



CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

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July 5, 2023

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

SUBJECT: Consider a request from Lock-Minn Holdings, LLC to rezone a portion of 831 Chicago Avenue

**EXTRACT FROM MINUTES OF HARRISONBURG PLANNING COMMISSION
MEETING HELD ON:** June 14, 2023

Chair Finnegan read the request and asked staff to review.

Ms. Rupkey said on September 24, 2013, City Council approved a rezoning of the subject property, which was then part of the parcel that was rezoned to allow for the construction of the existing Family Dollar. On October 23, 2014, the Family Dollar property was subdivided, which separated the +/- 6,181 square foot area from the developed portion of the parent tract and created the subject property. Although now a separate property, the existing 2013-approved proffers still regulate how this property can be used. Not only do the proffers provide details about the uses that are permitted on the property, but the proffers also identify that the conceptual site plan provided during the rezoning is also a regulating provision of the site. Since the plan demonstrated the subject area as undeveloped and open space, the subject site is limited to being open space. A copy of the proffers and the proffered site layout are attached to this staff report. Almost two years after the property was subdivided, in 2016 the subject site was sold to Melvin E. Higgins Sr, who also owned two adjacent properties to the north (tax map parcels 39-F-2 and 3). Then in November 2020, Lock-Minn Holdings, LLC purchased the subject property along with Mr. Higgins' two adjacent properties—tax map parcels 39-F-2 and 3. While the City has not issued a formal notice of violation letter to the property owner, the property owner is aware that the property is in violation and is hoping to amend the proffers to allow for a parking lot on this property. The applicant is aware that if the rezoning is denied, they will have to remove the parking lot. The applicant has also been made aware that, if the rezoning is approved, changes to the parking lot are required to comply with parking lot landscaping requirements and that while a parking lot may exist to support general customers and temporary parking of vehicles, the parking lot cannot be used as a storage lot to store inoperable or salvage vehicles. It appears to staff that inoperable vehicles with damage and without license plates and possibly salvage vehicles are currently being stored on the subject property. Lock-Minn Holdings, LLC, the applicant, is requesting to rezone a +/- 6,181 square foot property from B-2C, General Business District Conditional by amending the

existing proffers. The applicant wants to use the site as a parking lot for the businesses that are located on the adjoining properties, addressed as 837, 841, 871, 887, 889, and 891 Chicago Avenue (tax map parcels 39-F-2 and 3). These businesses include two automobile repair shops, a tire shop, and a storage space for a food truck that is illegally located on the 813 Chicago Avenue site.

Proffers

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

The follow [sic] uses will not be permitted:

- (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.
- (9) Pet shop or pet grooming establishment and animal hospitals.
- (10) Radio and television stations and studios or recording studios.
- (11) 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.
- (13) Funeral homes.
- (19) Vehicle fuel stations, bus terminals or other facilities designed for vehicular convenience. Vehicle excludes over the road tractors, their trailers, heavy equipment, manufactured homes, industrialized buildings, and agricultural equipment. No vehicle salvage, storage of inoperable vehicles, or sale of junk is allowed.
- (20) 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.

To be clear, the above proffer would prohibit the listed uses from operating on the site.

Land Use

The Comprehensive Plan designates the property as Mixed Use and states that:

“The Mixed Use category 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 multifamily buildings. Large scale developments, which include multi-family buildings are encouraged to include single-family detached and/or attached dwellings.”

While not proffered, staff recommended the applicant consider proffering out higher intensity uses and uses that are not necessarily in line with the desired built environment envisioned by the Mixed Use Land Use Designation that are allowed by right in the B-2 zoning district. Although the applicant proffered to not allow vehicle fuel stations, bus terminals, or other facilities designed for vehicular convenience, staff remains concerned that the following uses per Section 10-3-90, which would be permitted, would not conform with the Mixed Use designation:

(6) Vehicle, recreation equipment, or trailer sales served by a permanent building facility unless clearly incidental to an existing building. Vehicle excludes over the road tractors, their trailers, 4 heavy equipment, manufactured homes, industrialized buildings, and agricultural equipment. No vehicle salvage, storage of inoperable vehicles, or sale of junk is allowed.

