



City of Harrisonburg

City Hall
409 South Main Street
Harrisonburg, VA 22801

Meeting Minutes Planning Commission

Wednesday, September 11, 2019

7:00 PM

Council Chambers

1. Call To Order

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

2. Roll Call/Determination of Quorum

Chair Way said there was a quorum with six of seven members in attendance.

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

Members absent: Zanetta Ford-Byrd.

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

3. Approval of Minutes

Chair Way asked if there were any corrections, comments or a motion regarding the August 14, 2019 Planning Commission Minutes.

Commissioner Finnegan moved to approve the minutes as presented.

Commissioner Whitten seconded the motion.

All members voted in favor of approving the August 14, 2019 Planning Commission minutes as presented (6-0).

This was approved.

3.a. Minutes from the August 14, 2019 Planning Commission Meeting

Attachments: [Minutes](#)

4. New Business - Public Hearings

Ms. Dang presented an overview of the common conditions that will be seen throughout the two

STR applications that we will be discussing this evening. These are:

1. All STR accommodations shall be within the principal structure.
This prevents people from creating a separate building from the main house to lodge people. While they could do that, this condition makes it so that if someone wanted to build an accommodation space separate from the main house, they would have to come back to the Planning Commission to make a new request with a new SUP application. We want that to be vetted by this body as well as by City Council.
2. 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. This Pre-Operation Form is a checklist of things about the accommodation spaces including the ability to exit in the event of an emergency, smoke detectors. There is a checklist that is available on our website for anyone who wishes to review it.
3. Minimum off-street parking spaces do not need to be delineated and can be accommodated utilizing the driveway or other areas on the property.
The way the Zoning Ordinance is written, the parking requirements for STRs require that parking spaces be marked. For homes that are residential in nature, we do not think that it would be appropriate to require marked spaces. In some instances, we have recommended that they do not need to be delineated or signed. We also recognize that there is space provided on the property to provide off-street parking.
4. The STR has no minimum off-street parking requirements.
This would be in a case where a property does not have off-street parking spaces available for a car to park on the property, but there is enough parking available on the public street where it would not cause issues with the neighbors.
5. 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.
If an approved STR becomes a nuisance, City Council or Planning Commission could recall the application to review, add conditions, or to revoke the SUP entirely.

These are the conditions that we will see throughout the two applications.

- 4.a.** Consider a request from Thomas W. and Taricia L. Pippert Trustees for a special use permit to allow short-term rental at 551 Myers Avenue.

- Attachments:** [Memorandum](#)
[Extract](#)
[Site maps](#)
[Application, applicant letter, and supporting documents](#)
[Public Hearing Notice.docx](#)
[Surrounding property notices.pdf](#)
[PowerPoint presentation](#)

Chair Way read the request and asked staff to review.

Ms. Dang said that the Comprehensive Plan designates this site 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: Detached single-family dwelling, zoned R-1
- North: Detached single-family dwelling, zoned R-1
- East: Detached single-family dwelling, zoned R-1
- South: Detached single-family dwelling, zoned R-1, and across Martin Luther King Jr. Way, James Madison University student housing owned by the University, zoned R-3
- West: Detached single-family dwelling, zoned R-1

The applicants are requesting approval of a short-term (STR) operation at 551 Myers Avenue, which is located on a street that ends in a cul-de-sac in the Preston Heights neighborhood. The applicants desire to rent for STR four accommodation spaces; three bedrooms on the second floor and one bedroom in the basement. (“Accommodation space” means any room offered for sleeping. This would not include living spaces or rooms where guests would not be sleeping.) The accommodation spaces can accommodate a total of up to eight guests. The applicants describe that the property is their primary residence and that they would be present during the lodging period.

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 for STR four accommodation spaces, the property should provide four off-street parking spaces. 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 property has a large driveway and a three-car garage. The applicants have explained that lodgers will park their vehicles in the driveway. Staff believes the applicant should be provided the flexibility to meet the off-street parking requirements

by allowing customers to park on the existing driveway or other area of the property without delineating parking spaces.

If the request is approved, staff recommends the following conditions be placed on the SUP:

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 four STR guest rooms or accommodation spaces.
5. The number of STR guests at one time shall be limited to eight 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 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 four. Condition #5 limits the total number of STR guests to not more than eight. 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 their property by not requiring them to create and delineate additional off-street 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 applicants have 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 sold the property, 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.

As of the last City Council meeting on August 13, 2019, the City has approved multiple STR SUP applications in similar locations throughout the City and with comparable operating situations. On August 14, Planning Commission reviewed a STR SUP request for 511 Paul Street, which resulted in no action (in other words, no recommendation) due to a tie vote (3-3). There was one Commissioner absent from the meeting. The item has been tabled by the applicant and will not be received by City Council at their September 10, 2019 meeting.

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

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.

Tom Pippert, 551 Myers Avenue, came forward in support of his request. The house was built with a bathroom with every bedroom. It can accommodate a group this size.

Commissioner Romero asked what the feedback has been from the neighbors.

Mr. Pippert said that it has been positive. In fact, we have a supportive neighbor with us.

Chair Way asked if there was anyone else wishing to speak to the request.

Rodney Williams, 511 Paul Street, came forward to speak to the request. As a neighbor, and an applicant last month, I support this request. I tabled my request because I had a hate mob in opposition to my request. My property reaches Myers Avenue and I support the request.

Chair Way closed the public hearing and opened the matter for discussion.

Commissioner Whitten said that this is a lovely home and a lovely neighborhood. I am not hearing any complaints from neighbors, but I have the same concern that I had last month. That is about residential zoning. If we are allowing more people in a house because of a STR SUP than we would allow according to our zoning laws, then there is something wrong. We have no control of who comes next. I am sure that this owner will be responsible and would maintain decorum and character for their home by being there. We have no way of knowing what is going to come next. I think eight sounds like too many people. Certainly, that home can accommodate eight people. I want to be very clear because I do not think that I was clear enough last month. It certainly did not get communicated to City Council why I have the feeling that I do about this. It is a bad idea to legally allow more unrelated people than our Zoning Ordinance would allow.

Commissioner Finks said I assume that you mean the by right ability because we have plenty of SUPs that allow more than that in plenty of houses. You are just talking about the by right ability.

Commissioner Whitten said that is correct. There are SUPs that allow more people than that.

Commissioner Finks said that we have plenty of SUPs that allow more people in the house than the by right ability.

Commissioner Whitten said that it is not in those kinds of numbers.

Commissioner Finks asked so that it is a specific number?

Commissioner Whitten said that it is fourteen or eight. How many people are allowed in an R-1 neighborhood beyond a family? That would be two.

Commissioner Finks said that he is trying to clarify that it is not that it is more than the by right ability, it is the actual number that is being allowed in the SUP. It is not that it is more, it is the fact that it is eight.

Commissioner Whitten said that it feels like a density problem. You have heard me talk about density of people, density of cars, density of trash. That is where it bubbles over. That is where it creates problems in neighborhoods. I hope it is clear.

Commissioner Finks said that the difference, as I see it, is that in this type of SUP we assume that there is not going to be that density every day of the year for the entire year. Compared to other SUPs where we assume that they will be renting the space for the entire year. I would be surprised if anyone is able to keep that many rooms filled every day of the year.

Commissioner Whitten said that it is an unknown.

Commissioner Finnegan said I voted in the affirmative for the STR request for the 511 Paul Street property. These houses are large houses. I can speak to this house (551 Myers Avenue) in particular because I've been in that house. When I worked at WVPT, we had whole film crews come in there. We had lots of people and there is a lot of space in that driveway. The off-street parking is not a concern for me. I voted in the affirmative on 511 Paul Street, against the wishes of some of the neighbors. I intend to vote in the affirmative on this one.

Commissioner Colman said that the question here is, with what number of guests would we feel comfortable? What would be a number that seems reasonable for an R-1 neighborhood? If it is a family, it could have eight people.

Commissioner Whitten said that it is a different situation. It is not a business.

Commissioner Finnegan said that it would vary from house to house. If we are talking about a two-bedroom house, like my house, I would not say more than two people. If a house can accommodate four accommodation spaces, each with its own bathroom, it can accommodate a lot of people.

Commissioner Finks said that we have already approved other SUPs with more than eight in similar neighborhoods.

Commissioner Finnegan said I cannot recall what we did with the one last month. Did we put some sort of restriction, an either-or restriction?

Mr. Fletcher said no.

Ms. Dang said that it was voted on. It was split.

Commissioner Finnegan said that it failed, so it does not matter.

Commissioner Whitten said that it was in regard to not being able to rent to borders and operate a STR at the same time.

Commissioner Finnegan moved to approve the STR with conditions as presented.

Commissioner Finks seconded the motion.

Chair Way said I am going to vote in the same way, and for similar reasons, as Commissioner Whitten. I think the presence of the owner makes a difference for me in this one, as well. Holding to the single-family residential concerns that we have had, I am going to be voting against the motion.

Commissioner Whitten said that, going forward, I want it to be clear that, just because this owner will be there, future owners would not have to be there.

Chair Way said that is one of the concerns with the SUP.

Commissioner Finnegan read “[t]he site shall be an operator’s primary residence. If an operator is not the property owner, then an operator shall be present during the lodging period.”

Chair Way said that the owner does not have to be present during the lodging period. That is my concern.

Commissioner Whitten said that when it is a property owner, we do not expect them to be there. That is very confusing.

Chair Way said that in single-family neighborhoods there should be a higher standard.

Mr. Fletcher said that it is not that we do not expect them to be there. It is that they do not have to be there.

Chair Way said that when we talk about these requests, or are skeptical of the requests, it is not necessarily because of the present owners but because SUPs convey to future owners.

Commissioner Finks said that it is supposed to be their primary residence.

Ms. Dang said that you have the ability to recommend amending the conditions if you are not comfortable with them. That is how we ended up with this condition. It is not like proffers that have been offered by the applicant.

Commissioner Colman said that these are the conditions that we have applied throughout; after we discussed and figured that we wanted those conditions #1 and #2 to be the way they are right now.

Commissioner Finks said, to clarify, is your issue not with this? Is it the conditions overall that we have put on each one of these requests? Those specific conditions, not because of this property? Or those conditions specifically, with this property?

Commissioner Whitten said no. It is any property. It is my understanding that the property owner does not have to be there. We went through, at the very beginning of all of this, the first permits that came before us. You all were asking, "Do you want to be there?" Remember that I said that no one is going to say that they want to be there? It removes that responsibility of somebody actually being there.

Commissioner Finks said I disagree with the concern there. If it is their primary residence, they are going to be back if there are any problems. Whereas if it were not their primary residence, I would have to be concerned because who knows when they are going to be back in the neighborhood.

Commissioner Whitten said that you are not reading the same articles that I am.

Commissioner Colman said I agree with Commissioner Finnegan. The conditions depend on the adequacy of the residence. In this case, it seems to be adequate, including parking. I have no concerns of adequacy, but I am concerned in terms of the numbers. At some point, we need to draw the line and say how many people can be reasonably accommodated.

Chair Way called for a roll call vote.

Commissioner Romero: Aye

Commissioner Whitten: No
 Commissioner Colman: Aye
 Commissioner Finks: Aye
 Commissioner Finnegan: Aye
 Chair Way: No

The motion to recommend approval of the SUP, with conditions, as presented passed (4-2). The recommendation will move forward City Council on October 8, 2019.

A motion was made by Finnegan, seconded by Finks, that this PH-Special Use Permit be recommended to full council to the City Council, due back on 10/8/2019. The motion carried with a recorded roll call vote taken as follows:

Yes: 4 - Colman, Finnegan, Finks and Romero

No: 2 - Whitten and Way

Absent: 1 - Ford-Byrd

- 4.b.** Consider a request from Christopher J. and Kirsten L. Moore for a special use permit to allow a short-term rental at 231 West Grace Street.

