wilton owned it. It has been in the Peale family since 1975 operating as the Appliance Hospital. It is a gorgeous building.

It has post and beam construction. In the 1970s, all of the beautiful facets of the building were covered with the paneling that you buy at Lowe's for nine dollars a sheet. The list proffers a number of things out, however, it is going to be office space. We believe office space is the highest and best use. We are going to remove everything that was put in in the 1970s and beyond, to get it back to the posts and beams, the concrete slab and the hardwood upstairs, and add some modern touches. It will be beautiful when it is done. The reason for the rezoning is to remove the burden from a potential lessee to get a SUP to operate as an office. I wanted to take that out of the equation by doing this myself. I am happy to answer any questions.

Chair Way asked if there was anyone else wishing to speak to the request. Hearing none, he closed the public hearing and opened the matter for discussion.

Chair Way said that he liked the proffer regarding keeping the building to the street. That is the right initiative for street design practice.

Commissioner Finks said that the proffers make sense for the property. It makes sense for that neighborhood to see the property transition from M-1 to B-1.

Commissioner Whitten moved to approve the rezoning request, as submitted.

Commissioner Finks seconded the motion.

All members voted in favor of recommending approval (7-0) of the rezoning request, as presented. The recommendation will move forward to City Council on January 14, 2020.

Consider a request from Rockingham Properties, LLC with representative Matchbox Realty to rezone 231, 251, and 261 South Liberty Street

Consider a request from Rockingham Properties, LLC with representative Matchbox Realty for a special use permit to allow manufacturing, processing, and assembly operations at 231, 251, and 261 South Liberty Street

Chair Way read the request and asked staff to review.

Ms. Dang said that the Comprehensive Plan designates this site as Mixed Use. The Mixed Use designation includes both existing and proposed areas for mixed use. Mixed Use areas shown on the Land Use Guide map are intended to combine residential and non-residential uses in neighborhoods, where the different uses are finely mixed instead of separated. Mixed Use can take the form of a single building, a single parcel, a city block, or entire neighborhoods. Quality architectural design features and strategic placement of green spaces for large scale developments will ensure development compatibility of a mixed use neighborhood with the surrounding area. These areas are prime candidates for "live-work" and traditional neighborhood developments (TND). Live-work developments combine residential and commercial uses allowing people to both live and work in the same area. The scale and massing of buildings is an important consideration when developing in Mixed Use areas. Commercial uses would be expected to have

an intensity equivalent to a Floor Area Ratio of at least 0.4, although the City does not measure commercial intensity in that way.

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

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

- Site: Offices and newspaper production facility for the Daily News-Record, zoned M-1
- North: Multi-family dwellings, restaurants, and retail uses, zoned B-1
- East: Across North Liberty Street, Municipal parking lot and City Hall, zoned B-1 and R-3
- South: Multi-family dwellings, zoned R-3
- West: C&W Railroad and industrial uses, zoned M-1

The applicant is requesting to rezone a +/- 2.2-acre parcel zoned M-1, General Industrial District to B-1, Central Business District and for a special use permit (SUP) per Section 10-3-85(1) of the Zoning Ordinance to allow manufacturing, processing, and assembly operations when employing not more than 15 persons on the premises in a single shift and provided that all storage and activities are conducted within a building within the B-1 district. The property is located downtown along South Liberty Street and currently houses the offices and the newspaper production facility for the Daily News-Record.

If the requests are approved, Matchbox Realty plans to continue leasing space to the Daily News-Record and to lease spaces within the existing building to others. Matchbox describes that they are pursuing a rezoning to B-1 to conform with the City's Comprehensive Plan, which was updated in 2018, and to "provide more opportunities for expanded commercial uses at a property located in the heart of Harrisonburg's Central Business District."

A traffic impact analysis (TIA) was not required for the rezoning and special use permit request. In a letter dated December 7, 2019, the Department of Public Works provides explanation for their decision. (The letter is attached herein.) In summary, Public Works describes that the peak hour volume is below capacity for this segment of South Liberty Street and merging and diverging traffic on this low-speed street is not a concern. Additionally, since the applicant had disclosed that it may be six to ten years before redevelopment of the property would occur, a TIA study would be outdated and null by the time redevelopment occurs.

A downtown parking study by the City is currently underway. Public/public parking is described by the study consultants as “a facility owned by a public agency and accessible to all members of the general public” and nearby examples include the Municipal Lot (surrounding the Farmers Market Pavilion) and the Water Street Parking Deck. The parking lot in front of City Hall is identified as public/private which is described as “a facility owned by a public agency, but is accessible only to a select group of users.” The City Hall parking lot is intended for visitors to City Hall and is restricted as 2-hour parking between 7am-7pm, Monday-Saturday. There is no restriction outside of these hours.

The closest public/public parking lot to the subject property is the Municipal Lot. Data collected from a parking occupancy count conducted on a Tuesday in April 2019 determined that during the midday count period, the Municipal Lot has an 80% utilization rate (145 parking spaces occupied out of 181 parking spaces available). Utilization rates reflect the ability of a motorist to find convenient and available parking within a particular area. Rates between 75-85% signify a nearing of practical capacity; the opportunity to find parking is reasonable and turnover rates remain healthy. Exceeding the 85% threshold, means that the demand cannot be satisfied and as the consultants describe, “[i]f there are blocks where the entire effective parking supply is being utilized, this may mean that the demand cannot be satisfied [and] is pushed to other blocks nearby or that potential visitors and patrons of downtown businesses could be going elsewhere due to lack of parking.”

Given that the parking demand in the Municipal Lot is nearing optimal utilization during midday and public concerns continue to be received about parking in downtown and in this area, staff has emphasized these concerns to the applicant. Since there are no minimum off-street parking requirements in the B-1 district, if the City approves any B-1 rezoning request, the City is also accepting the responsibility of the parking demand that such properties place on the downtown area. While there are currently around 82 marked parking spaces on this property, the building could be enlarged, or the property redeveloped, eliminating parking spaces already on the property, and then operate uses that are more parking intensive. The applicant understood staff's concern, however, in an email dated December 3, 2019, the applicant states:

“At this time, the applicant does not feel comfortable proffering any number of off-street parking spaces on the subject site due to uncertainty regarding the design of a potential new development as well as the uses contained therein. While we certainly want to accommodate clients and customers on-site, we feel more comfortable pursuing the City's B-1 designation, and all the rights contained therein, in accordance with the 2018 Comprehensive Plan.”