(7) Repair of vehicles, recreation equipment, or trailers with all activities and storage of inoperable vehicles completely enclosed within a permitted structure. Vehicle excludes over the road tractors, their trailers, heavy equipment, manufactured homes, industrialized buildings, and agricultural equipment.

(12) 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

Mixed Use areas are planned environments where more walking, biking, and public transit and pedestrian friendly design is encouraged. The uses listed above are generally places where the vehicle uses are more predominate. In fact, the existing proffers already prohibit Subsections (6) and (7) from being able to operate on the property. Although the applicant is not planning on doing these uses, if they were to sell the property in the future, a future owner would have the by-right ability to have these types of operations.

Transportation and Traffic

While staff has concerns regarding the entrance width to the parcel, which measures at +/- 40 feet in width, staff acknowledges that the City had installed the entrance at this width with the Waterman Elementary School Safe Routes to School project that was completed in June 2014.

Public Water and Sanitary Sewer

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

Recommendation

While staff appreciates the applicant's willingness to provide proffers to limit the uses on this property, staff is still concerned about the remaining allowable uses not fitting in with the surrounding area and not being aligned with the Comprehensive Plan. Staff recommends denial of the rezoning.

Chair Finnegan asked if there were any questions for staff.

Vice Chair Byrd said yes, I am trying to make sure I understand what I was reading here. It says that there are proffers that the applicant has offered that were written verbatim. Under 19 there is a list of vehicles excluded over the road...so, these are the ones being excluded from the list.

Ms. Rupkey said correct. Number 19 is excluding vehicle fuel stations, bus terminals, and other facilities for vehicular convenience. So, gas stations and convenience stores for trucks to come in. Vehicles exclude over the road tractors and their trailers, heavy equipment, and manufactured homes those are also...

Mr. Fletcher said what 19 is saying is the vehicle fuel stations would be permitted. The rest of that subsection is saying that a vehicle is not a tractor and trailer therefore you cannot have a tractor and trailer like a Flying J or one of the other tractor trailer gas stations...

Commissioner Baugh said a truck stop type of thing.

Mr. Fletcher said I could not think of the word truck stop, thank you. It is just a standard vehicle fuel station and then of course the catch all language of no vehicle salvage or storage of inoperable vehicles will be permitted. This is coming directly from a code, just to clarify.

Vice Chair Byrd said so what I want to know is, is that last sentence a separate sentence in and of itself or is it linked to...

Chair Finnegan said where it says vehicle excludes, that sentence?

Vice Chair Byrd said no, where it says no vehicle salvage or storage of inoperable vehicles.

Ms. Dang said I am trying to understand, and I think I can appreciate the confusion on how this is presented because these statements are verbatim from the Zoning Ordinance in the list of by right uses. So, when you look at it, if we were looking at the Zoning Ordinance at subsection 19 in this section it is saying that vehicle fuel stations, bus terminals, and other facilities designed for vehicle convenience are allowed. And then it further clarifies that vehicles excludes these other things. Meaning that it is really meant for passenger vehicles or little trucks and stuff like that, but I think there is some...I am trying to explain it. He is proffering out that vehicle fuel stations are not allowed. The rest of the sentences in subsection 19 are not relevant. I think it is adding confusion because it is really intended to clarify the Zoning Ordinance.

Mr. Fletcher said it is taken in context with the way it is written in the ordinance.

Ms. Dang asked does that help? Please ask more questions.

Chair Finnegan said so he is saying vehicle fuel stations are not allowed?

Ms. Dang and Mr. Fletcher agreed with Chair Finnegan.

Chair Finnegan continued saying he is not saying auto repair shops are not allowed.

Mr. Fletcher and Ms. Dang agreed.

Vice Mayor Dent said but truck stops are allowed?

Mr. Fletcher said to understand the context of no vehicle salvage or storage, it is an emphasis that you cannot do that in those districts. That language shows up in other sections of the code and it is just to clarify. When you have a vehicle fuel station, at times you will have automobile repair associated with it and then it is telling you cannot just have salvage vehicles on the site. Does that help?