Attachments: [Memorandum](#)

[Extract](#)

[Site Maps](#)

[Application, applicant letter, and other supporting documents](#)

[Public Hearing Notice.docx](#)

[Surrounding property notices.pdf](#)

[PowerPoint presentation](#)

Chair Way read the request and asked staff to review.

Ms. Banks said that 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: Detached single-family dwelling, zoned R-1
- North: Across Beech Street, detached single-family dwellings, zoned R-1
- East: Across West Grace Street, James Madison University Memorial Hall, zoned R-2
- South: Detached single-family dwellings, zoned R-1
- West: Detached single-family dwellings, zoned R-1

The applicants are requesting approval of a short-term rental (STR) operation at 231 West Grace Street, which is located in the western portion of the City in the Sunset Heights neighborhood. The

applicant desires to rent for STR one accommodation space within their home that could accommodate a total of five individuals. (“Accommodation spaces” 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 accommodation space would be in the studio-style basement of their home.

The surrounding streets have green zone permit parking and a parking pass is required for vehicles parking on-street Monday through Friday, 8:00 a.m. to 8:00 p.m. 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 for STR one accommodation space, the property should 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 one off-street parking space for the non-transient dwelling unit.

The property has no off-street parking accommodations. The property is a corner parcel and the applicant explained that STR guests can park their vehicle(s) on Beech Street, along the side of the subject property, with a displayed green permit parking guest pass. The City issues up to two guests passes per household. This property has approximately 100-feet of road frontage along Beech Street that could accommodate about five vehicles along that street frontage. Parking with the permitted green permit is also available along West Grace Street in front of the residence. Staff does not believe there would be issues created with allowing STR guests to utilize on-street parking and is comfortable conditioning that off-street parking for the STR operation is not required.

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 five 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. The STR has no minimum off-street parking requirements.
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 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 STR guests to not more than five. 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. Condition #7 provides flexibility for the property owner to maintain the residential appearance of their property by not requiring minimum off-street parking requirements. 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 his plans for using this property, the SUP is not restricted to the applicant or operator and transfers to future property owners. If the applicant sold the property, 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.

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

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.

Christopher and Kirsten Moore, 231 West Grace Street, came forward in support of their request.

Ms. Moore said that they bought a big house when they moved downtown. Now we have no children and we would like to share the house with out of town guests. We are in a great location to do that.

Commissioner Colman asked how large the studio style basement is. I ask that question because the number of guests is large.

Ms. Moore said that there is one queen bed, a pull-out couch and room for a cot for a child. Five adults would not want to stay there.

Mr. Moore said that it is intended to accommodate a family of five visiting the area, not five individual adult guests. I do not have the exact square footage, but it is the entire footprint of the house.

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 referred back to the conversation during the previous STR discussion. If the concern that the operator is not going to be on-site and there could be issues when they rent it out, there are already situations of homeowners leaving town and their teenage children having a party, or their live-in brother-in-law creating an issue.

Commissioner Whitten said that we are talking about a business, not a family function in a residential neighborhood. It is different. We have a lot of guidelines for home-based businesses. If you have a home-based business, a home occupation, you may not have an employee outside of your home coming in.

Commissioner Finks asked what would be the difference in this situation? If there is a complaint, if there are problems, we have placed a condition that we can reevaluate the SUP. Is that where the business aspect of this comes in, where we reevaluate the SUP if there continue to be issues?

Commissioner Whitten said that is what we have said we would do.

Commissioner Finks said that is the difference where it is a transaction, a business situation. We have added that condition. We cannot have a condition that a person cannot ever leave their house unattended when they have guests.

Commissioner Whitten said this is a business, and we need to look at it as such. In a low-density neighborhood, there is not a place for that kind of a business.

Commissioner Finks said that at this point, going forward, you would vote against every SUP that has that condition in it.

Commissioner Whitten said I do not know. I will look at each one and decide based on the numbers and the place. That is what we all should be doing.

Commissioner Finks said that if the concern is that it will convey with the property, that the owner does not have to be on-site, would that not apply to every single STR that is approved? How would the fact that it is a different property alleviate that concern?

Commissioner Whitten said that to know the property is a very important aspect to remember. Yes, absolutely.

Commissioner Finks asked if that is your concern, why would that not blanket all of these going forward? How would that not be a concern, with that condition on a different property?

Commissioner Whitten said that she cannot answer that question. I can only answer for myself on each one. I do have great concern for our residential neighborhoods. I have said that repeatedly. I have great concern when we invite uses in that are going to threaten the character of a family residential neighborhood. If A property wants to have a STR, then B property wants to have a STR and C property wants one too, then you get a whole street full of STRs; which we are working on with Summit Avenue right now. The character of that neighborhood could very likely change. I think that we need to be very careful.

Commissioner Finks said that he agrees. I would say that having a street full of STRs could be a danger to the neighborhood, but one in the neighborhood would not be a danger. With that argument, it seems like you are saying, "Why would we ever approve any of these going forward?"

Commissioner Whitten said that I cannot answer that.

Commissioner Finnegan said I believe that this body voted against regulating these STRs in this way, and City Council decided to go in another direction. I think we are regulating the wrong way. I have spoken to Planning Commissioners in Charlottesville. They do not do it this way. Next month are we going to be looking at our options?

Ms. Dang said that we would like to have a discussion. Next month we have a smaller agenda, allowing time at the end of the meeting to have discussion about the nuances and concerns that you all have.

Commissioner Finnegan said that this is the tool that we have now to address this. It is an imperfect tool. I do not like it. The first STR that we approved was in this neighborhood on Willow Street. We have approved others similar to it, so I will be voting in favor of this request.

Commissioner Romero said I mentioned at the last meeting that I, too, have great concerns about the way that this is going. I suggested that we should hold a joint meeting with City Council in the coming weeks to sit together and talk about what we are facing. It seems counterproductive to be heading in a direction that we have concerns with. I believe that City Council is willing to meet in a joint effort to align going forward. I do not want us to continue going in this direction with many of us voting every single month on properties, and then we are waiting to see what happens. If this body chooses, City Council is willing to call a joint meeting. At this point it is a matter of when we want to have it. I would want it sooner than later.

Chair Way said that the possibility of a meeting with City Council may be discussed during the Other Matters item in the agenda. One of the things that I am trying to do as Chair, is to reflect the

debates and nuances behind what we are discussing. What we are talking about here is an interpretation about what residential character means in a neighborhood. Does this, the STR, affect the neighborhood character? We have different perspectives on this question. What we are trying to do here, as we recommend these requests to City Council, is to capture these nuances in our interpretations of what residential neighborhood character is and how we protect families and communities.

Commissioner Colman moved to recommend approval of the request with the conditions as presented by staff.

Commissioner Finnegan seconded the motion.

Chair Way called for a roll call vote.

Commissioner Finnegan: Aye
 Commissioner Finks: Aye
 Commissioner Colman: Aye
 Commissioner Whitten: No
 Commissioner Romero: Aye
 Chair Way: No

The motion to recommend approval of the SUP, with conditions, as presented passed (4-2). The recommendation will move forward City Council on October 8, 2019.

A motion was made by Colman, seconded by Finnegan, that this PH-Special Use Permit be recommended to full council to the City Council, due back on 10/8/2019. The motion carried with a recorded roll call vote taken as follows:

Yes: 4 - Colman, Finnegan, Finks and Romero

No: 2 - Whitten and Way

Absent: 1 - Ford-Byrd

4.c. Consider a request from Bismarck LLC for a special use permit to allow manufacturing, processing, and assembly operations at 85 West Gay Street.

- Attachments:** [Memorandum](#)
[Extract](#)
[Site Maps](#)
[Application, applicant letter and supporting documents](#)
[Public Hearing Notice](#)
[Surrounding property notices](#)
[PowerPoint presentation](#)

Commissioner Colman recused himself from deliberation on this agenda item 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 area 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: Vacant building; zoned B-1C

North: Across West Gay Street, vacant building; zoned B-1C

East: C&W Railroad right-of-way and automotive repair business; zoned M-1

South: C&W Railroad right-of-way, across Noll Drive, properties zoned B-1

West: Vacant building and vacant properties; zoned B-1C

The applicant’s representative, Kirsten Moore, Magpie LLC, is requesting a special use permit (SUP) per Section 10-3-85 (1) of the Zoning Ordinance, to allow a manufacturing and processing use within the B-1, Central Business District. If approved, a coffee roasting business is proposing to operate within a 401 square foot section of the building located at 85 West Gay Street. Per

the requirements of the SUP, 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.

This property along with several other properties across West Gay Street and North Liberty Street from the subject site were rezoned by the property owner, Bismarck LLC, in November 2018, from M-1 to B-1C, to allow for mixed use development of commercial and residential uses. As part of the rezoning, proffers were submitted by the property owner, which included that all special use permits (SUPs) within the B-1 district would be permitted as approved by City Council. Additionally, the property owner proffered 22 parking spaces to be located on the southwest corner of North Liberty Street and West Gay Street, which is across North Liberty Street from the subject site. These 22 parking spaces shall be reserved for the sole purpose of supplying off-street parking spaces for any and all uses that are located on the properties in connection with the November 2018 rezoning request.

The coffee roasting operation would include roasting coffee beans, packaging the coffee, and selling the coffee on-site or shipping the coffee to customers. The operation would not be a coffee shop where a customer could come and purchase a cup of freshly brewed coffee. However, as described in the applicant's letter, coffee would be served in the diner and coworking space planned within the building.

The applicant states that the operation of coffee roasting does not create any excess noise; but does produce a coffee aroma. Deliveries of green coffee beans would occur approximately once a month via truck. Along with processing and packaging the coffee, the applicant states that there would be the occasional coffee tasting to introduce customers to the process and nuances of each roast.

If approved, the applicant will need to work with the Building Inspections Division regarding Building Code requirements for the coffee roasting operation and obtain all necessary permits. Staff believes the proposed coffee roasting 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 than would any use generally permitted within the district. Staff recommends approval of the special use permit.

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.

Kirsten Moore, 231 West Grace Street, came forward in support of her request.

Commissioner Finnegan inquired about how the smoke will be vented.

Ms. Moore said that she is assuming the lease for the entire 9,000 square feet building at 85 West Gay Street. We are doing a co-working space upstairs, diner and bakery downstairs, along with

Chestnut Ridge Coffee Roasters, for whom we are getting the SUP. They are already operating within the City. With the buildout, we are doing all of the venting to code.

David Frazier, Chestnut Ridge Coffee Roasters, came forward in support of the request. There is a turbine that collects and consolidates the smoke.

Commissioner Finnegan asked if he is operating on Old South High Street.

Mr. Frazier said yes, in the old Howard Spangler Paper Building.

Commissioner Finnegan said that there is a residential neighborhood past the Spangler Building. As far as I know, there have not been any complaints about the smell.

Ms. Moore said that the venting will go up and out the roof. We do not have any egress in the back because of the railroad tracks.

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, as someone who lives north of Gay Street, there are other smells depending on which way the wind blows. Across the street there is going to be a cidery.

Chair Way said that this is a wonderful example of the adaptive reuse, one that I have not seen before. It is a nice reuse of a building. I think that it helps reenergize that complicated area of town. This is an interesting project.

Commissioner Whitten moved to recommend approval of the SUP, as presented.

Commissioner Finks seconded the motion.

All members voted in favor of recommending approval of the SUP, as presented (5-0). The recommendation will move forward City Council on October 8, 2019.

Upon conclusion of the vote on this agenda item, Commissioner Colman returned to the Planning Commission meeting.

A motion was made by Whitten, seconded by Finks, that this PH-Special Use Permit be recommended to full council to the City Council, due back by 10/8/2019. The motion carried by a voice vote.

