MINUTES OF HARRISONBURG PLANNING COMMISSION

October 14, 2020

The Harrisonburg Planning Commission held its regular meeting on Wednesday, October 14, 2020 at 6:00 p.m.

Members present by electronic, video communication: Gil Colman, Chair; Brent Finnegan, Vice-Chair; Jim Orndoff; Deb Fitzgerald; Adriel Byrd; Kathy Whitten; and Sal Romero.

Also present: Thanh Dang, Assistant Director of Community Development; Alison Banks, Senior Planner; Adam Fletcher, Director of Community Development; Wesley Russ, Assistant City Attorney; and Nyrma Soffel, Acting Office Manager/Secretary.

Chair Colman called the meeting to order and said that there was a quorum with all members present. This meeting will be held as an electronic meeting due to the emergency and disaster represented by the spread of COVID-19. This meeting will be conducted by the following electronic communication means: electronically through GoToMeeting and Granicus. The public had the opportunity to provide comments in advance via email and will have the opportunity to provide comments by phone at designated times during this meeting. Because calls are taken in the order that they are received, we ask that the public not call the comment line until the item you are interested in is being presented or discussed.

Chair Colman asked if there were any corrections, comments or a motion regarding the August 12, 2020 Planning Commission minutes.

Commissioner Finnegan moved to approve the August 12, 2020 Planning Commission meeting minutes.

Commissioner Fitzgerald seconded the motion.

The motion to approve the August 12, 2020 Planning Commission minutes passed (7-0).

Chair Colman asked if there were any corrections, comments or a motion regarding the September 9, 2020 Planning Commission minutes.

Commissioner Whitten moved to approve the September 9, 2020 Planning Commission meeting minutes.

Commissioner Byrd seconded the motion.

The motion to approve the September 9, 2020 Planning Commission minutes passed (7-0).

New Business – Public Hearings

Consider a request from Rock Homes LLC to rezone 690 Pear Street

Consider a request from Rock Homes LLC for a special use permit to allow townhomes at 690 Pear Street

Chair Colman read the request and asked staff to review.

Ms. Banks said that the subject parcel was created after the City purchased land in this area for the relocation of Pear Street and the extension of Erickson Avenue. A residual portion of old Pear Street was retained and became Bartlett Court. In December 2016, the City subdivided +/- 17,900 square feet of land from the remaining City owned property, creating tax map parcel 8-D-11.

In January 2020, Planning Commission heard a request to rezone the subject parcel from R-1, Single Family Residential District to R-2C, Residential District Conditional, with the following proffer:

> "All driveway entrances for 690 Pear Street (TM Parcel 8-D-11) and any new parcel(s) created by future subdivision(s) of this parcel will only be placed along Bartlett Court."

Staff and Planning Commission (7-0) recommended in favor of the request. In February 2020, City Council unanimously approved the rezoning. After the rezoning occurred, a minor subdivision application was submitted to subdivide the property in to two lots. However, the subdivision was never finalized and the property was sold to a new owner, who is now requesting to rezone the single parcel to R-8C.

The Comprehensive Plan designates this site as Medium Density Mixed Residential. These areas have been developed or are planned for small-lot single-family detached and single-family attached (duplexes and townhomes) neighborhoods, where commercial and service uses might be finely mixed within residential uses or located nearby along collector and arterial streets. Mixed-use buildings containing residential and non-residential uses and multi-family dwellings could be appropriate under special circumstances. Attractive green and open spaces are important for these areas and should be incorporated. Open space development (also known as cluster development) is encouraged, which provides for grouping of residential properties on a development site to use the extra land for open space or recreation. Like the Low Density Mixed Residential designation, the intent is to have innovative residential building types and allow creative subdivision designs that promote neighborhood cohesiveness, walkability, connected street grids, community green spaces, and the protection of environmental resources or sensitive areas (i.e. trees and floodplains). Residential building types such as zero lot-line development should be considered as well as other new single-family residential forms. The gross density of development in these areas could be around 20 dwelling units per acre. Commercial uses would be expected to have an intensity equivalent to a Floor Area Ratio of at least 0.4, although the City does not measure commercial intensity in that way.