While rezoning to B-1 is generally thought to be consistent with the Mixed Use designation of the Land Use Guide, the Land Use Guide also describes that “development [in Mixed Use areas] should take into consideration the services and resources that are available (such as off-street parking) and plan accordingly.” For example, the applicant for a rezoning request being considered concurrently at 129 West Water Street has proffered a minimum of ten parking spaces to be located on the property. Others who have rezoned to B-1C have proffered one parking space either for each residential unit or for each bedroom, plus an additional number of parking spaces for non-residential uses on their properties.

As described by the applicant in meetings with staff, their short term-plans for the property include maintaining newspaper production operations and office space for the Daily-News Record and to also consider leasing remaining office spaces to others. Such opportunity to add business and professional offices is allowed in the M-1 zoning district with an approved SUP per Section 10-3-97(3). If the applicant were to choose this route and obtain the SUP, they could operate in the short-term while also addressing staff concerns for off-street parking demands because the Zoning Ordinance's minimum off-street parking regulations would apply to the M-1 zoned property.

Although staff believes the Land Use Guide's support for mixed use (both residential and non-residential uses) is the goal that the City should be working toward for the subject property, at this time, staff believes that rezoning the site to B-1 without known plans for accommodating the necessary parking demand for the many other B-1 uses that could operate on this site, including potential residential units, is not in the best interest for this section of the downtown. At this time, staff recommends denial of the rezoning request.

As described above, along with the rezoning request, the applicant is applying for a SUP per Section 10-3-85(1) to allow manufacturing, processing, and assembly operations when employing not more than 15 persons on the premises in a single shift and provided that all storage and activities are conducted within a building within the B-1 district. The purpose of the SUP is to allow the Daily News-Record to continue to operate at this location if the property is rezoned to B-1. The newspaper printing and production operations of the Daily News-Record is considered a manufacturing, processing, and assembly use and is not allowed by right in the B-1 district. The applicant has described that the manufacturing operation includes printing via printing press, assembly of the physical paper, and coordination of the paper for distribution purposes. Operations typically take place between 8am-8pm. Truck traffic at the property is limited to the delivery of printing materials, which usually occurs between 5pm-8pm two to three times per month, and the collection of the finished paper for distribution, which generally occurs in the overnight/early morning hours and involves about 50 trucks in total each week. Although the Daily News-Record typically has no more than five employees working in the manufacturing process on any given shift, if the SUP is approved, staff would be comfortable allowing the applicant the flexibility to have the maximum number permitted by the special use.

While staff has recommended denial of the rezoning request, if the rezoning request is approved, staff believes that the proposed newspaper production operations are known to this area as it has been operating for many years and at this location is consistent with good zoning practice and will have no more adverse effect on the health, safety, or comfort of persons living and working in the area and will be no more injurious, economically or otherwise, to property or improvements in the surrounding area, and would therefore recommend approval of the SUP with the following conditions:

1. The special use permit shall only be applicable for a newspaper production facility or a substantially similar operation.

2. If in the opinion of Planning Commission or City Council, the use becomes a nuisance, the special use permit can be recalled for further review, which could lead to the need for additional conditions, restrictions, or the revocation of the permit.

Chair Way asked if there were any questions for staff.

Commissioner Finks asked if the 181 parking spaces of the lot across the street include the space around the Farmer's Market Pavilion.

Ms. Dang said that is correct.

Commissioner Finks said that spots on both sides of the pavilion are reserved and are not for public parking. Those are for City staff.

Mr. Russ said that the ones that are reserved are not included in that number. They split up that area into a couple of different parking lots. Some of them are publicly owned, but private, restricted, parking. It is just the parking spots that are open to the public throughout the day, Monday through Friday.

Commissioner Finks said that the 181 spots does not include the spots around the pavilion.

Ms. Dang said that those on the north side of the pavilion are included, but the ones on the south side are restricted.

Commissioner Colman asked if the parking study includes the parking around the Daily News-Record.

Ms. Dang said that it does not consider it as a municipal lot. The study did count all of the parking lots in downtown, privately and publicly owned. In the staff report, where the municipal lot was described, it did not include the Daily News-Record lot. They are two separate lots.

Commissioner Colman asked if the municipal lot still has capacity, based on the study.

Commissioner Finks said that, as a person who parks in the lot on a daily basis, between the hours of 9:00 a.m. and 2:00 p.m. it is at 100% capacity.

Commissioner Colman said that the report stated 80%.

Ms. Dang said that was during a two-hour period of time, a snapshot in time.

Commissioner Finks said that he has had to park on the top deck of the parking deck, more and more over the past year and half.

Commissioner Whitten said that we will lose more spaces with the park, correct?

Ms. Dang said that she does not know.

Mr. Fletcher said that they cannot answer that question.

Mr. Russ said that existing parking spots would be removed, the gravel parking lot where staff is currently parking will be removed. What would be done to mitigate that with the park?

Chair Way said that anything like that has to be thought of in the broader context of other parking fixtures. It is difficult to project.

Commissioner Finks said that different iterations of the park, there is other parking, such as the parking spaces behind the Smith House that the Quilt Museum currently has. Those would disappear, as well.

Chair Way said that there is also more discussion about more on-street parking.

Commissioner Whitten said that we are not getting more parking spaces from any of this. The parking is an issue, obviously.

Commissioner Finnegan asked if staff recommends denial of the rezoning and the SUP.

Ms. Dang said that staff is effectively recommending denial of both of them. We are recommending denial of the rezoning. The SUP would be denied if the rezoning is denied; however, we are offering that, if the rezoning is approved, we want to protect the City and make those considerations for what conditions might be considered for that. We would recommend approval, with those conditions.

Chair Way opened the public hearing and invited the applicant or applicant's representative to speak to the request.

Michael Jaffe and Barry Kelly, Matchbox Realty, came forward to speak to the request.