- 4.d.** Consider a request from Kathy Hite with representatives Madison Lucy Realty, LLC to rezone two parcels at 2150, 2152, 2156, and 2158 Reservoir Street and 717 Foley Road.

Attachments: [Memorandum](#)
[Extract](#)
[Site maps](#)
[Application, applicant letter, and supporting documents](#)
[Public Comment received as of September 17, 2019 \(26 pages\)](#)
[Public Hearing Notice.docx](#)
[Surrounding property notices.pdf](#)
[PowerPoint presentation](#)

Chair Way said that the next four public hearings are to consider four requests from Kathy Hite with representative Madison Lucy Realty, LLC to construct a mixed-use development containing non-residential and residential uses. There will be a single presentation and discussion, but the items will be voted on individually.

Commissioner Whitten moved to recommend denial of the request to rezone two parcels at 2150, 2152, 2156, and 2158 Reservoir Street and 717 Foley Road.

Commissioner Finnegan seconded the motion.

All members voted in favor of recommending denial (6-0).

A motion was made by Whitten, seconded by Finnegan, that this PH-Rezoning be recommended for disapproval to the City Council, due back by 10/8/2019. The motion carried by a voice vote.

- 4.e.** Consider a request from Kathy Hite with representatives Madison Lucy Realty, LLC for a special use permit for two parcels to allow multi-family dwellings of more than twelve units per building at 2150, 2152, 2156, and 2158 Reservoir Street and 717 Foley Road.

Attachments: [Memorandum](#)
[Extract](#)
[Site maps](#)
[Application, applicant letter, and supporting documents](#)
[Public Comment received as of September 17, 2019 \(26 pages\)](#)
[Public Hearing Notice.docx](#)
[Surrounding property notices.pdf](#)

Commissioner Finnegan moved to recommend denial of the SUP for two parcels to allow multi-family dwellings of more than twelve units per building at 2150, 2152, 2156, and 2158 Reservoir Street and 717 Foley Road.

Commissioner Whitten seconded the motion.

All members voted in favor of recommending denial (6-0).

This PH-Special Use Permit was recommended to full council to the City Council due back on 10/8/2019

- 4.f. Consider a request from Kathy Hite with representatives Madison Lucy Realty, LLC for a special use permit for two parcels to allow multi-family buildings greater than four stories and/or fifty-two feet in height at 2150, 2152, 2156, and 2158 Reservoir Street and 717 Foley Road.

Attachments: [Memorandum](#)

[Extract](#)

[Site maps](#)

[Application, applicant letter, and supporting documents](#)

[Public Comment received as of September 17, 2019 \(26 pages\)](#)

[Public Hearing Notice.docx](#)

[Surrounding property notices.pdf](#)

Commissioner Finks moved to recommend denial of the SUP for two parcels to allow multi-family buildings greater than four stories and or/fifty-two feet in height at 2150, 2152, 2156, and 2158 Reservoir Street and 717 Foley Road.

Commissioner Colman seconded the motion.

Chair Way asked if there was any interest in a discussion about reducing height.

Commissioner Finnegan said my concern with adjusting it is that it may undermine the whole project.

All members voted in favor of recommending denial (6-0).

A motion was made by Finks, seconded by Colman, that this PH-Special Use Permit be recommended to full council to the City Council, due back by 10/8/2019. The motion carried by a voice vote.

- 4.g. Consider a request from Kathy Hite with representatives Madison Lucy Realty, LLC for a special use permit for two parcels to allow retail stores, convenience shops, personal service establishments, and business and professional offices at 2150, 2152, 2156, and 2158 Reservoir Street and 717 Foley Road.

Attachments: [Memorandum](#)

[Extract](#)

[Site maps](#)

[Application, applicant letter, and supporting documents](#)

[Public Comment received as of September 17, 2019 \(26 pages\)](#)

[Public Hearing Notice.docx](#)

[Surrounding property notices.pdf](#)

Commissioner Whitten moved to recommend approval of the request for a SUP for two parcels to allow retail stores, convenience shops, personal service establishments, and business and professional services at 2150, 2152, 2156, and 2158 Reservoir Street and 717 Foley Road.

Commissioner Finks seconded the motion.

All members voted in favor of recommending approval (6-0). All four items will move forward to City Council on October 8, 2019.

Commissioner Colman asked if the last recommendation is valid considering it would not apply to the R-3 designated property.

Mr. Fletcher explained that you are forwarding recommendations to City Council. When City Council hears this request, they will have an understanding of what your recommendations are on all four applications. What this is telling City Council is that you do not like the rezoning, you do not like more than twelve units in a building, you do not like more than four stories or fifty-two feet in height, but you are recommending in favor of allowing non-residential uses on a building in R-5. It would have to be rezoned to R-5.

[Click here to enter the action/summary \(insert the summary from the memo here](#)

Chair Way read the requests and asked staff to review.

Ms. Dang said that the Comprehensive Plan designates this area as Medium Density Residential and Mixed Use. Medium Density Residential areas have been developed or are planned for development of a variety of housing types such as single-family detached, single-family attached (duplexes and townhomes), and in special circumstances, multi-family dwellings (apartments). Depending on the specific site characteristics, densities in these areas should be around 15 dwelling units per acre. Non-residential uses may also be appropriate.

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: Single-family detached dwellings and vacant property, zoned R-3
- North and West: Single-family detached dwellings, duplexes, and townhomes, zoned R-3
- East: Across Reservoir Street, townhomes, zoned R-3
- South: Single-family detached, duplexes, and multi-family, zoned R-3

The applicant has submitted four separate applications. The first is to rezone two parcels totaling +/- 6.6 acres from R-3, Medium Density Residential District to R-5C, High Density Residential District Conditional. Because the applicant would like to construct a building with more than 12 multi-family units per building, the second request is for a special use permit (SUP) per Section 10-3-55.4(1) of the Zoning Ordinance (ZO) to allow multi-family dwellings of more than 12 units per building. (Note: Constructing multi-family dwellings of not more than 12 units per building is a by right ability in the R-5 district.) The third request is a SUP request per Section 10-3-55.4(2) of the ZO to allow multi-family buildings to be greater than four stories and/or fifty-two (52) feet in height, and the fourth and final application is a SUP request per section 10-3-55.4(4) of the ZO to allow retail stores, convenience shops, personal service establishments, restaurants (excluding drive-through facilities), and business and professional offices. If approved as requested, this SUP allows the above noted non-residential uses either within a stand-alone building not exceeding a floorplate of 7,500 square feet or within the entire first floor of any building of any size that is considered a mixed-use building (having residential and non-residential uses).

If all the requests are approved, Madison Lucy Realty, LLC plans to construct one, six-story mixed-use building containing non-residential and multi-family residential units.

Before getting into the specifics of the requests, it is important to understand the uses permitted by right on the subject site. The subject properties are zoned, R-3, Medium Density Residential District. The R-3 district is intended for medium density residential development and other uses intended to respect the residential character, which are aesthetically compatible with the district by means of architectural expression, landscaping, and restrained traffic flow. The R-3 district allows medical and professional offices by right as well as other non-residential uses including but not limited to churches and other places of worship, public or private schools, charitable or

benevolent institutions, child day care centers, and private clubs. The R-3 district's by right residential uses include single-family detached dwellings, duplex dwellings, and attached townhouses of no more than eight units in a row within one structure. An individual interested in developing townhomes on these parcels would likely seek approval of a variance from the Subdivision Ordinance to allow parcels to not have public street frontage. Such a development would be served by internal, private streets similar to the Charleston Townes and Avalon Woods townhome developments. Among other SUPs, multiple-family dwellings of up to 12 units per building and personal service establishments may be requested. The R-3 district also allows by right dwellings to be occupied by a family or not more than four persons; in other words, four unrelated individuals can occupy each dwelling.

Information submitted by the applicant describes plans for the first floor of the building to contain over 10,000 sq. ft. of retail and/or professional services (although as indicated in the proffers below, this site must only contain a minimum 8,000 square feet of retail and/or professional services). The upper floors are planned for multi-family units containing 90 four-bedroom units, five two-bedroom units, and five one-bedroom units, for a total of 100 apartment units and 375 bedrooms.

With regard to the rezoning request, the applicant has submitted the following proffers (written verbatim):

1. The site shall contain no more than three hundred seventy-eight (378) bedrooms.
2. The site shall contain residential and non-residential uses.
3. A minimum of 8,000 sq. ft. of space for uses permitted by Section 10-3-55.4 (4) shall be contained on the site and limited to the first ground floor of the building(s).
4. No parking lot (including travel lanes and drive aisles) shall be located between Reservoir Street and the closest building to Reservoir Street.
5. There shall be a 100-ft building setback from shared property line with Woodland Subdivision.
6. There shall be an opaque fence at least 4 ft. in height between development areas of the site and the Woodland Subdivision.
7. The existing vegetation (trees & shrubbery) on the western end of the property bounded by the edge of the current HEC easement, current Harrisonburg sewer easement, and the southern property shared with TM# 84-(A)-9, 10, and 11 shall be undisturbed to provide a vegetated buffer, or an evergreen vegetative buffer shall be created within this area, where such evergreens shall be planted at no less than 5 feet on center and 6 feet in height at the time of planting to fill in and reestablish a vegetative buffer within the bounded area.

Note that the submitted conceptual site layout is not proffered.

Proffer #1 would allow the site to contain up to 378 bedrooms, which is three more than the 375 bedrooms described in their letter. It should be acknowledged that while the applicant has not proffered the number of multi-family units, the proffer to require the site to have non-residential

uses and the R-5 district's dimensional regulations would limit the total number of multi-family dwelling units on the +/- 6.6 acre property to 156, which is a density of 23 units per acre. The applicant would have the flexibility to construct a building with different unit-bedroom configurations than what is currently proposed; in other words, the applicant could reduce the number of 4-bedroom multi-family dwelling units and increase the number of one, two, or three bedroom multi-family dwelling units so long as they do not construct more than 156 units. Note that if the applicant were to construct the unit-bedroom configuration described in their letter, 100 dwelling units on the +/- 6.6-acre property is equivalent to 15 units per acre, which is the density described in the Comprehensive Plan for the majority of this site's Medium Density Residential designation.

Proffer #2 ensures the property includes non-residential uses and does not develop into a residential only or non-residential only site.

With regard to proffer #3, the applicant's letter describes plans for over 10,000 sq. ft. of non-residential uses. To provide flexibility in building design, the applicant has proffered that a minimum of 8,000 sq. ft. of non-residential uses permitted by Section 10-3-55.4 (4) shall be contained on the site and limited to the first ground floor of the buildings. While the conceptual site layout illustrates one-single building on the site, the proffers do not require this design and the site could include additional buildings so long as the development complies with the ZO, other development regulations, and other regulating proffers. Proffer #3 also requires that all non-residential uses permitted by Section 10-3-55.4 (4) must be located on the first floor of any building. Without that proffered detail, a multi-story building with only non-residential uses could have been constructed so long as the building was residential in design and scale and did not exceed a floorplate of 7,500 sq. ft.

Proffer #4 is intended to promote pedestrian friendly design by placing building(s) close to the street. Placing parking lots and drive aisles between buildings and public streets creates barriers for people wanting to walk to uses/buildings. Concentrating people and places along the public street 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.

It should be acknowledged that because there are powerlines along the Reservoir Street frontage, which inhibits access for fire apparatus, the Fire Department will require fire lanes along all other sides of the building closest to Reservoir Street. The applicant understands that Fire Department requirements, among other details, would be reviewed during the engineered comprehensive site plan phase of development.

Proffer #5 is intended to provide a buffer for the Woodland Subdivision from any future building(s) on this site. In the R-5 district, side yard setbacks for principal buildings are 10-feet. With this proffer, buildings on this site could not locate within 100-ft. of the shared property line with the Woodland Subdivision. This proffered setback line is generally depicted on the submitted

conceptual layout.