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

Site: Vacant parcel, zoned R-1

North:	City parcel (stormwater best management practice area), zoned R-1, and C&W Railroad right-of-way
East:	Across Pear Street, vacant land, zoned R-1
South:	Across Russel Drive, detached single-family dwellings, zoned R-3C, and vacant land, zoned R-1
West:	Across Bartlett Court, detached single-family dwellings, zoned R-3C

The applicant is requesting to rezone a +/- 17,900 square feet parcel from R-2C, Residential District Conditional to R-8C, Small Lot Residential District Conditional while also seeking a special use permit (SUP) per Section 10-3-59.4(1) to allow attached townhomes of not more than eight units within the R-8, Small Lot Residential District. If the requests are approved, the applicant plans to construct up to five townhomes on the site.

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

> "All driveway entrances for 690 Pear Street (TM Parcel 8-D-11) and any new parcel(s) created by future subdivision(s) of this parcel will only be placed along Bartlett Court."

Staff is concerned with allowing entrances along the short length of Russell Drive and along Pear Street, a major collector street. The proffer addresses these concerns by limiting driveway entrances for the subject site to Bartlett Court.

The applicant is also applying for a SUP per Section 10-3-59.4(1) to allow attached townhomes of not more than eight units within the R-8, Small Lot Residential District. The applicant's letter describes that, if approved, they would utilize the 10-foot front setback of the R-8 zoning district to construct the townhomes closer to Bartlett Court. If the property was rezoned from R-2C to R-3, Medium Density Residential District, townhomes would be allowed in that district, however, a 30-foot front setback would be required. A 10-foot front setback allows the applicant to provide parking to the rear of the townhomes. The applicant is planning to create one, common driveway from Bartlett Court to serve all units.

The applicant submitted a conceptual layout showing five townhome lots. This layout is not proffered; therefore, more or fewer lots could be subdivided and more than one entrance could also be provided onto Bartlett Court.

The applicant is aware that a subdivision of more than four townhome lots would require approval of a preliminary plat by the Planning Commission. Off-street parking and landscaping requirements, among other details, would be reviewed through the building permit process and/or through the engineered comprehensive site plan process. It is likely that this project will necessitate an engineered comprehensive site plan review.

As previously noted, the subject property and surrounding area are designated Medium Density Mixed Residential, which means properties are planned for single-family detached, duplexes and townhomes, with densities of up to 20 units per acre. A proposed density of five townhomes on +/- 17,900 square feet calculates to 12 units per acre; well within the planned density. Townhome

development is also planned for this area in the nearby Cobblers Valley Development in Rockingham County.

The requested rezoning to R-8C is supported by the Comprehensive Plan and staff recommends approval.

Additionally, staff believes that the proposed townhome use is consistent with good zoning practice and will have no more adverse effect on the health, safety, or comfort of persons living and working in the area and will be no more injurious, economically or otherwise, to property or improvements in the surrounding area, and therefore staff recommends approval of the SUP with the following condition:

- All townhome units shall share one vehicular access to Bartlett Court.

Chair Colman asked if there any questions for staff.

Commissioner Whitten asked if there will be on-street parking spaces on Bartlett Court. I am guessing that there will be no on-street parking on Pear Street.

Ms. Banks said that there were vehicles parked on Bartlett Court when she was at the site. I do not know about on-street parking on Russell Drive.

Commissioner Whitten said that she was concerned about safety, but that will be reviewed in the site plan review process.

Ms. Banks asked what the safety concern was.

Commissioner Whitten said that she was concerned whether there would be enough parking in the development lot to accommodate visitors. Visitors could use on-street spaces, which can create issues with cars moving in and out.

Mr. Fletcher said that he did not see any signs restricting parking on Bartlett Court.

Ms. Banks said that there were vehicles parked on Bartlett Court when I was out there earlier this week. I do not know about Russell Drive.

Ms. Dang said that they will need to provide the required minimum number of parking spaces.