Vice Chair Byrd said I am looking at this is not a fuel station; it is a repair place. So, I was more focused on storage of inoperable vehicles.

Ms. Dang said I think it would have been more clear if that was just stricken from the proffers. I mean I do not know how else to describe it. He just copied out a section of the ordinance. So it is not telling him that he can now do vehicle salvage by two negatives in there. He still cannot do vehicle salvage, storage of inoperable vehicles, he still cannot do junk. If that is a concern that you have.

Commissioner Armstrong said based on our previous discussion, was it allowed if it was screened or is it...

Ms. Rupkey said the lot is B-2. In B-2 it has to be within a permitted structure. M-1 allowed it to be screened.

Commissioner Armstrong said and it is not... there is that strip of M-1.

Ms. Rupkey said the strip of M-1 is on the other property if you see the map right here. The map right here also shows the M-1 strip is on the last property we just talked about.

Vice Mayor Dent said I just wanted to clarify that, while not proffered, staff has a concern that the property still could be used for vehicle sales, repair and or warehousing?

Ms. Rupkey said yes.

Vice Mayor Dent said okay, even though their intention is to use it as a parking lot, they have not proffered it so that it is the only thing that they can do.

Ms. Rupkey said correct. Even though that is not his intention, say five or ten years down the line he decides to sell the lot, someone could go in and put in vehicle sales. Like those uses that were not proffered out, someone could go through and put in that type of business in there.

Vice Mayor Dent said my only concern is that would make it that much more crowded in that little corner.

Ms. Rupkey said the concern is that it does not fully align with the Mixed-Use Comprehensive Plan designation that is on there. The Mixed Use was working on pedestrian friendly biking, walking. There were more public transportation opportunities and those are more vehicle centric businesses so there will be more cars going to that...

Mr. Fletcher said and a little bit of historical context, probably Commissioner Baugh was the only one around when this occurred, but when this site was rezoned from M-1 to B-2 back when the Family Dollar was being presented, as we do with all applications, we recommended to that applicant at the time to eliminate what we considered to be uses that were not in alignment with how we wanted Chicago Avenue to develop. They heard our concern. They proffered out automobile repair and automobile sales, all of those things we did not want them to do. This applicant is asking to reintroduce them.

Chair Finnegan said thanks that helps to add context to this.

Chair Finnegan asked if there were any more questions for staff.

Commissioner Armstrong said with this B-2C, they could be doing these repairs if it was inside of the building? That would be alright.

Mr. Fletcher said well, from a legal standpoint they could do it. We are hoping that our recommendations for denial to not allow vehicle repair here.

Vice Mayor Dent said and since this is a zoning instead of a special use permit, we cannot add conditions they have to proffer. There is that distinction

Chair Finnegan opened the public hearing allowing the applicant to speak to this request.

Russell Lockey, property owner and applicant, came forward regarding this request. He said once again there has got to be a distinction on the property we are talking about. We are talking about 6,000 square feet that is currently used as a parking lot in front of a repair facility that is in the M-1 section, so we are trying to conform by saying to not allow repair in the parking lot, but to designate it correctly and to allow parking for the building that supports the business and the building behind that, which is an M-1 repair facility that is in operation. We can be glad to delineate, fence it, whatever, but it is really hard to explain unless you get out and walk the property to see that there is a significant portion of that lot as you look at the picture. It is an M-1 lot. I feel

if I fenced it in, it could conform to the requirements of doing it behind the fence and I am willing to do that, but the proffers were confusing, and I was trying to do it as quickly as I could and I apologize for that. The desire was to keep the ability to sell cars on the lot allowing the mechanics to buy a car and fix it up and sell it. Which he would like to do on occasion. Not necessarily a full used car lot, but he wanted the ability to sell one or two cars that he repaired on a regular basis. But he was told he could not do that because of the zoning issues. So, he has not yet set his business up that way at the present time, but that was his desire. That is why that was not proffered out. But I mean we can go back and work on that if we have to, but it is like I said it is my desire to conform to what it is being used for now and make sure that we are not causing more trouble in the future by fixing what is there.