Proffer #6 adds a physical separation between the Woodland Subdivision from the development with a minimum 4-ft. tall opaque fence. The reason the applicant did not proffer a 6-ft. tall fence is due to the grade change between the site and the Woodland Subdivision. The applicants and staff had discussed the possibility of preserving or creating an additional vegetative buffer along the shared property line with the Woodland Subdivision. However, there is a 25-ft. wide easement for the powerline at that location.

Proffer #7 is intended to preserve and maintain the area on the western end of the property as a vegetated area. The proffer states that the area shall be undisturbed or, if the area is disturbed, then evergreens shall be planted at no less than 5 feet on center and 6 feet in height at the time of planting to fill in and reestablish a vegetative buffer within the bounded area.

With regard to minimum off-street parking, requirements are calculated based on uses and are provided in Article G of the ZO. In the conceptual site layout, the applicant has shown a scenario in how they might organize off-street parking spaces. The applicant understands that parking requirements, among other details, would be reviewed during the engineered comprehensive site plan phase of development to ensure that all regulations are met. (For example, there are two rows of parking shown with 15 spaces in each row. The ZO only permits 12 parking spaces in a row before a landscaped island is required.)

As required by Section 10-3-118 of the ZO, since the allowable uses under the rezoning and SUPs met the threshold for the City to be able to review a traffic impact analysis (TIA), staff required for traffic to be evaluated. Based on traffic capacity analysis, the following roadway improvements were recommended (written verbatim):

Woodland Drive at Right-out Driveway:

- Construct site driveway with one egress lane.

Reservoir Street at Right-in/Right-out Driveway:

- Construct site driveway with one ingress and one egress lane.
- Construct a southbound right-turn taper on Reservoir Street.

Foley Road at Full-Movement Driveway:

- Construct site driveway with one ingress and one egress lane.

During review of the rezoning and SUP applications, staff noted that the coffee shop described in the applicant's letter was not considered in the accepted TIA. The applicant has since submitted a revised TIA that is currently under evaluation by the Department of Public Works.

As previously stated, the property is located in the Medium Density Residential and Mixed Use areas shown and described in the Comprehensive Plan's Land Use Guide. Medium Density Residential areas have been developed or are planned for development of a variety of housing types such as single-family detached, single-family attached (duplexes and townhomes), and in special circumstances, multi-family dwellings (apartments). Non-residential uses may also be

appropriate. Mixed Use areas 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.

Staff believes that locating buildings close to Reservoir Street and without a parking lot separating the building(s) and the public street helps to integrate the use into the larger neighborhood and would encourage residents living within the surrounding neighborhoods to walk or ride a bicycle to the commercial uses within this development, as well as, to and from other existing and future developments in the area. While the applicant has not proffered a pedestrian plaza along the frontage of the property as is shown on the conceptual plan, staff understands that proffering such details would be difficult until site and architectural design work is further along in the development process. Nonetheless, staff is encouraged by the idea illustrated in the conceptual layout, but recognizes that it could simply end up being a landscaped area in front of the building.

As shown in the Comprehensive Plan's Land Use Guide, this section of Reservoir Street is planned to transition to a mixed use corridor. Staff believes that this project has the opportunity to set the stage to demonstrate the type of design the community desires in this area. The Land Use Guide states that "[t]o the greatest extent possible, all developments throughout the City shall include [Traditional Neighborhood Design] principles," which include having a neighborhood that allows residents to work, shop, and carry out many of life's other activities; allowing residents to walk, ride a bicycle, or take transit for many trips between home, work, shopping, and school; and having a variety of housing types provided at a range of densities with heterogenous mixes of residences, among other things. The Land Use Guide also states that "[t]he scale and massing of buildings is an important consideration when developing in Mixed Use areas," which staff believes this development proposal addresses by placing the building closer to the public street.

Over the past decade, new student housing complexes have opened in Rockingham County and have placed increased pressure and traffic on city streets as more students drive longer distances to and from campus. Staff recognizes and values that the proposed development is located closer to James Madison University's campus than some of the newer, traditional student housing complexes. Sidewalks and bike lanes along Reservoir Street, as well as, available public transit service would provide residents with alternative transportation options to driving.

As indicated by the ZO, the SUPs to allow multi-family dwellings of more than 12 units per building and to allow multi-family buildings greater than 4 stories and/or 52 feet in height may be approved so long as City Council determines that certain conditions as specified within Section 10-3-55.6 (e) are met. Staff believes such conditions are met as (1) there is existing multi-family development in close proximity and multi-family development can be supported by the Land Use Guide at this location; (2) adequate vehicular, transit, pedestrian, and bicycle facilities currently serve the site along Reservoir Street and the applicant will be required to provide sidewalks along their frontage at Foley Road at the time of development; (3) compatibility with existing single-family, duplex, and townhouse development is achieved with the proffers that restrict buildings from being located within 100 ft. of the Woodland Subdivision and massing the building closer to the street with the proffer that prohibits parking lots and drive aisles between Reservoir

Street and the closest building to Reservoir Street; and (4) there are no steep slopes on the site, and, like all developments, the site must comply with stormwater management regulations, which are addressed during the engineered comprehensive site plan process. Considering the details of the proffers submitted by the applicant, staff has only one suggested condition for the SUP applications. Staff recommends for the SUP per Section 10-3-54.4(4) to allow retail stores, convenience shops, personal service establishments, restaurants, and business and professional offices, that:

- Standalone, non-residential buildings are prohibited.

Staff recommends approval of the requests for the rezoning and three SUPs with the following condition for the SUP per Section 10-3-54.4(4):

- Standalone, non-residential buildings are prohibited.

Chair Way asked if there were any questions for staff.

Commissioner Finks asked if staff could read the text of Section 10-3-54.4(4).

Mr. Russ said that City Code states:

The applicant has demonstrated that the proposed multiple-family development's design is compatible with adjacent existing and planned single-family, duplex and townhouse development. Compatibility may be achieved through architectural design, site planning, landscaping and/or other measures that ensure that views from adjacent single-family, duplex and townhouse development and public streets are not dominated by large buildings, mechanical/electrical and utility equipment, service/refuse functions and parking lots or garages.

Those are the various ways of ensuring compatibility.

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

Dick Blackwell, 70 Peyton Randolph Court, came forward on behalf of his client to speak to the request. The client originally wanted parking between the building and Reservoir Street but has decided to comply with the Comprehensive Plan, as well as move the building away from the residential community on Woodland Drive. He has decided on one building, rather than townhouses that would have backed up to Woodland Drive. The residents are within the building and not having parties in backyards. He felt it would be better for the community. It is a large building. Woodland Drive is the main area that would have concern. He will be leaving trees, building a wall, and various efforts to mitigate its effect on that neighborhood. This client is Willie Lanier who recently was looking to develop on Lucy Drive. He felt that this area would be a better location based on the Comprehensive Plan.

Commissioner Finks asked if there was any discussion about putting fencing on the Foley Road

side of the property.

Mr. Blackwell answered no. There would be a ten-foot buffer, but not fencing. Foley Road is a different location than Woodland Drive, he felt.

Mr. Fletcher said that there would be a ten-foot buffer requirement. However, to be clear, during the engineered comprehensive site plan review, if they choose to move the parking lot closer to the Foley Road properties, and reduce that buffer width, they could move it all the way to the property line and then a fence would be required. The fence could simply be a three-foot tall, split-rail fence. It is a visual separation between the uses. My assumption is that you were thinking about an opaque fence, similar to what is proposed for the Woodland Drive side.

Commissioner Finnegan said that there is a divider in the center of Reservoir Street. The only way to exit the property is to turn right. Is the idea that they would go to the next light and do a U-turn?

Mr. Blackwell said that they could do a U-turn.

Commissioner Colman said I realize that having that exit into Woodland Drive is a suggestion by the City. In the past, the development which you spoke of before, I advocated having an exit into a different area in order to disperse the traffic. In this case, that traffic going to Woodland Drive looks like it would cause traffic backup into the neighborhood itself. It is only one lane there. That is my concern from the traffic standpoint.

Mr. Blackwell said that when the City bought this land, part of the agreement with the owner was to give an exit onto Woodland Drive.

Commissioner Colman asked if they were expecting that volume of traffic.

Mr. Blackwell said that he does not know.

Commissioner Whitten said that would be a no.

Chair Way asked, what neighborhood do you or the owner see this development being a part of?

Mr. Blackwell said more along Reservoir Street.

Commissioner Romero asked how would you describe the impact of the lighting on the adjacent neighborhood at night?

Mr. Blackwell said that the City requires down-lighting. After eight at night, the building is locked and only accessible by security code or security card. There will be lighting, but it would be down-lighting. That has not been planned at this point.

Commissioner Finnegan asked about the impact of minimum parking requirements on this parking plan. I understand that due to the power lines there can be no vegetative barrier. How much of this is market driven and how much is based on City requirements.

Mr. Blackwell said that the owner was concerned that if he did not have enough parking in the parking lot, then residents and patrons might park on the City streets. He does not want to affect other neighborhoods. It will be worked out during the design. He wants to have enough for the commercial as well as the residential. He does not want to have more than he is supposed to have because of the pavement and runoff and money.

Mr. Fletcher said that the conceptual layout that is shown meets the minimum requirement by one.

Mr. Blackwell said that it was a little more than that.

Mr. Fletcher said that in an earlier depiction there was quite a bit more parking than was necessary. It has gotten closer to what the minimum is.

Commissioner Whitten asked what size pool and community room is proposed.

Mr. Blackwell said that he does not know what size pool. Mr. Lanier plans to have lounges on different floors. He has done these before. He has one in Richmond. It is designed to be contained.

Chair Way asked if there was anyone else wishing to speak to the request. He asked that anyone wishing to speak keep the comments short.

Frank Gordon came forward representing Devon Lane LLC, Ridgeville LLC, and Foley Road LLC, which comprise the addresses of 716, 722, 723 and 735 Foley Road; 2171, 2173, 2175 Sour Cherry Court. I will be speaking for at least eight properties. As a native of Harrisonburg, I am flattered by Mr. Lanier's desire to make a large capital investment in our City. I also have great respect for the work of Mr. Blackwell and what he has done for our community. Mr. Blackwell emphasized how this is consistent with the Comprehensive Plan. That is important because the Comprehensive Plan receives input from a wide and diverse set of City and community members over a long period of time. It should not be disregarded lightly.

Were the mixed-use portions confined to the front of this lot, where it is conceived in the plan, I would be more supportive. Mr. Blackwell mentioned the possibility of them having townhomes behind that. I think that in the terms of scale, with regards with the rest of the area, that might be more desirable than what is proposed.

I take exception to the comment that because this is now in the Comprehensive Plan, that he moved from potential development on Lucy Drive to the current location where it is more

appropriate. In fact, I am sure that he was run off from Lucy Drive because his request there was met with significant resistance. He did not leave that plan voluntarily or because of a greater interest.

As earnest as Mr. Lanier is to have this plan, plans change. People change their minds. They become bankrupt. They receive an offer that they cannot refuse. Whatever he has said he will do, we cannot assume that is what will happen, other than the proffers. The proffers are an area of special concern to me. My properties are on the Foley Road side. My friends on Woodland Drive get a fence and trees, they get 100-foot building setback. We get nothing. It may be that Mr. Lanier is not the ultimate developer of this site for a variety of reasons. We should be very cautious in regard to having some control through proffers or other requirements, if in fact we are going to set aside the Comprehensive Plan for the majority of this lot. We need more specifics, not fewer. We need more controls on what might happen, not fewer. It is quite possible that Mr. Lanier will not be involved in this project when it goes to be built.