Mr. Jaffe said that he worked with staff to develop a rezoning package that they thought would work well with the City, using the Comprehensive Plan as a guide to understand what we wanted to do and what the City wanted to do with that land going forward. Where we may have run into the weeds a bit was in understanding the City's needs on parking. Hearing you communicating here, today, it seems that there is recognition of a need without a solution. I think that, going forward, it would be helpful to understand exactly what it is that the City is looking for with properties like this. Is it possible to have a back and forth? I am curious regarding your opinions, as the Planning Commission. When we submitted this, we were trying to follow the guidelines that you set and the zoning that is currently in place. How would you recommend that we move forward to move this vision forward?

Mr. Fletcher asked the applicant to be more specific.

Mr. Jaffe said specifically mixed-use for this property and this land use. How can we do that? How do we know how much parking to accommodate?

Mr. Fletcher asked if the question was for staff or the Planning Commission.

Mr. Jaffe said for staff.

Mr. Fletcher said that his understanding, based on their conversations with the applicant, was that it was still up in the air. You do not know what you are doing with the mixed-use, yet. You have the idea of the professional office, and there is a way that you can do those things. You told us that you are not sure what you are going to do.

Mr. Jaffe said that means that coming forward with a full overall plan for the property, understanding what we are going to do from a development perspective, would be helpful for staff.

Mr. Fletcher said that it would be helpful for anyone making the decisions that have impacts on this section.

Commissioner Whitten said that there is no way to know how much parking the applicant will need if the applicant does not know how much parking they will need. Everybody is going to be upset if there is not enough parking. Mr. Kelly was here a year ago saying that he did not have enough parking. I remember this conversation. It was surrounding this circle, the parking spaces on the circle. A lot of your tenants at Ice House were saying that they do not have enough parking. If you want our businesses to be successful, we need parking. We are saying that we need you to have some parking.

Mr. Kelly said that was convenient parking. We have a whole parking lot with plenty of spaces for our tenants, but we do not have parking right where the store customers come up. That was the issue.

Commissioner Whitten said that he is saying steps away. We were even talking about the municipal lot not having available parking.

Commissioner Colman said that he was curious about the study because he wanted to know what the usage of the parking is right now for the Daily News-Record and whoever is using that private parking right now. A proposal would be that you are willing to proffer a certain number of parking spaces. You are downtown. You might want to utilize the property in a more efficient way. Even if you do not know what will be there, you will reserve a particular number of parking spaces. Whatever you come back with in terms of development, it might need it, or it might not. Proffering or planning for that could be a good gesture, knowing that you are going to need parking somewhere. Given the area, you might not want to offer everything as parking, but some of it. The tenants are going to need parking.

Mr. Jaffe said that the market will dictate that they need parking on-site. I do not think there will be any question that we will build lot line to lot line and provide zero parking spaces. Looking at the previous application that was recommended for approval, is that a guideline that we should follow for B-1 going forward where you have a certain number of spaces available on-site? Are you okay with a reduced number for B-1 zoning?

Commissioner Colman said that he thinks so. We do want to see this rezoned to B-1, developed and utilized. Ideally, we want to reserve as many parking spaces as possible, but you are the one investing in it. You want to make sure that it is a viable investment.

Commissioner Finks said that it should be, as stated in the Comprehensive Plan, mindful of the resources. I would hate to say that we want a certain number of off-street parking in B-1 because there are certain areas that could be redeveloped that would not necessarily need that off-street parking. I would not say that is the metric going forward; that we need a certain number of off-street parking. I think it should be looked at depending on what property is being redeveloped, where it is in town and what sort of resources we have for parking surrounding that property instead of just saying that we need to see off-street parking in the B-1 redevelopment.

Commissioner Colman said that offering a number would be helpful.

Mr. Kelly said that we developed the Keezle Building with no parking spaces. We did the Liberty building with no parking spaces. There are many that we have done over the years. What we have found is that because of the unit size that we are building, the vast majority of tenants do not have vehicles anyway. When we look at affordability, density and more people in a smaller space, it does not always involve cars. Ms. Dang mentioned one parking space per unit. We hate to get into that, it closes our gap. If we are going to build microunits, at 300 square feet per unit, you can get a lot of units in a space. That is great, affordable. People can get here, and they are going to take bikes and scooters. Why build all that parking, take all that money and resources for space that you might not need. My point is that it is difficult for us to say that we provide one space per unit. Is that the right answer? We will be stuck with that, instead of thinking outside of the box in terms of how we are going to develop this property. We see that there are a lot of different needs in our own community, and always parking. That costs money. Money means that it is less affordable.

Commissioner Finks said that the difference he sees in this particular property compared to the Keezle Building is that with the Keezle Building, the use was not changing much, where in this specific issue, we are talking about taking parking that is already being used, and being used to a considerable amount. It is disappearing, and the use is not changing in the existing structure there. In the redevelopment of the Keezle Building there was not going to be a big change in the use. Here, we are potentially taking away a parking lot that is being used, not adding parking, and potentially not changing the use of the Daily News-Record building. That is where my concern would be in this specific case. I would be very excited to see that parking lot redeveloped into livable space or some other property. I would also be concerned about losing potential parking in an area that seems overtaxed for parking. I could see areas in the northern section of downtown where parking is not as much of a premium or as much of an issue.

Mr. Kelly said that it is a chicken and egg type of scenario because we want density. We get tax revenues off that density, but then we limit it because of the parking need. We say that we cannot afford, as a public entity, to build parking. We are fighting ourselves in this whole process. I understand both sides of the story. It is a reality that we are facing. That is why we are hesitant to throw out a number because it narrows our focus. Our focus is to be broader when we go into the redevelopment, especially core walkability places like that area. It has become the City center. We are saying, in the City center, we want to take an amount of space and use it for big clumps of

metal. That is not revenue producing. It is not helping us in the longer-term goals that we have talked about in our planning stages over the last five years. Everything has led to this point about this whole mixed-use thing. Now we are saying, well, there is this parking thing. Obviously, for us, we are market driven. We have B-1 zoning in the Ice House and to get JMU there, we have to have parking. We found with our residential, and we just built 38 more residential units, that over half or more people do not have vehicles in that place. What if we had to put all that parking in? Would that residential even exist today? No, it would not have happened. It is the same thing here. It is sort of a trust issue. Is this guy going to be stupid and do something stupid and put us in a bad way? I understand that, but to limit that scope puts a burden on the development.