Commissioner Whitten asked if the units would have garages.

Ms. Banks said that she does not know. This drawing is conceptual and there could be fewer townhomes.

Commissioner Finnegan said that if four townhomes were planned a preliminary plat would not be required. Is that correct?

Ms. Banks said that is correct. It would go through the City's minor subdivision process because of the size of 17,900 square feet and only four lots. The threshold for a major subdivision would be five lots or greater than five acres.

Commissioner Finnegan asked how much additional cost is there to do a preliminary plat. What is the cost to the City, filing and fees?

Ms. Dang asked are you interested in the cost for staff or the applicant?

Commissioner Finnegan said that he is interested in the cost. Are we disincentivizing someone from building more housing because of the extra cost?

Ms. Dang said that the cost is mostly incurred in the time involved. The minor subdivision process has a seven to ten day staff administrative review. The preliminary plat process can take two and half months of review before the preliminary plat is approved by City Council. Then it goes through another week-long administrative process to get the final plat. The application cost varies, but it could be less than $100 difference in fees. The cost is in the time.

Mr. Fletcher said that if you are looking at it from the perspective of whether this an additional burden from the financial perspective for the developer that would then push that cost onto the homeowner, then, yes there is an additional cost. The additional cost is in having an engineer design and layout the preliminary plat in the context of meeting the requirements as designated in the subdivision regulations. There are a few different things that must be done. We are looking to ensure that water and sewer are provided and where the water and sewer are going to be provided. We look at what are the elevations from the ground for understanding contours and land disturbance. All of those things are triggered and have historically been triggered as needing further evaluation from a staff perspective, and that puts them into a category to ensure that the additional complexity and intensity of the development is sufficient for all of the impacts to the entire neighborhood. During our Ordinance Advisory Committee meeting there was discussion about eliminating procedural matters that increases costs. Yes, this could be one of those things that could potentially change in the re-write. Bear in mind, that there is also going to be a threshold, where that is, I do not know, that the intensity or scale of the development will necessitate further review and further time by experts to be able to lay out that subdivision to ensure that everything is sufficient. I appreciate that perspective and it is definitely something that is on staff's mind. Alison is correct. If they only had four lots, they would only have to go through the minor subdivision review process. At the end of the day, given the scale of the townhome development, as the staff report noted, it is likely that they will have to go through an engineered comprehensive site plan review, which is going to evaluate all those things anyway. Being that we have an engineer that sits on this commission, he can tell you that the amount of time for creating a comprehensive engineered site plan is much more involved than a preliminary plat, because it is a few clicks of their software to turn items on and off, depending on what they have already laid out. I am grateful that you are thinking about this in that manner.

Commissioner Finnegan said that it might not have a bearing on this specific item, but it does have a bearing as we are updating the Zoning Ordinance. I want to make sure that we are all aware of the cost to developers.

Chair Colman said my assumption here, is that you are leaning in the direction of, how can we improve the usability of this property? They clearly are improving the usability from what they have proposed before, the R-2 Conditional to R-8 Conditional. I do not necessarily like when people rezone, then come a few months later to change it again. I do not like that, but it is a new owner and it goes in the direction that we want it to go. We want to see more of these properties in the City in-filled, used, so that we provide more housing. These townhouses are a pretty nice size. I know that this is not proffered, but this is what we are looking at. They are very nice and it is not 200 townhomes. They are taking this spot here that fills in nicely and should tie in nicely with the rest of the neighborhood. I share your concern and your interest in seeing things like this being more streamlined within the City, instead of having to go through the full process. At the same time, there are some regulations that come down from the State that require that certain things be engineered to some level. In this case, it is likely that, based on the amount of disturbance and the lot itself, they will have to go through a comprehensive engineered site plan review. That is where all the time and cost will be. Most people think they are going to build townhouses, for example, and do not realize that there is a huge cost associated with site development that they never took into account. They only thought of what it would cost to build the townhouses. I find that very common. People tell me that they did not realize the cost. There are a lot of requirements that relate to the site. As we go through the Zoning Ordinance review and discussions, maybe there are some things that we can ease to some extent. I am pleased to see this change to this layout. I think it is more useful.