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

Vice Mayor Dent said I guess that clarifies that, it is not so much of a question, but that these were intentionally not proffered out because you wanted to reserve the right to have some sales or repair there.

Mr. Lockey answered yes ma'am on a minimal level. I am not going to put a used car lot in there for full size. I did want to have the option because we were told he could not even sell one car that he had fixed up and stuck a sign on. So, he wanted the ability to do that on occasion

Vice Chair Byrd said I have a question, was the use of that piece of property communicated to you at purchase?

Mr. Lockey said the restrictions were not communicated at purchase. I purchased it with the gravel parking lot in place with all the cars on it. I just assumed it was available for use of that. That is why I am trying to fix it. And right now, like I said, with the adjacent lot if we can move the food truck on the adjacent lot that actually opens up more parking on this and frees up more parking and more availability for vehicles required for all of the buildings around. And then they get the vehicles off of the backside. We have heard complaints about the vehicles on the backside of the building and I am working with the tenants to get the vehicles from the backside or at least in a screened section. And I know that along Chicago Avenue it has been posted no parking along the street and so we are trying to work on that. That is part of getting this rezoned and using it correctly to avoid these problems in the future.

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

Vice Mayor Dent said well, this is maybe more a question for staff based on what you just said, given that these two properties are adjacent but zoned slightly differently the desire to move the food truck onto this lot instead would that be allowed in this rezoning.

Ms. Rupkey said with the proffers that he presented, and if it was approved, he could move to keep the food truck on his property. If it is denied, it needs to get off the property because the proffers that are on the previous rezoning do not allow anything to be this property. Does that help?

Mr. Lockey said that was part of the confusion with the...I was unaware of the proffers on the property, but I knew it was B-2 versus M-1. That is why the food truck is in the B-2 lot now.

Mr. Fletcher said if the rezoning were approved as presented, the food truck could operate on the B-2C zoned property, no questions asked. Just as long as they did not have any sight distance concerns or anything. Just remember that staff is not against food trucks operating in the Chicago Avenue corridor, it is about in an appropriate space, efficiency for the public.

Chair Finnegan said and also potential future uses. Not this owner. Not these tenants.

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

Commissioner Washington said quick clarification just to put it all together. So, this lot, we did this yesterday, there is supposed to be nothing here, right? Open space, rainbows, and sunshine right? But you bought the lot with cars on it, cars that...

Mr. Lockey said the City, when they built the sidewalk and they put a 45-foot-wide curb cut right there designed for a parking lot to drive in and out of it. So, I assumed based on that it was appropriate to be used as a parking lot because that is what it was being used for.

Mr. Fletcher said so there could be confusion in this situation, if I may. So, when the City negotiates right-of-way acquisitions, they are negotiating particular situations with individual property owners. They try to meet requests of a property owner. Putting in entrances in locations where they hope to have them in and all sorts of things, right? So, what has been interesting about the history of this particular parcel, before the individual in front of us bought the property, the person he bought it from, Mr. Higgins, owned the adjacent properties that we just talked about. We discussed with Mr. Higgins that buying the property was an interesting decision knowing that the B-2C zoned proffers would not allow it to be used for anything. But the individual bought the property. And this area has been difficult to keep up with the violations that occur and when the property was sold. It is possible that it was in violation at that moment. So, when any general passerby walks past, they may think that it is okay to use that space, but by proffer it is not.

Ms. Dang said if I may add one other piece of history to what Mr. Fletcher is describing. So, when going off of dates, and myself having had the experience working at Public Works, and I looked on the website that the Waterman Elementary School Safe Routes to School project was completed in 2013. It was designed and negotiated before the Family Dollar rezoning.

Mr. Fletcher said so that gives more context to it.

Ms. Dang said those entrances were already planned or even possibly constructed already before the rezoning.

Mr. Fletcher said absolutely before Mr. Higgins purchased this.