Commissioner Finks said that is one of the concerns. When we do these rezonings, they convey. While I hear what you are saying and agree with a lot of what you are saying, this rezoning is going to convey. If something should happen where you are unable to realize your vision with this property, whatever we decide with this rezoning is going to be turned over to the next person. They may not have the same ideas that you do.

Commissioner Finnegan said that he sometimes refers to the Planning Commission as the Parking Commission. We spend at least forty percent of the time talking about parking. I do think that there is a leap of faith that Harrisonburg has to make at some point, downtown, on exactly what you are talking about. You have this many units, this many people who live in those units do not have cars. I do not know how we make that leap with free parking downtown. That is part of the equation that we are not talking about here. You used the term "overtaxed." It is overtaxed because it is not taxed at all by the people that use it. It is part of a broader conversation.

Commissioner Whitten said that these same demographics, these same people that like the apartments, seem to use those nice big parking decks that they keep building at JMU. There seem to be cars from somewhere. Somebody has cars.

Commissioner Finnegan said it is a case of the chicken or the egg.

Chair Way asked if there was anyone else wishing to speak to the request. Hearing none, he closed the public hearing and opened the matter for discussion.

Commissioner Ford-Byrd asked about condition number two. In the past, it has come up about what the process is for looking into something that has been approved. The response to that has been a bit murky. Have we moved anywhere in the process of identifying what exactly that looks like.

Ms. Dang said that they have not. We have not recalled an application using this SUP condition. I would imagine that they would let staff know. One way or another, somebody would call the Community Development office, and we would present the concern to the Planning Commission or City Council to review.

Commissioner Whitten said that then it would end up in court.

Mr. Fletcher said that it would not necessarily end up in court.

Mr. Russ said that if a large business like the Daily News-Record had their SUP revoked by City Council, it is very unlikely that they would not sue.

Commissioner Ford-Byrd said that she is looking for clarity on the process.

Mr. Fletcher said that he thought the process question was, how would this be brought to you for discussion about whether or not it is a nuisance, and should there be more conditions? Was that your question?

Commissioner Ford-Byrd said yes.

Mr. Fletcher said that we have not had to act on complaints about SUPs that were considered nuisances to bring to Planning Commission or City Council. I am not aware of anyone calling the Planning Commission or City Council to make complaints about SUPs as to whether or not they are a nuisance. If it has happened, we have not known about it.

Commissioner Ford-Byrd asked if that would take one phone call, five or ten phone calls?

Mr. Fletcher said that he does not know. If you see the way that the condition is worded, it is a question for this body or City Council.

Mr. Russ asked if someone were to call about something going on. Here it is relatively obvious because it would be recent, but is someone looking to see if there is a SUP related to the problem. We have SUPs allowing four unrelated rather than two unrelated people on a property and we have had complaints about those properties in the past. I am not aware of us ever referring those complaints to City Council to have that SUP revoked. Is anyone looking to check for SUPs?

Ms. Dang said that she does not believe that they have had a complaint on a SUP.

Mr. Russ said that he can think of one in the last year. A property on Market Street had this condition. There was an issue with a St. Patrick's Day party. The City Manager's office was flooded with phone calls. One side of the building, a duplex, did have a SUP for four rather than two unrelated occupants.

Commissioner Colman said that it was not presented to the Planning Commission.

Mr. Fletcher asked if it had that condition.

Mr. Russ said that it was worded slightly different, but it did. It was to be reviewed once a year.

Commissioner Colman asked who makes the decision to bring that to the Planning Commission or City Council.

Mr. Fletcher said that they could inform Community Development, letting us know that you have received one call, two calls, three calls and, if in your opinion you would like to recall it for further discussion, you may do so.

Chair Way said that it could be done as an agenda item for the next month's meeting.

Chair Way reminded the Planning Commission that they were considering a rezoning. This topic is a process to think about, but the rezoning is on the table. I am going to be voting in favor of the rezoning. We are talking about a lot of unknowns here. There is unknown parking in the future. What I am concerned about is that there would be two tiers of B-1. There would be the historic B-1 and then whenever a new rezoning to B-1 request there is an expectation of parking and other things that is not there for some of the historic and traditional uses of B-1. I do take Commissioner Finks' perspective of the geographical specificity of each case seriously. In this case, I am not convinced that there is going to be an immediate problem here. I am quite convinced about the perspective of breaking the obsession about parking. This is an opportunity to move in that direction. I think that the argument made about the increased compactness and density, you get the higher tax revenue from that piece of land, which can then feed in to the provision of parking with improved decks. There is a logic which seems convincing to me. I understand that there are concerns about this site and the impact there. This is a very walkable location and we should double down on the walkability here. I use this area a lot. I live very close to it. There is a lot of concern, however I think this is a reasonably sensible use of this piece of land, as rezoned.

Commissioner Whitten said that it is not unreasonable to ask how it will be used. There are many unknowns on that site. We would have better answers regarding the expectations for parking if we knew more about what the developer was doing. I think that makes it not unreasonable.

Chair Way said there is a reasonable case to be made on both sides. It would be nice to have a good idea of what is going to go in there when it is rezoned, but, as I understand it, legally, they can rezone because they want to rezone, not because they have a plan of development.

Commissioner Whitten said that the Planning Commission can say no.

Commissioner Colman said that it makes sense to align with the Comprehensive Plan. That is what we want. We want properties to be rezoned to align with the Comprehensive Plan. My expectation is that this will be market driven. If the people are asking for parking, they will have to provide parking. That will drive how they develop the property. The other thing I suggested is to proffer some parking, a reduced number, to be able to have some parking on the side. Perhaps some accessible parking and some additional parking. We want to make sure that the property is utilized.

Chair Way said that we have B-1 zoning as this distinct and unique zoning category. I made my point about the potential two tiers and us being more punitive and restrictive on the new ones than the historic ones. B-1 exists because we do expect the City to provide the parking. It is collectivized that way downtown. If we do not like that, then we should not have that zoning category, or we should encourage B-2 zoning there. It is a cost for the City, but it is a cost with a goal in mind about creating a different part of the City. I am sympathetic to the City's concerns about the cost of providing for parking, but it is a cost that is understood.