Commissioner Byrd asked for clarification that the rezoning to R-8 is due to a current requirement on R-2 of a 30-foot setback. With the R-8, they can have a ten-foot setback, which means they can move the townhouses closer to Bartlett Court and put the parking in the back. Is that correct?

Ms. Banks said that the R-8 allows for a ten-foot front yard setback. It will allow for the developer to place the buildings closer to Bartlett Court. The R-3 zoning district allows townhomes by right. They could have requested a rezoning to R-3 for townhomes and used the 30-foot setback. Then the issue is whether they put parking in the front, but aesthetically it looks better in the back. Yes, by going with the R-8, they are able to take advantage of the lesser setback. The R-2 does not allow for townhouses. They would have to rezone either way to build townhomes.

Chair Colman asked if there is a density requirement associated with the R-8 and the R-3 zoning districts.

Ms. Banks said the density in R-8 is greater, but it is based on the size of the parcel. The occupancy is different. The R-8 district allows a family or two unrelated persons. It is even more restrictive than the R-1.

Commissioner Finnegan asked how many properties are currently zoned R-8. Did we approve that last year?

Ms. Banks said that there are three parcels on Virginia Avenue that are R-8.

Chair Colman said that it is good to see the R-8 zoning district being utilized.

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

Peter Laver, Rock Homes, LLC, called to speak to the request. I appreciate you considering this rezoning. I was listening to the meeting and realized that it was rezoned not too long ago by the previous owner. The main reason that we are looking at rezoning to the R-8C would be primarily so that the setback could be ten feet from Bartlett Court. City Staff has been great to work with in understanding what can be done and cannot be done in different zoning districts. My understanding is that it might be more complicated to do five townhouses versus four townhouses. That is something that we are considering, mainly for aesthetic reasons and to be able to allow adequate access to the back parking and keep the townhouses from looking too narrow while meeting the width guideline that the Fire Department requires. We want a good product out there that best utilizes that lot as well as makes it look aesthetically appealing. The houses in that development are very attractive and we want it to be a seamless transition to that lot. I am willing to proffer similar proffers to what the previous applicant offered. I am happy to answer questions.

Chair Colman asked if there were any questions for the applicant's representative. Hearing none, he asked for the next caller. As there were no more callers, he closed the public hearing and opened the matter for discussion.

Commissioner Whitten made a motion to recommend approval of the rezoning request, as presented.

Commissioner Finnegan seconded the motion.

The recommendation to recommend approval of the rezoning request passed (7-0) by voice vote. The recommendation will move forward to City Council on November 10, 2020.

Ms. Dang reminded the Planning Commission to take roll call votes during virtual meetings. Chair Colman agreed to do so going forward.

Commissioner Byrd made a motion to recommend approval of the SUP, with conditions as presented.

Commissioner Fitzgerald seconded the motion.

Chair Colman asked for a roll call vote.

Vice Mayor Romero:	Aye
Commissioner Whitten:	Aye
Commissioner Finnegan:	Aye
Commissioner Fitzgerald:	Aye
Commissioner Orndoff:	Aye
Commissioner Byrd:	Aye
Chair Colman:	Aye

The recommendation to recommend approval of the SUP with conditions as presented passed (7-0). The recommendation will move forward to City Council on November 10, 2020.

Commissioner Whitten asked if the development on Keezletown Road was also rezoned to R-8.

Ms. Dang said that it was not. That project was Juniper Hill Commons. That was an R-7 development that required a master plan. It was not one of our conventional zoning districts. It has a master plan associated with it.

New Business – Other Items

None.

Unfinished Business

None.

Public Comment

None.

Report of the Secretary & Committees

Proactive Code Enforcement
Ms. Dang said that the proactive code enforcement remains temporarily suspended pending the hiring of a Zoning Technician and due to COVID-19. We will have a new Zoning Technician, Chris Perez-Leon, starting on Monday. We will determine with the Zoning Administrator when we might resume proactive code enforcement.