I have a short list of requirements that would reflect the interests of the people who live along Foley Road. Mr. Blackwell has indicated that that is a different story than Woodland. I will not accept that as an insult, but it sounded like that. We own property there. We like it. We are concerned about its future. This plan is not without merit, but I feel that it needs more controls placed on it so that this owner, or subsequent ones, can be adequately controlled.

1. As there is going to be a fair amount of traffic onto Foley Road, it will have a tendency to back up. It is not a signalized entrance. I do not believe that Foley Road meets the standards for road construction in the City of Harrisonburg. It is narrow. As people have developed it, they have dedicated on whichever side they are on to put in a sidewalk. It does not have sidewalks or gutters or curbs. It is not as wide as a city street is supposed to be where it could be newly developed. I would be interested to know if we could have this road upgraded by Mr. Lanier or the subsequent owner, so that this is actually a road with sidewalks on both sides of the street from at least 716 Foley Road to Reservoir Street. If we do want these things, they must be proffered or otherwise required.
2. With regard to the parking on the 717 Foley Road parcel, I would like for the Commissioners to take a moment to imagine the home that exists to the left of your home right now. Think of that house and think of it being torn down and replaced by a large parking lot and a busy private lane. This generates significant concern for me because of the home that we own at 723 Foley Road. That is its fate, according to this plan. We will have a large parking lot as a neighbor. When students are coming to the all-night burger joint in this development or back from the sports bar, they are going to be boisterous coming through there. What I would like to see, instead of having two giant rows of parking, one or both of those rows of parking eliminated so that we can widen the green space on the western side of the new private lane. That will benefit not only the people who live on Foley Road, it will provide a wider entrance to the community that will make it more attractive for those who live there. There is very little space for people to sit on a park bench. Having some green space there will make it far more acceptable.

3. I understand that parking is an issue, but people on Foley Road like their elbow room, too. I would request a 25-foot buffer of existing vegetation around adjacent parcel.
4. It mentions a minimum of 8,000 square feet of commercial space. Would it hurt to have a maximum of commercial space?
5. Mr. Russ mentioned the compatibility with trash matters. I do not want to have my home back up to a compacting trash masher teeming with restaurant waste. I would like to see 100 feet between adjoining parcels and any areas of dumpsters or trash collection.
6. Lastly, this is not going to be developed a little bit at a time as they are built and occupied. This is going to be a massive meteorite dropping on this spot. I would like to see no heavy equipment used, including earth moving equipment and trash trucks, excluding snow plows, between 9:00 a.m. and 9:00 p.m. forever. I do not want to be woken at 7:00 a.m. by that backup beeper of someone coming to empty said teeming dumpster.

I think that the plan has some merit. I have significant concerns. I think Foley Road needs far greater consideration in this matter. I think that the things that we want to see happen should be required. No matter how much integrity Mr. Lanier has, he may not be the person who ultimately develops this property. We do not know who that is, or what their desires and interests are, so we need to exert these controls.

Marvin Hillsman, 756 Woodland Drive, came forward to speak in opposition to the request. My wife, Grace, and I built that house in 1998. Mr. Blackwell chose not to tell you that he was a principal developer of the subdivision. I have three deeds, to three different lots, purchased from Quad Development LLC.

Mr. Hillsman handed the Commissioners copies of the restrictive covenants of the subdivision.

These are the very stringent covenants which I heartily endorsed at the time of our purchase because they are obviously designed so that the residents of the subdivision could have peaceful use and enjoyment of their property. It is disturbing to me that we bought three lots on three separate occasions from the Blackwells, the same family that is now advocating for Mr. Lanier to build a six-story high rise for students, a short distance behind my back fence.

I was going to ask Commissioner Finnegan to recuse himself based on his family's prior employment with the Blackwells. I will leave that up to you because I have been impressed with your appearance here tonight and the questions you have asked.

One of my concerns with the project is that it is one of the most obvious incidents of spot zoning that I have ever seen. Spot zoning is, of course, unlawful. The Virginia Supreme Court, since 1967, has clearly set forth what amounts to spot zoning. I am sure you are aware of these cases. There is a case that was heard and decided just a few blocks up the street in our own Circuit Court. If the plan is to solely benefit one or more individuals' private interests, then it is regarded as arbitrary and capricious zoning. That shifts the burden to the person requesting the zoning change. In this case it would be Mr. Lanier. His burden would be to show that his plan would

benefit the entire City. That is a burden that he cannot sustain. The only people that would benefit are JMU students.

A problem that we already have in the neighborhood is flood water. It is bad now. If you are going to have a parking lot for 378 residents, it is going to be even worse. Traffic is already bad. Having an exit onto Woodland Drive so close to the traffic light is unworkable. The plan to have ingress and egress over the lot down on Foley Road is questionable. I am not sure that the plan to use the Ridgeville Heights subdivision as an ingress and egress will withstand judicial scrutiny. You generally do not take a separately conveyed subdivision lot for ingress and egress to an independent piece of property.

The noise is going to be a real problem. I asked Nathan Blackwell about that. He said that we should call the police. I do not see that as an acceptable response or an acceptable solution.

In our subdivision, the only access we have to Reservoir Street is Woodland Drive and yet they want to run virtually all the traffic to our stoplight at Reservoir Street and Woodland Drive. They are not going to be using the exit on Foley Road because when they get up to Reservoir Street, you cannot take a left to go to JMU. They will all go to Woodland Drive.

This is a poor plan. It gives no consideration to the single-family dwellers that already live there. I ask you to vote against this. It is wrong to put up this kind of six-story high-rise of college students in this location.

Matthew Philippi, 772 Woodland Drive, came forward in opposition to the request. I would like to thank the Planning Commission and staff. I would like to thank the Blackwells and Kemper Funkhouser for having a meeting with us on Monday to talk about the site plan and going over things with us. We did talk about our concerns. I do not think that anyone left there feeling any different than when we came in there. I agree with the first speaker that Foley Road got the short end of the stick here. I want to reiterate that the flooding in the Woodland neighborhood is bad. Flood insurance is required for several houses in the bottom part of the neighborhood. There is a lot of stormwater management that is going to have to take place in that parcel for this development, but there is no guarantee that it is going to prevent an additional amount. Already it is a bad situation.

When you look at the density of the parcels with that development you would think that it fits with the medium density part in the back. The issue with that is that they do not have to go with that many units. They could increase the number of units and then the density does become the mixed-use density throughout the entire parcel. It is only the front section that is under the mixed-use, not that back part where it is still listed as medium density in the Comprehensive Plan.

My final point is about the students. This neighborhood faces Sunchase Apartments on one side, with the noise and the partying that comes with it. There is Charleston Townhomes across Reservoir Street, which is predominantly student housing. This would hem in the Woodland

neighborhood and surround it by students. Anything in the Comprehensive Plan would not be considered to be done in the spirit of doing that to a neighborhood, a neighborhood that is primarily focused towards families. Boxing it in with students on at least three sides is not what the Comprehensive Plan was talking about regarding neighborhoods and keeping to the character of these places.

Mr. Philippi turned to the audience and asked that those who are opposed to the proposed development raise their hand or stand. A large number of the audience raised their hands or stood.

Christopher Kurt Johnson, 748 Woodland Drive, came forward in opposition to the request. Goal 5 of the Neighborhoods and Housing Goals, Objectives, and Strategies section of the Comprehensive Plan, states that the goal is to “strengthen existing neighborhoods and promote the development of new neighborhoods that are quiet, safe, beautiful, walkable, enhance social interaction, and offer a balanced range of housing choices.” I do not see that involved in a six-story student housing complex. Objective 5.2 is “[t]o develop approaches to increase the percentage of single-family detached and duplex housing units.” Clearly this does not address that. Strategy 5.2.1 is “[t]o review and amend the Zoning Ordinance to increase opportunities for single-family detached and duplex residential development that are affordable to households in a range of incomes.” Again, this plan is contrary to the goal, the objective and the strategy.

Regarding the land use and development component of the Comprehensive Plan, is that only the part of this parcel that fronts Reservoir Street is designated as a mixed-use parcel. The back part of this property is still very much R-3. If someone got creative, I think you could have a mixed-use type of a structure at the front part of Reservoir Street, with an R-3 designated without variances in the back part of the property and you have a nice combination of Woodland Drive, the new neighborhood, and the Foley Road neighborhood who would all have access to what could be a pretty cool mixed-use facility right at the front of Reservoir Street. Not something that is overbearing, but that is finely integrated.

Our first choice would be for the owner to wake up tomorrow to say that he likes the deer and the trees more than he likes money, and that he is not selling. We do live in reality and know that would not happen. The second most ideal situation would be to leave the whole thing as an R-3 and create a neighborhood of single-family homes and duplexes, similar to what Woodland Drive and the Foley Road neighborhoods currently look like. If you have to do something, if you want to commit to the mixed-use idea of this being the stretch of Reservoir Street that becomes the beginning of a mixed-use neighborhood, keep it up to the front. It does not need to go all the way to the back. It was not even recommended that it go all the way to the back. The developer created that.

Warren Coleman, 650 White Oak Circle, came forward to speak in opposition to the request. If you look at the tiny piece that is trying to get on to Woodland Drive, that is my back yard. Two years ago, when we had four inches of rain, we had flooding all over the streets because the

retention pond that the City built could not contain it, and that was with all the grass and the trees around. You are going to put 400 parking spaces on there and let that all run across, then we might as well wash all the houses away at the same time. We are not seeing that what has been done by the City can handle the water that is coming off of a grassed area, much less a 400-space parking lot. Another issue is the proposed exit onto Woodland Drive. There is the retention pond, it slopes down, and there are trees there. I do not know how you would get a road between it, but if you do it, you are going to have 400 cars going that way because people will not want to make the U-turn. There are too many U-turns on Reservoir Street. All the people that go right are going to go up and return. There will be a lot of traffic, just like you have on Port Republic Road when people are coming in and back-ending each other. You are going to create the same thing on Reservoir Street. The parking and the direction of traffic in and out of this complex is horrendous. Woodland Drive was built to be a family environment and this is not compatible.

Victoria Harris, 720 Woodland Drive, came forward to speak in opposition to the request. I live at the lowest point in the neighborhood. I have seen all the flooding. It is worse than what I could say in my letter. I have called City officials to come out and look at it. They have not come. I tried to get someone to come this summer. He told me to come to this meeting. I would like to point out all the places that are flooding on the map. Ms. Harris pointed out various locations on the map where they have problems with water runoff during rain storms.

Chair Way asked that Mr. Blackwell approach to address stormwater management concerns.

Nathan Blackwell, with Blackwell Engineering, came forward in support of the request and to address stormwater management for the project. Looking at the watershed of this area, this site rounds up to 1.8 percent of the total watershed of the entire hillside. With this site, it will need underground retention. The rain water will be captured on the site. With it being wooded and taking all the trees off, to meet the energy balance we have to do overt detention for one year and meeting all the City criteria and standards for all of those pieces. Different projects in the past were done with the rational method and the modified rational. This would be the SCS, which has a much larger capture volume. All those things will be looked at. This site has two drainage ways. There is drainage from Foley Road. There is a ridge here, so that is a high point for the site. You might have some water from the parking here. During construction, we will have erosion and sediment control practices. You will have sediment trap and there could underground retention.

Commissioner Colman said all that is good. I am an engineer, and I know that those are typical things that need to happen. You are saying that the site is only 1.8 percent of the total drainage area? There is a lot of water coming down there that is not necessarily from the site. There is impact on the site right now. From the leverage standpoint, it is a great opportunity to help the neighborhood reduce that impact. Instead of just meeting the requirements of the law, why not proffer something that will help to reduce the flooding. You can say that you are going to reduce the flooding to your property. That would be an appropriate opportunity to help the neighborhood, since the neighbors are opposed to everything else. At the very least, you could say that you are going to take more water than you have to so that the flows are minimized, and

they can avoid the flooding. That would be a great opportunity.