Commissioner Finnegan asked where can you park for free in Charlottesville? There are not that many places.

Chair Way said that he is not debating the cost of parking. I am saying that there is going to be some cost by the City to provide parking.

Commissioner Finnegan said that he believes that the City provides tens of thousands of free parking spaces when you count on-street parking in all the neighborhoods. We are entering a different discussion, but it does create a Jevons Paradox when we create free parking, businesses come in, you run out of parking...

Chair Way said that may be the tipping bar. As downtown gets more vital and there is more tax revenue generated by these things, then there also gets to be that strength in the business there. They are not so on the margin, so on the edge. They can, then, afford to support the cost of parking.

Commissioner Finnegan said that it is a conversation that Harrisonburg does not want to have, but that we need to have soon. You do not quit smoking by continuing to buy cigarettes.

Commissioner Colman said that we know that parking is one of the things that we need to discuss.

Chair Way said one of the unknowns is that there is always parking projects going on. I have heard of plans about reorganizing the decks, reshaping things, restructuring things, having more on-street parking, maybe doing some more road improvements to get more on-street parking. There are a lot of things going on.

Commissioner Colman said that we have to have more consistency between our Comprehensive Plan, what the Planning Commission and City Council are looking for and the parking studies. What are the parking studies directing us to? Are they contrary to what we are looking for in terms of the downtown district?

Chair Way asked, related to that, what is the status of the Downtown Master Plan? Is that under way?

Ms. Dang said that it will not be under way until the Downtown Parking Study as well as the other study that is looking at traffic on Main Street and Liberty Street are completed.

Mr. Fletcher said that he could not say when it would get started. The City Manager's Office is still figuring out the timing of how they want to move forward with it.

Commissioner Finnegan said that he agrees with Chair Way. It is the parking issue that I am hung up on. I am leaning towards supporting this.

Commissioner Colman said that he likes the idea of more utilization of the building, if it is not being used. It is a beautiful building, especially for business uses or another. It does not matter. I

like the idea of supporting this. When it comes down to parking, it will be driven by market demands.

Commissioner Colman moved to recommend approval of the rezoning request.

Commissioner Finnegan seconded the motion.

Chair Way called for a roll-call vote.

Commissioner Colman:	Aye
Commissioner Finks:	Aye
Commissioner Finnegan:	Aye
Commissioner Ford-Byrd:	Aye
Commissioner Romero:	Aye
Commissioner Whitten:	No
Chair Way:	Aye

The motion to recommend approval of the zoning request passed (6-1). The recommendation will move forward to City Council on January 14, 2020.

Chair Way asked if there were any further discussions regarding the SUP.

Commissioner Finks moved to recommend approval of the SUP, with conditions, as presented.

Commissioner Colman seconded the motion.

All members voted in favor of recommending approval (7-0) of the SUP, with conditions, as presented. The recommendation will move forward to City Council on January 14, 2020.

Consider a request from The Norton Group, LLC to rezone five parcels at 1043, 1045, 1059, 1061, 1063 South High Street

Chair Way read the request and asked staff to review.

Ms. Dang said that the Comprehensive Plan designates this site as Limited Commercial. These areas are suitable for commercial and professional office development but in a less intensive approach than the Commercial designation. These areas need careful controls to ensure compatibility with adjacent land uses. The maintenance of functional and aesthetic integrity should be emphasized in review of applications for development and redevelopment and should address such matters as: control of access; landscaping and buffering; parking; setback; signage; and building mass, height, and orientation. It is important that development within Limited Commercial areas does not incrementally increase in intensity to become similar to the Commercial designation. Efforts should be made to maintain the intent as described.

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

<u>Site:</u>	Commercial and industrial uses including a restaurant, a grocery store, a carpet and upholstery cleaning service, an HVAC contractor, and electrical and plumbing equipment suppliers; zoned M-1
<u>North:</u>	Offices and retail uses; zoned M-1 and B-2
<u>East:</u>	Rocking R Ace Hardware and Rockingham Co-Operative Farm Bureau; zoned M-1
<u>South:</u>	Office, nonconforming multi-family dwellings, and a nonconforming single-family detached dwelling; zoned M-1
<u>West:</u>	House of worship and single-family detached dwellings; zoned R-1

The applicant is requesting to rezone five parcels, totaling +/- 3.3 acres, from M-1, General Industrial District to B-2C, General Business District Conditional. The site is located along the western side of South High Street approximately 200 feet north of the intersection with South Avenue. The site has five buildings with commercial and industrial uses including a restaurant, a grocery store, a carpet and upholstery cleaning service, an HVAC contractor, and electrical and plumbing equipment suppliers. Restaurants and grocery stores are not permitted by right within the M-1 district. Staff believes that the restaurant is nonconforming, however, it is unknown whether the grocery store is nonconforming or an illegal use. If the rezoning request is approved, the applicant desires to continue operating the site similarly to how it currently operates, and the restaurant and grocery store would conform with the Zoning Ordinance (ZO). Rezoning to B-2 would also allow one of their current tenants, Green Solutions LLC, to expand to include retail.

In addition to this rezoning request, the applicant is requesting two special use permits for the parcel identified as tax map number 19-A-8 and addressed as 1043 and 1061 South High Street. The requests are described in a separate staff report being reviewed concurrently. If approved, the first SUP would allow manufacturing, processing and assembly operations, and the second would allow warehousing and other storage facilities.

The Comprehensive Plan's Land Use Guide designation for this stretch of the South High Street corridor is Limited Commercial – meaning a rezoning to B-2 would be more conforming with the City's long-term goals, rather than having properties used for industrial purposes. As stated in the Comprehensive Plan, areas designated as Limited Commercial are suitable for commercial and professional office development but in a less intensive approach than the Commercial designation. These areas need careful controls to ensure compatibility with adjacent land uses.

The applicant has proffered the following uses (written verbatim):

Uses permitted by right.

- (1) Mercantile establishments which promote the show, sale and rental of goods, personal service establishments, restaurants and other shops and stores customary to shopping centers and convenience outlets.
- (2) Governmental, business and professional offices and financial institutions.