Rockingham County Planning Commission Liaison Report

Chair Colman attended the Rockingham County Planning Commission meeting. There was a rezoning and four ordinance amendments. The rezoning was a request to amend the master plan to increase residential density for a property located to the south of Harrisonburg. Part of the property is in the City. It is a wooded area located at the end of Peoples Drive and Covenant Drive. It will be developed with townhomes and single-family homes. The City will be involved to provide services and Traffic Impact Analysis. It will increase traffic on Route 11 south. It was recommended for approval.

Commissioner Finnegan asked if the development is only accessible through Harrisonburg, through Covenant Drive, or is there another access to that development from County roads.

Chair Colman said that he believes that access is primarily through Peoples Drive and Covenant Drive. If they develop the part that are City lots, that will tie back into Main Street. What they were looking at right now was in the County.

Ms. Dang said that there would be access onto Pike Church Road on the west side of the property.

Mr. Fletcher asked if this was the development by JVP Development.

Chair Colman answered yes.

Mr. Fletcher said that it is further south from Peoples Drive. It is off of South Main Street and Pike Church Road.

Chair Colman said that they plan to extend Peoples Drive into it. (Editors Note: The street to be extended is Emmaus Road.)

Commissioner Finnegan said that is a significant number of houses.

Chair Colman said it is very big. I expect that they will come back to the City. They were considering rezoning some of the property that is B-2 along South Main Street to residential as well. It will take a few years for all that to develop. It is a significant impact to the south end of the City.

Commissioner Whitten asked if it would impact the water and sewer connections.

Chair Colman said there were some discussions that the City was providing some of that, but the County extended the water and now the County is providing water. I do not know about sewer. It is further south, which means it will tie into the collector line further than the City. There might be some impact on the City, but that should be better than the upper side of the City.

There were some ordinance amendments. One of them was an amendment to their lighting plan ordinance, the definition to their photometric plan and outdoor light. The City requirements are similar to the County. Some of the recommendations were to have a full dark skies approach, which limits the way light is shed from the fixture. I will explain it because a number of people were opposed to it and the County did not expect that. If you have a lighting fixture, the light would only be allowed to shine straight down, not to the sides or at an angle. It had benefits to providing dark skies. Devon Anders and someone else spoke out against it. His concern was that, since he has a large parking lot, how many fixtures would be needed to provide adequate lighting for those large parking lots. That could be a burden for him and others who want more lighting. Some engineers reviewed it and had comments. Seth Rodrick, with Monteverde Engineering, spoke after Mr. Anders and said that he is on the group that addresses the environmental design. There is some enmity between the dark skies movement and the safety movement. In a gas station, they want everything lit, so there is no room for crime. There are some concerns about crime where light is too limited to certain areas. Those were some of the comments. The Planning Commission tabled it until more people have a chance to review it. There might be better ways to address that. For example, if you have a covered porch with a light, it could not shed light outside the porch. It would have to be recessed into the porch so that the light only shines within the square and not outside. If you have a commercial building and you want lighting for people walking in, you need

to provide lighting outside for them because the light at the door would not be allowed to shine outward for them. Those are some of the concerns.

Another ordinance amendment was to allow bulk storage of liquid petroleum gas on A-1 and A-2 zoning districts. Gas providers have bulk storage facilities and they were not allowed in A-1 and A-2.

The next amendment was the requirement of a septic system when a property is subdivided. If the parent track does not have a septic system, they will require 100% coverage for the new tract and the old tract. This amendment would specify that it would only apply for a full time residence. If it is a cabin, then a septic system would not be required.

Finally, the last one was to allow accessory dwelling structures in front of the principal structure in certain zoning districts. This would allow those large properties where the house is built deep into the property to have accessory dwelling structures between the house and the front property line.

Board of Zoning Appeals Report

None.