Mr. Blackwell said that some of the water that is coming down here is completely outside of what we can address.

Commissioner Colman said that if it does not cross your site, then maybe not.

Chair Way asked that Mr. Blackwell address the traffic study and the proposed exit on the North end.

Mr. Blackwell said that the study was done by Ramey Kemp and Associates. We worked out the details with Tom Hartman and Dastan Khaleel.

Chair Way said that you are assuming between 30 and 55 percent of the egress traffic is going to exit the North end.

Mr. Blackwell said that is correct. It is showing the distributions.

Ms. Dang said that is during the peak hours.

Mr. Blackwell said that the traffic study was done this summer. The City knows the traffic generation, how many vehicles are going down Reservoir Street. Great care was taken to ensure that we elevated our numbers to reflect the student population on Reservoir Street. With Reservoir Street being a new road, and the recent improvements by the City, it has the extra capacity than what it did just a few years ago. The study has good numbers to ensure that the study was accurate.

Commissioner Colman said that the information is presented in percentages. Whatever that site generates, 375-380 cars assuming each person drives, then 30-55 percent will be going out to Woodland Drive, which is the concern. Reservoir has the capacity for it, but I am concerned about Woodland Drive and Foley Road. It is a difficult situation for any traffic analysis. Most of the traffic will be going into Woodland Drive. There is not enough queue or storage area for that traffic to allow the neighborhood traffic to flow.

Mr. Blackwell said that the City does have the models for the traffic studies. The models show the different scenarios.

Ms. Dang said that the traffic study was performed and written over the summer, that is correct. The data for the turning movements at Reservoir Street, Lucy Drive and Woodland Drive was collected in April 2018, while the students were still in session. There were some additional counts that were done on June 10, at Foley Road. Those were increased to balance with the known numbers travelling on Reservoir Street.

Jamison Arimoto, 2100 Scarlet Oak Court, came forward in opposition to the request. I have young daughters who enjoy playing outside. They often ride their bicycles on Woodland Drive. I am concerned with the increase in traffic. I am concerned with the proposed set up, where there will be an exit only onto Woodland Drive. How often do you think that a student is going to come home and forget that he cannot enter that way, so he will have to go down the road and turn around at one of the cul-de-sacs or intersections? My children are playing out there and this increases the danger that they face. There are a lot of children on our street. We need to think about the safety issue for them with the increase in traffic that this is going to represent.

We also need something more concrete about the water runoff, an environmental study perhaps. There is no way to decrease runoff by cutting down a forest. That is not how it works. It will run right through my back yard. I have enough erosion problems already. I do not want my house to slide down the hill where I live.

Commissioner Colman said that the way Virginia law regulates stormwater management, the design should reduce the water that is flowing from the site right now. My invitation to the engineer was that they fix or improve what is going on right now in your neighborhood. What they will do will help some because the law requires that the flow be reduced to what they currently are. There will be some improvement, but not to the level that you would hope.

Vicky Foley came forward in opposition to the request. Under the proposed building location there is a huge storm drain. I grew up on this property and I remember it being put in. The flooding is horrible, especially since they did Reservoir Street.

Jana Ruxton, 724 Woodland Drive, came forward in opposition to the request. I want to speak regarding additional student housing. The studies have shown that this additional housing is not needed, currently. The mission of the proposal, to cater to a transient population that requires, to quote from the meeting we had the other night, “that the students are looking for shiny, bright and all of the amenities” at the expense of our neighborhood and our community. The presumption was also made to us, you are going to pick A, B and C, but it is going to be student housing. This presumption that this is the only development that can be done on these parcels that we have to work with is very distressing to me as a person who moved here three years ago desperately trying to find neighborhood housing. Let us not lose sight of what it is that this City wants to be.

Lori Pyle, 748 Woodland Drive, came forward in opposition to the request. I would like to summarize some of the concerns that we have heard here, today, and leave you with an approach to how you might make this decision and recommendation to City Council by asking more questions. We have heard about environmental concerns in terms of noise pollution, light pollution, stormwater management, and wildlife.

We have heard about student housing. Student enrollment at JMU is dropping and plateauing. The last housing study was done in 2015, which is referenced in the Comprehensive Plan. That data is no longer valid. Whatever is informing the Comprehensive Plan, assuming there is not another out

there, is faulty. There is more than enough student housing on and off campus.

I would also suggest the idea of thinking about this more broadly than the City, which I think is reflected in your plan, as well. When we look at housing that is extended on Reservoir Street into the County, there is another development that has already been approved out there. The traffic study cannot take that into account either, the things that are continuing to develop. If you have ever been on Reservoir Street, anywhere between 4:30 and 5:30, even with the expansion and a stoplight, it is still bad for a small City such as Harrisonburg.

Also, the aligning with the planning and the character of the neighborhood. What is the character of Harrisonburg? Who do we want to be? We are a group of families and citizens and people who are concerned about the direction of the City. I learned about your role and the role of City Council and how we can participate actively in this. (Ms. Pyle handed out cards regarding Ethical Reasoning) I will leave you with these, and I am not here representing JMU, these are just marketed as JMU; but, it is a way to make good decisions and more questions to ask about fairness for all. What are the long-term and short-term outcomes? What is the liberty? How do we respect the liberty of all the people concerned? It is a helpful way that you might consider using in your decision-making process. I will share this with City Council, too.

Kemper Funkhouser, 654 White Oak Circle, came forward in support of the request. I am playing multiple roles here this evening. I am a representative for the developer. I am also a lifelong resident of Harrisonburg and I am a property owner at 654 White Oak Circle, which backs up to the subject property. My name was mentioned earlier. A number of things were mentioned about the meeting that we had on Monday evening, which I think was very productive. I do not know that we changed any minds, but it was a good opportunity for us to talk with the residents about what was happening in the development and inform them as to what the plans are for that development.

The exit on Woodland Drive was an agreement that was made with the City with the current property owner when the retention pond was put in. Whatever is developed into the future, the City has already made that agreement to allow egress from that site.

As Commissioner Colman mentioned earlier, there are ways to manage this site from the stormwater management standpoint. As Mr. Blackwell mentioned, 1.8 percent of all the water going into this watershed is coming from this site. With today's stormwater management regulations, which are very different from the regulations of all the other developments that have been built up and down Reservoir Street previously, we believe that the water situation on Woodland Drive would not be getting worse. We think that there is the possibility that it could be getting better. I think that it is important to explore that.

I would like to recognize the by right use of this property. It is an R-3 neighborhood. If there was a variance that was allowed on this, there would be townhomes. Backing up to my property on 654 White Oak Circle, there would be townhomes 25 feet from my property and 40 foot in

height, which is the maximum under R-3. Essentially what is currently at Charleston Townes across the street could be directly in the backyard of the property that I own. Any concerns about behavior on the site need to be thought of as to what that could be under the by right use compared to what this conceptual plan has now. As we look at the behaviors of residents on sites, it is important to look at the architectural design and how that behavior is controlled by the design. As a property owner on White Oak Circle, I believe that this plan is certainly the best of all the plans that could be there. Could there be single-family or duplex homes? In the R-3 zoning, yes, there could. Having had the opportunity to work with a number of developers in my nearly 20 years in the business, I would say that the economics of that type of development in the City is not promising. To purchase a property like this and think that we are goin

Commissioner Colman said that cities and neighborhoods are built by developers. Many times, developers are considered a bad word or a bad job, but they are the ones who build the development you live in right now. The choices they make is what is important. At the end of the day, they are doing it for a profit. If there is no profit, they are not going to do it. That is the answer to the single-family or duplex homes. If it is not profitable, it is not going to happen.

Commissioner Whitten said we have spent a great deal of time at this table during the Comprehensive Plan talking about affordable housing. When do we ever have a meeting where we do not talk about affordable housing. I looked at some of the properties in the neighborhood. They are affordable. I saw a three-bedroom, two-bathroom duplex for \$170,000. That is for a family. I drove into this neighborhood multiple times over the last few days. It is a beautiful neighborhood. It is quiet. It is peaceful. It is green. It is all the things that people would like to enjoy in the City of Harrisonburg. You have permit parking, so that tells me that you already have a problem with the creep of the uses that are not very complementary to your neighborhood. There are too many unanswered questions and too many “we might” do this or “we might” do that with this plan for me to be amenable to say yes today. This is an affordable housing neighborhood and we say that we want more affordable housing. We have affordable housing here and we are going to squash it like a bug. That is what is we are going to have if we put over 300 bedrooms and cars and traffic here. The people who can afford to move away, will move away. That is not the Harrisonburg that I am going to vote for.

Commissioner Finnegan said I am going to name a culprit in this conversation that no one has raised yet: James Madison University. This body did not approve a bunch of new parking decks on the periphery of campus. That is state property and we have no purview over that. If we lived in a sane and reasonable world, instead of parking decks, those would be high-density buildings, designated mixed-use. We do not have any control over that. On September 6, the Harrisonburg Department of Public Transportation tweeted, “We are experiencing some delays on the Red, Green, Black lines due to heavy traffic congestion on Port [Republic Road].” A friend of mine responded to that saying that it took him thirteen minutes to get out of his parking lot onto Port Republic Road. I appreciate the work that went into this and the massing of the building on the street, making it pedestrian friendly. When we left that site visit, we did not leave on Foley Road. We went up Foley Road, past Loop Modern Apartments, to Ridgeville Lane, making a triangle, then onto Reservoir Street. If I lived there, that is exactly what I would do every single day to

avoid making that right turn and then have to do a U-turn. The road and the external problems are an issue. I agree with Commissioner Whitten that we need more duplexes in this City. When I see neighborhoods with the duplexes, or triplexes, those are exactly the kinds of mixed living arrangements that we need more of in this City. I am not inclined to support this project.

To address Mr. Hillsman's point, there is a difference between avoiding a conflict of interest and avoiding a conflict. I did in my early days on the Planning Commission recuse myself. I discussed the matter with Assistant City Attorney Wesley Russ. I am sure that Mr. Blackwell can tell you that I do vote against some of these proposals as often as I vote for them. That is not something that will affect my vote.

Commissioner Colman said that we said the same thing to the neighbors of Purcell Park, when they came here opposing a large development. It was also increasing density. We do have a Comprehensive Plan and we welcome the whole City to come and speak to it and be a part of it. We have good participation, but people do not realize that it is their plan until it is affecting them. I do not know how many of you were here then, but even today you are speaking to the plan. It is important to hear from you. We are here helping with the decisions, but it is your City as much as it is our City. We have a responsibility to listen to you and hear what you are saying, and make our recommendations based on that as much as what we see fit. We hear what you are saying.

Commissioner Fink said that he appreciates the people who are present and have spoken and those who have written the letters. I struggle with this proposal. We talk about smart growth and denser developments. When we see developments like this, the care that was put into designing this as far as its walkability and fronting a major road, I appreciate that. I would prefer to see developments like this than big sprawling developments that take up a lot more land.

We have to look at each one individually. I have concerns with the traffic. Hearing the residents of Woodland Drive, it makes sense that the path of least resistance would be through Woodland Drive. Reservoir Street could handle this type of traffic, the problem is that they are going to have to go through Foley Road or Woodland Drive to get to Reservoir Street. I think I would feel more comfortable with something in this area if there were more direct access to Reservoir Street.

I also have concern that Woodland Drive is going to be blocked in between Sunchase Apartments and this proposed development. I think that it could have some adverse effects on the Woodland Community and Foley Road.

I heard the concern in the letters regarding the forest, the tree canopy. That speaks to me because I am always concerned about protecting our trees. The tree canopy in Harrisonburg is important for keeping temperatures down. While I support that, and agree that this is an R-3 property. While I would love to have a forest directly behind my property, I understand that it is zoned a certain way and that there are plenty of by right abilities that someone, today, could build duplexes and houses there. I want to protect our tree canopy, but we have to understand that there is by right ability with a lot of these properties. We have reasonable expectations that people are going

to do what they have the ability to do with a property.