- (3) Hotels, motels and similar types of transient accommodations. Nontransient housing facilities are not permitted nor may existing housing facilities be expanded.
- (4) Theaters, community rooms, museums and galleries and other places of assembly for the purpose of entertainment or education. In addition, customary recreational and leisure-time activities which are compatible with surrounding uses are permitted.
- (5) Religious, educational, charitable or benevolent institutional uses which do not provide housing facilities.
- (6) General service or repair shops permitted by right in the B-1 Central Business district but without the limitation as to the number of employees.
- (7) Pet shop or pet grooming establishment and animal hospitals.
- (8) Radio and television stations and studios or recording studios.
- (9) Public utilities, public service or public transportation uses or buildings, generating, purification or treatment plants, water storage tanks, pumping or regulator stations, telephone exchange and transformer or substations.
- (10) Warehousing and other storage facilities with floor area limited to twenty thousand (20,000) square feet, which are contiguous to permitted uses in this district.
- (11) Accessory buildings and uses customarily incidental to any of the above listed uses.
- (12) Research and development activities which do not cause any more smoke, dust, odor, noise, vibration or danger of explosion than other uses permitted in this district and which involve no more than fifteen (15) percent of the gross floor area in the assembling or processing of products. Any assembling or processing shall only involve products developed on the premises. All services and storage shall be conducted within the principal structure which is to be completely enclosed.
- (13) Plant nurseries, greenhouses, landscaping businesses, and similar operations provided any outside storage of material, other than plants, must be screened.
- (14) Public uses.
- (15) Concealed wireless telecommunications facilities, industrial microcells, distributed antenna systems, and macrocells. Telecommunications towers are permitted only by special use permit. Wireless telecommunications facilities are further regulated by article CC.

Special use permits shall be permitted as approved by City Council.

The applicant's proffers remove the more intensive B-2 uses, such as vehicle sales, vehicle repair businesses, and gas stations. In addition, standalone parking lots would not be permitted. All special use permits are still included as they would require further evaluation, public hearings, and approval by City Council.

While the adjacent property to the west of this site (identified as tax map 20-G-1) is zoned R-1 and is designated Low Density Residential in the Land Use Guide, at this time, staff is not concerned that the proposed uses on the subject site will adversely impact the adjacent property. Other than deliveries to and from the site, the proposed SUP's to allow a bakery and convenience delivery

service operation will be conducted within a building. Additionally, the current M-1 zoning designation allows more intense uses that have a greater potential to cause adverse impacts, compared to the requested B-2C zoning. Furthermore, approximately half of the adjacent +/- 2.6-acre parcel is undeveloped, and future development or use of that parcel could accommodate any desired screening or buffering between future uses permitted in the R-1 district and the proposed commercial uses on the subject site.

The applicant understands that as uses change on each parcel, these changes will trigger minimum vehicle off-street parking requirements to be met. Staff believes that the applicant would be able to accommodate minimum vehicle off-street parking requirements on the site by marking new parking spaces, modifying the arrangement of parking on the site, or creating a shared parking arrangement.

This block of South High Street has had several conditional rezoning requests to B-2C approved in the last 15 years. The properties addressed as 1178 and 1171 South High Street were rezoned in July and November 2005, respectively. In February 2010, 1118 South High Street was rezoned to B-2C to allow for a CVS store, in September 2017, 1164 South High Street was rezoned to allow for offices and a personal service establishment, and most recently in January 2019, 1123 South High Street was rezoned to allow for a professional office.

Staff believes the requested rezoning with the listed proffers is consistent with the Land Use Guide and addresses potential concerns with future redevelopment of the site by eliminating the more intense uses allowed in the B-2 district. Staff recommends approval of the rezoning request as submitted.

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

Brian Diener, The Norton Group, LLC, came forward to speak to the request. I am happy to answer any questions.

Commissioner Colman asked if Mr. Diener had recently bought the property.

Mr. Diener said that they bought the first property in July and the last one in September.

Commissioner Colman asked if they had any long-term plans to change the structure or the use.

Mr. Diener said that there is one vacant space left that they are trying to fill. We are in conversation with a church about purchasing one of the buildings. Other than that, we are not changing anything.

Commissioner Colman said that he is happy to see that there are more businesses coming in there.

Chair Way asked if there was anyone else wishing to speak to the request. Hearing none, he closed the public hearing and opened the matter for discussion.

Commissioner Finnegan said that this is the right location for this kind of activity, this type of business.

Commissioner Finnegan moved to recommend approval of the rezoning request.

Commissioner Whitten seconded the motion.

All members voted in favor of recommending approval (7-0) of the rezoning request, as presented. The recommendation will move forward to City Council on January 14, 2020.

Consider a request from The Norton Group, LLC for a special use permit to allow manufacturing, processing and assembly operations at 1043 and 1061 South High Street

Consider a request from The Norton Group, LLC for a special use permit to allow warehousing and other storage facilities at 1043 and 1061 South High Street

Chair Way read the request and asked staff to review.

Ms. Dang said that the Comprehensive Plan designates this site as Limited Commercial. These areas are suitable for commercial and professional office development but in a less intensive approach than the Commercial designation. These areas need careful controls to ensure compatibility with adjacent land uses. The maintenance of functional and aesthetic integrity should be emphasized in review of applications for development and redevelopment and should address such matters as: control of access; landscaping and buffering; parking; setback; signage; and building mass, height, and orientation. It is important that development within Limited Commercial areas does not incrementally increase in intensity to become similar to the Commercial designation. Efforts should be made to maintain the intent as described.