City Council Report

Vice Mayor Romero said that at the October 13, 2020 meeting they spoke about the request from Orange Sky Investments to allow a short-term rental for a property on New York Avenue. City Council did not vote on it. I made a motion to approve it. The motion did not receive a second. In essence, the motion died. There was not even a motion to table it. Councilman Jones said that it did not conform with the character of the neighborhood. Councilman Baugh said that given that there is an Ordinance Advisory Committee, he wants to wait before considering this sort of application. This property was not approved.

Mr. Fletcher said this is similar to what occurred with the lack of action for the STR request off of Nelson Drive. City Council has failed to take any action on that request as well.

Commissioner Finnegan said that it is strange. I was under the impression that City Council had to make a motion to approve, deny or table a request.

Vice Mayor Romero continued and said that City Council discussed items related to the Northeast Neighborhood Association (NENA) seeking a special use permit for a community building and a special use permit for the reduction of parking at 192 Kelley Street. City Council approved both 5-0. The last item was a request to subdivide 5.6 acres into parcels at 585 and 611 Pear Street. This was approved 5-0.

Other Matters

Update to the Zoning and Subdivision Update Project

Ms. Dang said that since our last Planning Commission meeting, stakeholder meetings, the staff technical team meeting, and an ordinance advisory committee meeting have taken place.

Between October 5 – 8, the consultant team met with eight stakeholder groups representing different groups such as residents, social services, environmental groups and people in the development and real estate community. Each stakeholder group had 5-9 community members participating and lasted one hour. Staff did not participate in the stakeholder group discussions to encourage participants to provide criticism and to speak freely without concern of offending or hurting staff's feelings. After the interviews, participants were provided consultant Brian Mabry's email address to share with him additional comments that the group could not get to or that they may have forgotten to mention.

Overall, the consultant team said that the participants in the stakeholder group meetings were very engaged and none of the meetings ended early because of lack of participation. We provided them with the consultant's email addresses for any additional comments or concerns. Some recurring themes, listed on the PowerPoint slide, included student housing, creation of multi-modal, mixed use environments, affordable housing, densification, parking, and timeliness of review.

On October 12, the consultant team met with the Staff Technical Team (STT), which includes representatives from Community Development, the City Attorney's Office, Public Works, Public Utilities, Fire, Economic Development, Police, Public Transportation, and the Harrisonburg Electric Commission. There was an introductory presentation made, which was similar to the presentation that was presented to City Council on August 25 and that Planning Commissioners watched before our last meeting. The roles of the STT were discussed and time was given to discuss general thoughts and suggestions for updating the Zoning and Subdivision Ordinances.

Also, on October 12, the 13 member Ordinance Advisory Committee (OAC) met with the city project team and consultant team. The OAC will meet six times during the project to represent the broader community, review draft ordinances, serve as a sounding board for new ideas and solutions, and to provide constructive input. Similarly to the STT meeting, there was an introductory presentation and an opportunity to discuss general thoughts and suggestions for updating the Zoning and Subdivision Ordinances.

During the next month, the consultant team will schedule a date to visit Harrisonburg and complete a city tour to become familiar with neighborhoods in the City and to see what has worked and what has not. In mid-November an Ordinance Diagnostic and Annotated Outline will be provided by the consultant team to staff. On November 18, the STT and the OAC will meet to receive a presentation from the consultants of the Ordinance Diagnostic and Annotated Outline.

Commissioner Whitten said that she is very pleased to have been included in the OAC. Unfortunately, due to technological difficulties, I did not receive the link to the meeting, but I do look forward to participating.

Chair Colman said that it was very helpful. The meeting was good, and a lot of people participated.

Ms. Dang said that in mid-November there are plans for the Housing Study to do a public engagement event. We will share that information with you when we have it.

Commissioner Finnegan asked if the Housing Study is going to look at the number of vacant houses in Harrisonburg.

Mr. Fletcher said that the data that they have been gathering is extremely comprehensive. It has been very exciting to be a part of that project. They have data that is divided into categories and they have vacant units within them. We have not seen all of the data in all of the different ways that it is presented, but I am sure that there will be something to that effect. When they did their outreach and gathered information, they were representing vacancies in some of that information.

The meeting adjourned at 7:10 p.m.