Mr. Lockey said I guess that was his assumption was that it was supposed to be accessible.

Mr. Fletcher said so, even when it was being subdivided, and I am obviously going by memory here, I remember the concern that we could not prevent the subdivision from occurring. And the Family Dollar Corporation was creating a lot for a very interesting reason. It could not be used for anything, it was to be open space.

Mr. Lockey said as I recall, prior to Family Dollar being there, looking at maps of the City, where the Family Dollar sits now was basically a big parking lot that was used to access all of the buildings. So, I guess the assumption of Mr. Higgins, who owned the building for many years before that was, if I could drive on it and park on it before you built the Family Dollar, you built me a curb cut there, I should be able to do it now. He may or may not have been aware of that. My understanding is that historically, before the Family Dollar was there it was a big parking lot.

Mr. Fletcher said it was a...I would not necessarily call it a parking lot, but it was a big area with gravel that sort of circled around a space. Was it used for the storage of vehicles and trailers and other matters? Yes, but by definition, not necessarily a parking lot.

Chair Finnegan said according to the zoning.

Commissioner Washington said so the question...so there are cars that do not work plus you want cars that do work and a food truck?

Mr. Lockey said there are cars that do not work simply because, once again, my tenant was not aware of all of the restrictions. We are working to fix that problem now and make sure that there are no inoperable cars in the B[-2] section in the future. And if it is approved a fence will go up and any inoperable vehicles will be behind the fence, as required by code.

Commissioner Armstrong added on M-1.

Mr. Lockey agreed on the M-1 section, yes ma'am and then there is some space between the buildings, it is also shielded. Where we could put inoperable vehicles and that is the desire of the operator, to be in compliance, as well he does not want to be in violation and causing complaints. So, we are going to, like I said if approved, we will survey off this particular lot and fence out the M-1 section in a way that he can park vehicles there that need to be worked on or stored that are inoperable and only have vehicles that can be driven into and out of the facility for repair in the parking lot.

Chair Finnegan thanked the applicant and asked if there was anyone who wanted to speak for, against, or about this particular request. Hearing none, he opened the request to comments from the board.

Chair Finnegan said this is, I think often times on Planning Commission, our choices between something we do not like and something we like even less than that and I feel like this is one of those situations. I am not in favor of an empty lot that does nothing and has no activity, but I am also not in favor of a bunch of inoperable vehicles being stored there.

Commissioner Armstrong said correct me if I have got this wrong, but if this is denied the applicant can still go through with the plan of partitioning off that M-1 section and storing vehicles there, that would make them legal vehicle storage if it is screened? So, denying this does not prohibit them from going forward on the other pieces. It is not going to put that auto repair out of business. Is that correct?

Mr. Fletcher said I hesitate to give a lot of confirmation about what screening and fencing, and what vehicles are stored, what kind of state the vehicle that is in repair is in, there is...

Commissioner Armstrong said but this is M-1.

Mr. Fletcher said correct, but you still cannot have an inoperable vehicle without tags without inspections or anything on M-1 properties. There is a time period in which you can of course, because you are repairing it, but it cannot just be stored indefinitely there. What we experience, unfortunately, is that happens a lot.

Vice Chair Byrd said but this is not M-1.

Ms. Rupkey said whether it is approved or denied the inoperable vehicles cannot be stored on the lot.

Commissioner Baugh stated for inoperable, unlicensed, untagged vehicles. Inoperable vehicles that are in the process of being repaired can be on the M-1 lot.

Mr. Fletcher said that is true

Commissioner Armstrong said but that is not what we are talking about here, we are...

Chair Finnegan stated this is not M-1 though. This is a rezoning from B-2C to B-2.

Commissioner Armstrong said but my question...

Mr. Fletcher said she was asking about the other stuff.

Vice Mayor Dent said adding the proffers, right?

Commissioner Armstrong said my question is, if we deny this, the applicant's plan to go forward with developing that M-1 strip can go forward, but they have got to do it with tags.

Mr. Fletcher said they can continue to work with us so we can help them to get into compliance.