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

<u>Site:</u>	Commercial and industrial uses including, a grocery store and carpet and upholstery cleaning service; zoned M-1
<u>North:</u>	Offices and retail uses; zoned M-1 and B-2
<u>East:</u>	Commercial and industrial uses including a restaurant, a grocery store, an HVAC contractor, and electrical equipment supplier; zoned M-1
<u>South:</u>	Office, nonconforming multi-family dwellings, and a nonconforming single-family detached dwelling; zoned M-1
<u>West:</u>	House of worship and single-family detached dwellings; zoned R-1

The applicant is requesting two special use permits (SUPs). The first SUP would allow manufacturing, processing and assembly operations per Section 10-3-91(1) of the Zoning Ordinance (ZO), and the second would allow warehousing and other storage facilities per Section

10-3-91(2). Described in a separate staff report being reviewed concurrently, the applicant is also requesting to rezone five parcels, including the subject parcel, totaling +/- 3.3 acres, from M-1, General Industrial District to B-2C, General Business District Conditional. If the rezoning and SUPs are approved for the subject parcel (TM 19-A-8), the applicant desires to lease space to Staff of Life Bakery and to GoPuff LLC. The parcel contains two buildings addressed as 1043 and 1061 South High Street. This parcel has no public street frontage and is located behind parcels along the western side of South High Street approximately 200 feet north of the intersection with South Avenue.

As described in the applicant's letter, Staff of Life Bakery desires to occupy approximately 4,000 square feet of space in the building addressed as 1061 South High Street. The bakery sells goods to farmers markets and markets and plans to operate between 4am-5pm. The applicant is aware that per Section 10-3-91(1), no more than 15 employees can work on a single shift and all storage and activities associated with the manufacturing use must be conducted within a building. Although Staff of Life plans to have about three employees working on any given shift, staff is comfortable allowing the applicant the flexibility to have the maximum number permitted by the special use.

GoPuff LLC desires to occupy approximately 4,600 square feet of space in the building addressed as 1043 South High Street. GoPuff is a digital convenience delivery service where customers order items online to have the items delivered 24 hours per day, seven days a week. Customers would not be coming to this location.

While the adjacent property to the west of this site (identified as tax map 20-G-1) is zoned R-1 and is designated Low Density Residential, at this time, staff is not concerned that the proposed uses on the subject site will adversely impact the adjacent property. Other than deliveries to and from the site, the proposed bakery and convenience delivery service operation will be conducted within a building. Additionally, approximately half of the adjacent +/- 2.6-acre parcel is undeveloped, and future development or use of that parcel could accommodate any desired screening or buffering between future uses permitted in the R-1 district and the proposed commercial uses on the subject site.

Staff believes that approval of the SUPs, with conditions, for the proposed bakery and convenience delivery services are consistent with good zoning practice and will have no more adverse effect on the health, safety, or comfort of persons living and working in the area and will be no more injurious, economically or otherwise, to property or improvements in the surrounding area. Staff recommends approval of the special use permits with the following conditions.

Recommended conditions for the SUP per Section 10-3-91(1), "[m]anufacturing, processing, and assembly operations when not employing more than fifteen (15) persons on the premises in a single shift and provided that all storage and activities are conducted within a building."

1. The special use permit shall only be applicable for a bakery or a substantially similar operation.

2. If in the opinion of Planning Commission or City Council, the use becomes a nuisance, the special use permit can be recalled for further review, which could lead to the need for additional conditions, restrictions, or the revocation of the permit.

Condition #1 limits the SUP to only bakeries or substantially similar operations. If the applicant later wishes to have other manufacturing, processing, and assembly operations, they must return with a new SUP request to be vetted by Planning Commission and City Council. Condition #2 allows PC and CC to recall the SUP for further review if the use becomes a nuisance.

Recommended conditions for the SUP per Section 10-3-91(2), “[w]arehousing and other storage facilities.”

1. All storage and activities are conducted within a building.
2. Self-storage facilities are prohibited.
3. If in the opinion of Planning Commission or City Council, the use becomes a nuisance, the special use permit can be recalled for further review, which could lead to the need for additional conditions, restrictions, or the revocation of the permit.

Condition #1 prohibits storage and warehousing activities from being conducted outside a building. Condition #2 prohibits self-storage facilities, which are buildings that contain separate, individual, and private storage spaces of varying sizes available for lease for varying periods of time. Condition #3 allows PC and CC to recall the SUP for further review if the use becomes a nuisance.

Chair Way asked if there were any questions for staff.

Commissioner Finks asked how far do you think you could stretch the word usage of “substantially similar” operation? Is that limiting enough to keep it to something that we would identify as something similar to a bakery? Does it have to be something edible, for human consumption?

Mr. Fletcher said that he would have to ask the Zoning Administrator.

Mr. Russ said that it would ultimately be the Zoning Administrator’s call, but I think the question is what would the Zoning Administrator be basing that on?

Mr. Fletcher said that we have talked about what “substantially similar” means. “Substantially similar” is very similar, almost the same. We even discussed the difference between a bakery and a confectionary and the sort. It has to be substantially similar.

Commissioner Whitten asked if it would be a bakery without a retail component.

Ms. Dang said that it could have retail because they are zoned B-2. We did not want the manufacturing, processing and assembly use to open the doors for any other type of non-bakery uses.

Mr. Fletcher said that it is difficult to discuss interpretation of a hypothetical that has not been present in this fashion.

Commissioner Finks said that what he was considering was the idea of a bakery that was not for human consumption.

Mr. Fletcher said that my experience and conversations with a former Zoning Administrator, “substantially similar” has always been pretty much the same thing.

Mr. Russ asked if Commissioner Finks was referring to an industrial scale dog treat bakery. Something along the lines of food, but not for human consumption?

Commissioner Finks said that when you think of living next to a bakery, it is something that could be pleasant. If it is still a bakery, but not something pleasing to the human olfactory system, but still technically a bakery.

Mr. Fletcher said that we ask these things all the time.

Commissioner Finnegan said that, when we did the site visit, we did not leave out of the one side of the parking lot because it was too dangerous.

Ms. Dang said that there is a curve in the road that made the northernmost entrance difficult to exit into oncoming traffic. More difficult than the other entrances.

Commissioner Finnegan asked if there was any concern from staff about the potential increased traffic in and out of there at that particular entrance. Are there any line of sight violations? That section of South High Street seems dangerous.

Commissioner Colman said that anywhere there, even Ace Hardware, there are plenty of sight distances and a lot of traffic.

Commissioner Finnegan said that there is a blind corner in the northern entrance. Is that a safety concern?

Commissioner Colman said that those are existing entrances. As someone who drives there all the time because my office is up the street, traffic is always busy, and people are pulling into the various businesses. There is a lot of activity going on there, but I am not aware of any accidents there.