I have concerns about the height of the building and how that may adversely affect the neighborhood and how the traffic would be routed through Woodland Drive and Foley Road. I am apprehensive about supporting a development like this in this location.

Commissioner Romero said that he has the benefit of being able to reflect on these proposals for weeks, sometimes months, before I hear them again at City Council. I have that benefit and I take full advantage of it. In the few months that I have been on City Council, I have heard many people talk about affordable housing, but no one has done anything about it. We cater a lot to JMU. One project that was mentioned before, if you want to go back and listen, I voted for the project, but I was very adamant that this was a lost opportunity to increase affordable housing for some of our families. Looking at the parcels that we have left, there are very few. At this point, with the information that I have, I will not be supporting this project. Projects do change. New proffers are provided. We talk with more people. We see it in a different light. But at this point, I do not support it. There are other projects that I am excited about, that hopefully will come to fruition in the future, that benefit families that are often not at this table or in these conversations. I will have another opportunity to think about it, but tonight I will not be supporting it.

Commissioner Finks said I want to remind everyone that JMU students are residents. They pay taxes when they live here. Some make this their full-time, primary location. JMU students live here, too.

Chair Way agreed. We do not want to make this an us versus them situation. An important message that came up is regarding the character of our City. What sort of place do we want this to be? We are enthusiastic about mixed-use development. We believe that these have important, smart growth benefits. They can help build out corridors, enhance streetscapes, and build successful communities. They are good practice. The questions, what is the character of our City and what are the particular characteristics of our City, should make us think about what kinds of mixed-uses we want to have. Where do we want them? What should their character be? What should their scale be? It is not a blanket we want mixed-use and we want them anywhere where there is any possibility of having them. We have to think about scale and location. I am torn about this one. Clearly, this area is designated as a mixed-use area in the Land Use Guide. Clearly there is potential to build quite a dense development here. There is a feeling that this is a little too big. This is out of scale. If it was pulled towards Reservoir Street and limited to the front portion, it might be more in character with this location.

This is an interesting site. We seem to have this concern on the Planning Commission, recently, about these places on the edges of neighborhoods, on the boundaries of them. They might not be a fully immersed neighborhood, but they can have a disproportionately potential effect. This is another case where it is right in between a major corridor and a residential neighborhood. The developer has tried to think about ways to incorporate and reflect that. The scale seems to be tipping over one way, but there is extra sensitivity because it is on that edge position, so it is a

geography question, as well.

I am pleased that this proposal includes a bus shelter. Considering access from across the street and access to the bus shelters may be helpful in the future.

Commissioner Colman said that if this development were to proceed and the neighborhood is boxed between student housing, we have seen that the neighborhood itself becomes student housing. As people move away, they become houses where students live. It encourages that because no one wants to live among students. That is the danger for this neighborhood.

I agree the comments regarding having the commercial mixed-use portion in the front area of the property. If the whole property is taken into the mixed-use, it goes beyond what the intent of the Comprehensive Plan is for that area. Ideally, I would like to see the mixed-use in the front, as per the Comprehensive Plan, and see affordable housing in the back. It would be nice if that property were to be developed into single-family homes, duplexes or R-8. An R-8 rezoning would be great here. That would enhance the neighborhood. I will be opposing the proposal.

Commissioner Whitten asked what mixed-use developments have we seen that was not student housing?

Mr. Fletcher said that many of the developments downtown. You cannot control exactly who the demographic is. Urban Exchange, Downtown Exchange, the Ice House are examples.

Commissioner Whitten said that we are not opposed to mixed-use, but we are opposed to taking a mixed-use and placing it in a place that is going to impact the neighborhood.

Commissioner Finnegan said that it is the 90 four-bedroom units. When you can charge four leases for one place, as opposed to one lease for one place, that is what incentivizes student housing. I do want to clarify what I said earlier about JMU. On the Board of Visitors, we have no representation at the local level.

Mr. Fletcher said that with the SUP, you can choose to place conditions. The by right ability here is for a four-story building. What you are seeing is a six-story building. If you thought five-stories was appropriate, you could condition it, if you so choose.

Mr. Finks said I can see that as less of a problem if it was four stories, but we still have the issue of how the traffic is routed from the development.

Commissioner Whitten said that the City needs to think about that.

Mr. Fletcher said that we have had many discussions about the entrance on Woodland Drive. They were granted an exit on Woodland Drive. They knew what the zoning was, as well. I do not want anybody to leave here thinking that there will never be an exit onto Woodland Drive. All

indications seem to point to that being the case, regardless of what develops here.

Chair Way said that we cannot forget the impacts on the Foley Road side, as well. It was an interesting observation regarding the disparities between the neighborhoods.

4.h. Consider a request from Ashok Kunver to rezone 709 and 711 Foley Road.

Attachments: [Memorandum](#)

[Extract](#)

[Site maps](#)

[Application, applicant letter, and supporting documents](#)

[Public Hearing Notice.docx](#)

[Surrounding property notices.pdf](#)

[PowerPoint presentation](#)

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: Single-family detached dwelling, zoned R-3

North: Vacant land, zoned R-3

East: Single-family detached dwellings, zoned R-3

South: Single-family detached dwelling, zoned R-3

West: Across Foley Road, single-family detached dwelling, zoned R-3

The applicant is requesting to rezone a +/-23,500 square foot parcel located on Foley Road in the southeastern section of the City from R-3, Medium Density Residential District to R-5C, High Density Residential District Conditional. The property is addressed as 709 and 711 Foley Road and is located approximately 100-feet from the intersection with Reservoir Street. The applicant proposes to construct a single apartment building comprised of 12 one-bedroom units.

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

In connection with the rezoning request for the property located at 709 and 711 Foley Road and identified as tax map parcels 84-A-2 the following permitted uses are hereby proffered:

1. There shall be no more than twelve (12) one-bedroom apartments on this site.
2. Dwelling units may be occupied by a family or not more than two (2) persons.
3. Accessory buildings and uses clearly incidental to the above. Accessory uses incidental to permitted nonresidential uses shall be located within principal buildings when such accessory function serves the public. Parking garages are permitted within the district.
4. Home occupations.

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

Additionally, I proffer that there will be no parking or travelways between any building and Foley Road.

Note that the submitted conceptual site layout is not proffered.

Proffer #1 limits the property from constructing more than 12 multi-family dwelling units on the site and limits each multi-family dwelling unit to having no more than one-bedroom. Note that the Zoning Ordinance (ZO) requires a lot area of 1,800 square feet per multi-family dwelling unit and the parcel is +/- 23,500 square feet in lot area; therefore, the maximum number of multi-family dwelling units that could be on the site is 13.

The R-5 district allows by right dwellings to be occupied by a family or not more than four persons. Proffer #2 reduces the occupancy of the proffered multi-family dwelling units to either a family or not more than two persons.

Proffer #3 and 4 are by right uses within the R-5 district that would be retained. Other uses such as townhomes, community buildings associated with townhome or multi-family developments, public and private schools, child and adult day cares, churches, parks, public uses, and small cell facilities have been excluded. All special uses are still allowed as they would require further

evaluation, public hearings, and approval by City Council.

The last unnumbered proffer is intended to promote pedestrian friendly design by placing building(s) close to the street. Placing parking lots and drive aisles between buildings and public streets creates barriers for people wanting to walk to uses/buildings. Concentrating people and places along the public street 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 Plans Land Use Guide. The applicant will be required to construct new sidewalks along the frontage of Foley Road and sidewalks to connect the building to Foley Road at the time of development/redevelopment.

Note that while the conceptual layout illustrates +/- 100 ft. length of sidewalk along the Foley Road frontage of the neighboring property identified as tax map 84-A-1 to connect with existing sidewalks on Reservoir Street, the applicant has not proffered to construct that section of sidewalk and the City's regulations would not require the property to construct that length of sidewalk at the time of development/redevelopment.

The applicant's letter describes and the conceptual layout illustrates sixteen off-street parking spaces, which are four more than is required by the recently adopted amendments to Section 10-3-25(7) of the ZO, which requires one off-street parking space for each dwelling unit for townhouses and multi-family units within the R-5 district, where occupancy has been restricted on a conditionally zoned property.

As previously stated, the property is located in the Mixed Use area shown and described in the Comprehensive Plan's Land Use Guide. These areas 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. Staff believes that the location of the building close to Foley Road and without a parking lot separating the building and the public street, helps to integrate the use into the larger neighborhood.

The character of this neighborhood, consisting of properties along Foley Road and Ridgeville Lane, has changed over the past two decades from a neighborhood consisting of only single-family detached dwellings to now include duplexes, townhomes, and multiple-family dwelling units. All but two of the existing and planned multiple-family dwelling units in this neighborhood were developed by right prior to the effective date of the R-3, Medium Density Residential District regulations in 2010 that required special use permits for multiple-family dwellings of up to 12 units per building. The development known as "Loop Modern" (formerly known during development as "The Angle," identified as tax map number 84-B-20 and located at the intersection of Foley Road and Ridgeville Road) was approved for the SUP for multiple-family dwellings in 2011. At that time, staff recommended denial of that request; it was then recommended for approval by Planning Commission (4-3) and approved by City Council (3-2). Staff recommended denial of the Loop Modern project believing that the development's

design was not “compatible with adjacent existing and planned single family, duplex, and townhouse development” and did not believe that the density of the development was compatible with the surrounding area. In 2018, a SUP to allow multiple family dwellings of up to 12 units per building on the parcel identified as tax map number 84-A-9, located across Foley Road from the Loop Modern project, was reviewed. With the approval and construction of the Loop Modern development combined with the existence of a few of the other multiple-family dwelling units within this neighborhood, staff believed that the multi-family units proposed within that application were consistent with surrounding parcels and recommended approval of the SUP; it was then recommended for approval by Planning Commission (5-2) and approved by City Council (4-0).

While staff would prefer to see this neighborhood redeveloped more cohesively, staff recognizes the difficulty for someone to be able to purchase many of the surrounding parcels and then to design and build a larger plan of development for residents to share amenity space as well as to provide improved public street access management. Staff believes that the requested rezoning to R-5C is consistent with surrounding parcels and recommends approval.

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.

Richard Blackwell, with Blackwell Engineering, came forward to speak to the request. Earlier, I said that Foley Road is different. It is different because it is going from single-family to multifamily homes, unlike Woodland Drive. I was not downgrading Foley Road, only speaking to the difference.

Commissioner Colman said that this project is on a different scale compared to the previous one.

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 the previous request proposed 90 four-bedroom apartments. This project has twelve one-bedroom apartments. It is not just the scope that is different, but what they are offering, as well. The one-bedroom apartments are different from the development on the other side of Reservoir where there are four-bedroom units. This is offering something different.

Commissioner Colman said that this project aligns more with affordable housing.

Chair Way said that he is concerned with what it is doing to the south side of the neighborhood. If you look towards Reservoir Street, it fits in. It is more questionable in the other direction. I agree that it is a different scale, a different purpose.

Commissioner Colman said that it is on the edge of the mixed-use designated area.

Commissioner Finks asked if there was a TIA conducted for this project.

Ms. Dang said that the project was too small to trigger a TIA.

Commissioner Finks said that a project of this size should not have much of an impact on this road. I would love to see that sidewalk.

Commissioner Whitten said that it opens the door to the R-5.

Chair Way said that when I was talking about going towards Reservoir Street, it was about opening the doors to the precedent, to the R-5, more broadly.

Commissioner Finnegan asked what was the development that we approved across from the Loop?

Ms. Dang said that it did not have a name. They were proposing townhome style apartments.

Commissioner Whitten said that nothing has happened there.