Commissioner Baugh said let me throw in something else here that has not come up. You know, I am looking at the Land Use Guide and what you have got here really is a sea of planned mixed use and it was not always like that so it... I cannot remember, staff might know whether it was the last iteration of the Comprehensive Plan or the next to last, I think it was probably the last one because...so in the last iteration of the Comprehensive Plan we intentionally took a number of these

areas and said yeah, we significantly expanded where we said we would be planning for mixed use. Going maybe to some of the points that you made Mister Chairman about what area, and I will go back to someone who was around when the thing came 10 years ago. I think another characterization of that area and you may remember this, we may be fuzzy on the details, but you were talking you used the term blighted and one of the things that we liked about Family Dollar was compared to what it was. Because it was a whole big parcel of just this hodgepodge of where people threw their tires and if you get all the way to the other side the use was a little different but I guess what I...what jumps out at me about this is... like I said there are things about it not to like about what I am saying in terms of maybe the personal impact of the property owner. But from a planning land use standpoint, we said we want all of this to be mixed use. We said we want to sort of prime the pump to let this go in a mixed-use area. This is a proposal to take part of what we have gotten in that direction, and in fact, move it in the other direction and say well because you got a... and by the way while the zoning on the property, again, I am just looking at what we have in our packet. While the zoning on that side of the street from everything that is sort of there north is M-1, the Land Use Guide has it as mixed use. So, supposedly, we have a vision for not just this property, but the property even on the other side of it, to prefer to move it into a mixed use direction not an industrial direction. So, again that is always challenging when you have got the existing uses there, but I confess I am a little reluctant. When you have had a process albeit 10 years ago that sort of moved it...moved this parcel in the direction that we say we want and now we are going to move it back. I am struggling with that.

Chair Finnegan asked so you are saying... what I hear you saying is that you would support a denial in this case.

Commissioner Baugh stated that would be...that is where that path leads is...and really I think the idea is if we have a vision for this area to be different, that different really does not include expansion of that particular...and I think this is really what staff is trying to tell us that expansion of this particular use is not consistent with what we have said is our vision for this area. And that the boundary, and I am just pointing out that it is the actual boundary right now between the zonings, but our planning says we do not even want this to be the boundary. Wherever the boundary would be, we have said we really do not care for these industrial uses in this area as part of a long-term planning.

Chair Finnegan said that is a good point, a valid point. I would say Chicago Avenue is about halfway there to being an actual pedestrian and bike friendly street. It ends right about here. I do think there is a better tier point. There is a better vision for, a different vision, for this area and to that end I would also support denial.

Vice Chair Byrd said one thing I do not like about this is that I feel a corporation played a little shell game on the City by knowing that the City wants to move to mixed use. Then they go "well I am not going to put anything on this piece of...this little strip here."

Commissioner Baugh said actually I think that is not right. Was it already mixed use in 2013?

Mr. Fletcher said it was not mixed use at that time. Like we are always in many cases, but sometimes our policy thinking is a little ahead of the Comprehensive Plan update. We were already

envisioning what we knew we wanted with Chicago Avenue. Which is why we suggested them to eliminate those uses. They had already eliminated the uses, that was in 2014 I think the rezoning was...

Ms. Dang corrected saying 2013.

Mr. Fletcher said and then the 2018 Comprehensive Plan update we relooked at this space and said we want it to be mixed use. So, the sequence is not accurate.

Commissioner Baugh said I apologize for interrupting, but the sea of hatch that I am looking at here now did not exist in 2013 in the Land Use Guide.

Vice Chair Byrd said well good, because the way I was hearing it was sounding a little weird to me so, thank you for the clarification.

Chair Finnegan said any other thoughts on this? Support for, approval or denial? Either way? I am looking for a motion.

Commissioner Baugh said okay I will go ahead and move denial of the rezoning request.

Commissioner Armstrong seconded the motion.

Chair Finnegan called for a roll call vote.

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

The motion to recommend denial of the request resulted in a spilt vote (5-1). The recommendation will move forward to City Council on July 11, 2023.