Chair Way opened the public hearing and invited the applicant or applicant’s representative to speak to the requests.

Brian Diener, The Norton Group, LLC, came forward in support of the request.

Commissioner Finks clarified that his question was not intended to suggest that Mr. Diener or any of the current owners would push the idea of the “substantially similar” operation. I asked because the language would convey regardless of who owned the property in the future.

Chair Way asked if there was anyone else wishing to speak to the request. Hearing none, he closed the public hearing and opened the matter for discussion.

Commissioner Colman said that we have that “substantially similar” clause, but they could come back and ask for a SUP for something else.

Commissioner Finks moved to recommend approval of the two SUP requests, with conditions, as presented.

Commissioner Finnegan seconded the motion.

All members voted in favor of recommending approval (7-0) of the rezoning request, as presented. The recommendation will move forward to City Council on January 14, 2020.

New Business – Other Items

None.

Unfinished Business

None.

Public Comment

None.

Report of the Secretary & Committees

Proactive Code Enforcement

Ms. Banks said that for the month of November 2019, the proactive code enforcement program inspected the Bluestone Hills and Valley Mall section of the City. Violations related to signage were found. The proactive code enforcement will be temporarily suspended because our zoning technician took a position as Zoning Administrator for the City of Winchester.

Rockingham County Planning Commission Liaison Report

Commissioner Finnegan said that he was unable to attend the Rockingham County Planning Commission. I called the Rockingham County Department of Community Development for information regarding the meeting. There was a public hearing for rezoning the Whitesel Brothers’ Garbers Church Road property. It was recommended for approval from A-2 General Agricultural to B-1 General Business. It is within the Urban Growth boundary. There was a concern regarding water usage which they are going to work out with David Gray, City of Harrisonburg Department of Public Utilities.

There were some ordinance amendments for the Supplemental Standards for Certain Land Uses to increase the size of accessory dwelling from 1,200 square feet to 1,500 square feet, which was approved; Supplemental Standards for Convenience Stores in the A-2 and RV zoning districts, which was approved; and to allow semi-trailers for storage containers in A-1, A-2, and RV parcels of two acres or more, which was also approved.

They also recommended for approval the Urban Development Area plan for Stone Spring Road.

There was a tabled request for a time share at Massanutten that was withdrawn. It was tabled earlier and withdrawn at that meeting.

Board of Zoning Appeals Report

Commissioner Colman said that there was a meeting to consider a request for an accessory structure on Holly Court. They wanted to consolidate all the mailboxes into a centralized mail location with a roof. The zoning issue was regarding the structure with a roof within the setback. They requested a variance from a 30-foot setback to a zero-foot setback. It was granted (4-1).

Ms. Dang said that there was also an appeal from Blind Squirrel, LLC. There was a property on Elizabeth Street where they had more occupants than was allowed. The person bought the home believing that they had the non-conforming rights.

Commissioner Colman said that was a property that was purchased with the understanding or assumption that it had been grandfathered or non-conforming with that use of four unrelated individuals. It was not. The applicant was understanding of our decision.

City Council Report

Commissioner Romero said that he was not present for the last City Council meeting.

Mr. Fletcher said that City Council considered the SUP for the taller fence at Brookdale, which was approved. Our Zoning Administrator, Rachel Drescher, presented the amendments to the Sign Ordinance. They were approved. The Sign Ordinance will not become effective until the first City Council meeting in January. It is approved on the consent agenda until that time. City Council is not meeting for their second meeting in December.

Ms. Drescher was appointed to the position of Zoning Administrator by resolution by City Council pursuant to the Zoning Ordinance.

Other Matters

Ms. Dang said that the Work Session meeting will take place on December 12, 2019, 3:00 p.m. to 5:00 p.m., in the City Council Chambers. There will be a public input opportunity. I believe all of you said that you are planning to attend.

Commissioner Finnegan asked who would be facilitating the public comment.

Ms. Dang said that it would be Chair Way.

Chair Way said that he would have to leave by 4:30 p.m.

Chair Way said that he will no longer be a member of the Planning Commission in January and asked the Commissioners to consider the position of Chair and offered to answer questions.

Commissioner Colman asked if there was an appointee for the upcoming vacancy.

Ms. Dang said that the Planning Commission meeting in January would happen before the City Council meeting. I will look to find out whether Chair Way serves until a new person is appointed or if his term expires on December 31, 2019.

Commissioner Finks said that he believes that the Rockingham County Planning Commission members serve until their seats have been filled.

Ms. Dang said that she would check the by-laws and inform the commissioners.

Ms. Dang said that there are six regular agenda items anticipated for next month's meeting. There are some SUPs and rezonings, one STR, and a Zoning Ordinance amendment to request fueling stations in B-1 and a SUP permit associated with that. The Capital Improvement Program (CIP) may be on the agenda.

Mr. Fletcher said that the CIP hinges on what happens with the School Board. They finally discussed the CIP, but they did not vote on it. The bulk of the work is done.

Commissioner Finks asked if it has to be voted on by the School Board first.

Mr. Fletcher said that he does not know what officially needs to occur. They are comfortable making sure that the School Board approves the CIP before they give their CIP to us.

In anticipation of Chair Way's last Planning Commission meeting, Ms. Dang presented Chair Way with a Certificate of Appreciation for his service to the Planning Commission and a framed picture of downtown Harrisonburg.

Chair Way thanked staff and said that it has been a pleasure working on the Planning Commission. I was completing someone's unexpired term for one year before being appointed to the Planning Commission, so it has been nine years that I have served in this capacity. It has been a pleasure working with all my fellow Planning Commissioners. I see the diligence, the professionalism and the thoroughness with which you do the work. I think that is to be applauded. I urge you to keep in mind the Harrisonburg way of doing things. I like the discussions we have had about the particular ways that Harrisonburg applies not only universal principals, but thinking about the sites and thinking about how Harrisonburg views things in distinct ways. I think that is a refreshing viewpoint. I thank you for your work.

I want to thank the lovely staff for their wonderful expertise and support over the years. I have benefitted from all the work they have done in terms of helping me in making decisions. It has been wonderful working with such experts.

The meeting adjourned at 9:18 p.m.

Henry Way, Chair

Nyrma Soffel, Secretary