Ms. Dang said that the design was not proffered, so I do not know what the buildings will look like.

Commissioner Colman said that this is not the same scale. It is reduced. I understand your comment about opening the door, but at the same time, I think it says the precedent that this is more what we are looking for, rather something that has a larger impact.

Chair Way said to be clear, if we are supportive of this, when it comes to a vote, it is for this specific site. It is not a pointer towards what is going to happen or what we want to see happening in the surroundings and around the neighborhood.

Commissioner Finks said I would have more concerns about this if the previous development was approved by City Council. I would have more concerns regarding traffic on Foley Road. Considering the vote that I made tonight, and the vote that this body made, I have less concerns. That might change depending on the vote by City Council.

Commissioner Finks moved to recommend approval of the request to rezone 709 and 711 Foley Road, as presented.

Commissioner Colman seconded the motion.

All members voted in favor of recommending approval (6-0). The recommendation will move forward to City Council on October 8, 2019.

A motion was made by Finks, seconded by Colman, that this PH-Rezoning be recommended for approval to the City Council, due back by 10/8/2019. The motion carried by a voice vote.

5. New Business - Other Items

- 5.a. Consider a request from Heifer Investments Subdivision to preliminarily subdivide a +/- 5.69-acre parcel into three parcels at a site addressed as 560 Waterman Drive.

Attachments: [Memorandum](#)

[Extract](#)

[Site Maps](#)

[Application and supporting documents](#)

[Preliminary Plat](#)

[PowerPoint presentation](#)

Chair Way read the request and asked staff to review.

Ms. Banks said that the Comprehensive Plan designates this area 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: Automotive and industrial uses; zoned M-1

North: Vacant building; zoned M-1

East: Across undeveloped portion of Rockingham Drive, single family home and vacant parcels; zoned R-1

South: Industrial use; zoned M-1

West: Across Waterman Drive, Quarry; zoned M-1

The applicant is requesting to preliminarily subdivide one parcel into three lots of +/- 0.95 acres, +/- 2.51 acres, and +/- 2.22 acres. The subject site has public street frontage along Waterman Drive and along an undeveloped section of Rockingham Drive. Presently, there are three principal structures on the property and if approved, the subdivision will place each structure on its own parcel. The applicant has stated they intend to continue to use the parcels as they are currently being used. The subdivision would allow for a future sale of the divided parcels.

The subdivision of the property is required to be reviewed by Planning Commission because the parent tract is larger than 5 acres and the end result establishes parcels that are less than 5 acres in size. If the subdivision of the site met all requirements of the Subdivision Ordinance, Planning Commission approval is all that would be needed to allow them to perform an administrative final subdivision plat. However, because the applicants are requesting to deviate from sections of the Subdivision Ordinance, the request must be reviewed and approved by City Council, and thus a recommendation from staff and Planning Commission is necessary.

With regard to public water and sewer utilities, there is a 16-inch public water line within the Waterman Drive right-of-way that will serve the three proposed parcels. Proposed Lot 3 has an existing water meter; a double water meter will be set where proposed Lots 1 and 2 adjoin along Waterman Drive in order to serve those parcels. A 6-inch public sanitary sewer line currently runs from within the Rockingham Drive right-of-way, west across the subject property and into a 15-inch public sanitary sewer line within Waterman Drive. The applicant illustrates on the preliminary plat that the existing 6-inch public sanitary sewer line, which runs through proposed Lot 3 will be placed within a 25-foot public sanitary sewer easement, which the applicant will dedicate during final platting. Additionally, proposed Lots 2 and 3 are served from this 6-inch public sanitary sewer line, and the applicant has indicated that the private sanitary sewer line serving proposed Lot 2 will be placed within a private sanitary sewer easement where it crosses Lot 3. Proposed Lot 1 is served by an existing privately maintained sanitary sewer line extending from Waterman Drive.

The City's Subdivision Ordinance and Design & Construction Standards Manual require the applicant to dedicate right-of-way and construct street improvements at the time of subdivision. Presently, there are no sidewalks, or curb and gutter along the Waterman Drive frontage of the property, and as stated earlier, Rockingham Drive is predominately undeveloped in this area. The applicant is requesting three Subdivision Ordinance variances per Sections 10-2-61 (a), 10-2-66, and 10-2-67, which together require the property owner to construct the street improvements. If approved, the variances would allow the applicant not to construct required street improvements along the frontages of Waterman Drive and Rockingham Drive. As indicated on the preliminary plat, however, as part of this subdivision, the applicant would dedicate one foot of right-of-way and a 10-foot Public General Utility Easement along the frontage of Waterman Drive. They would also dedicate 10 feet of right-of-way and a 10-foot Public General Utility Easement along the frontage of Rockingham Drive. The 10-foot Public General Utility Easement will be placed along the exterior side lot lines of proposed Lots 1 and 3 and centered on all interior lot lines.

Staff agrees with the applicant's statement within their application that "street improvements along Waterman Drive and Rockingham Drive will require a more comprehensive design for street and stormwater improvements, which would be more appropriate to do with either a future road improvement project by the City or with redevelopment of the sites along Waterman Drive and Rockingham Drive with an engineered comprehensive site plan."

At this time, there are no City plans to construct the undeveloped Rockingham Drive right-of-way and the City would like a more comprehensive design for Waterman Drive that would include stormwater improvements.

Staff recommends approval of the preliminary plat and variances as requested.

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

Chris Runion, representing Heifer Investments, LLC, came forward to speak to the request. I commend staff for working with both the engineering firm and John Bowman, realtor, to work through all the issues and details. Rockingham Drive is an undeveloped street and 30 feet is not adequate. You cannot develop on it because it has to be a 50-foot right-of-way. We are happy to work with the City on that.

Commissioner Colman asked about the dedicated one foot of right-of-way along the frontage of Waterman Drive, is that because it is not a full 50 feet?

Mr. Runion said that it is because that is what was requested and because there are significant drainage issues.

Ms. Banks said that it is because of the width of the existing street.

Ms. Dang said that the right-of-way is 50 feet, but we need 52 feet to accommodate plans for future bike lanes, sidewalks and other facilities.

Chair Way asked if there was anyone else wishing to speak to the request.

Commissioner Finks said that as a resident of the Northwestern neighborhood, I am excited about this. I would love to see that part of our neighborhood trend more to residential. Obviously, it is just a plat.

Commissioner Colman said that it is still a commercial site, but it would be nice to see it improved. Drainage there is very bad. It would be nice to see that fixed at some point.

Commissioner Whitten moved to recommend approval of the request to preliminarily subdivide the parcel at 560 Waterman Drive.

Commissioner Colman seconded the motion.

All members voted in favor of recommending approval. The recommendation will move forward to City Council on October 8, 2019.

This Action Item was recommended to full council.to the City Council due back on 10/8/2019

6. Unfinished Business

None.

7. Public Comment

None.

8. Report of Secretary & Committees

8.a. Proactive Code Enforcement

For the month of August 2019, the proactive code enforcement program inspected the Technology Park section of the City. Violations related to junk, signage, and inoperable vehicles were found. The proactive zoning program for September 2019 will be directed toward the Hawkins Street section of the City.

8.a.a. August 2019 Proactive Code Enforcement Report

Attachments: [August 2019 Report](#)

8.c. Rockingham County Planning Commission Liaison Report

Chair Way said that there was a rezoning request near Montevideo Middle School that was approved unanimously. There was a more contentious discussion regarding an amendment to the Brentwood Subdivision Master Plan and proffered conditions that was held up on stormwater management issues. The request was tabled.

8.b. Board of Zoning Appeals Report

None.

8.d. City Council Report

Commissioner Romero reported for City Council. There were three SUP applications for STRs that came before City Council. One was at Blue Ridge Drive, which Planning Commission (PC) recommended approval (4-2). That was approved. Another was on South Brook Avenue, which PC recommended approval (6-0). That was also approved. The third was for a property on New York Avenue. That one generated some discussion and was sent back to the PC. After PC originally reviewed the application, the property owner made the site his primary residence. There was also the issue of a violation resulting in a fine. That is coming back to PC.

Commissioner Whitten asked had they continued their rental contracts.

Commissioner Romero said that they cancelled most of their reservations except for one in the middle of August. In my conversation with the applicant, he mentioned that it was an oversight. It was interesting because it kept going. Then a person who had been watching on television was compelled to walk to City Council to give her remarks. There were a number of people who walked in.

9. Other Matters

Chair Way invited discussion regarding the suggestions of having a Planning Commission discussion regarding STRs and a joint meeting with City Council. Which would you prefer to have first?

Commissioner Finks suggested meeting with City Council first.

Ms. Dang said that City Council would like to have a set agenda, to know what questions we would be asking.

Commissioner Romero said that we need to discuss what Ms. Dang presented at the last meeting.

Chair Way suggested that they make time on the agenda at the next meeting to have a discussion regarding an agenda for the meeting with City Council.

Commissioner Finnegan asked how many items will be on the agenda for next month.

Ms. Dang said there were four, and now there are five with the addition of the STR on New York Avenue. Of the four, there is a STR, there is the parking review for the new high school, there is the preliminary plat for Millwood Townhomes on East Mosby, and there is a rezoning on Keezletown Road for the Juniper Hill co-housing community. They are proposing to rezone from R-1 to R-7.

Commissioner Whitten suggested having a work session instead of adding the discussion to next month's meeting.

Ms. Dang said that she does not expect the agenda items to be as contentious as what we have been seeing. The STR at 907 Ridgewood Road might be the most discussed. Now we have New York Avenue, as well.

Commissioner Whitten said that she prefers to have a work session.

Ms. Dang said that she can coordinate a work session date via email.

Mr. Fletcher said this work session would be specifically associated with the STR ordinance discussion.

Chair Way added that they will also come up with an agenda for a meeting with City Council.

Commissioner Colman asked if we do that work session, and that work session reveals some direction, do we want to move forward with those requests?

Mr. Fletcher said that you have to, they have applied.

Mr. Russ said that we would have to hear it within a hundred and something days. If we have a work session in the next couple of weeks and you decide on a direction you want to go. Pending applicants would not need to apply because what they are applying to do they possibly will be allowed to do by right. By the time we are required to hear their application, the ordinance change may have happened. I am sure that they would appreciate not having to pay the advertising costs.

It is a matter of waiting a few more weeks.

Mr. Fletcher said that it would depend on what the ordinance would be.

Mr. Finnegan said that we have to keep using what we put in place.

Mr. Fletcher said that the point is valid. Historically, we have acted on them. We have had conversations with other people about what Mr. Russ said. We have told them that staff has an idea for changes that may be brought up. They have the option to move forward. I told one person with whom I spoke that this idea could come up and there could be a new ordinance before the end of the year. It is up to the applicant as to how they want to proceed.

Mr. Finnegan said that he thinks that is the better option. We can give people a heads up that this may change. They can choose to wait or not.

10. Adjournment

The meeting adjourned at 10:29 p.m.

NOTE TO THE PUBLIC

Staff will be available at 4:30 p.m. on the Tuesday before the next Planning Commission meeting for those interested in going on a field trip to view the sites on the next agenda.

Language interpretation service in Spanish is available for City Council meetings. To ensure that interpreters are available at the meeting, interested persons must request the accommodation at least four (4) calendar days in advance of the meeting by contacting the City Clerk at (540) 432-7701 or by submitting a request online at: www.harrisonburgva.gov/interpreter-request-form

El servicio de intérpretes inglés-español está disponible para las reuniones públicas del consejo municipal. Para asegurar la disponibilidad de intérpretes, cualquier interesado deberá solicitar la presencia de un intérprete al menos cuatro (4) días calendarios antes de la reunión comunicándose con la Secretaría Municipal al (540) 432-7701 o por medio de la página por internet al:

<https://www.harrisonburgva.gov/interpreter-request-form>