



# City of Harrisonburg

City Hall  
409 South Main Street  
Harrisonburg, VA 22801

## Meeting Minutes Planning Commission

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Wednesday, February 12, 2020

7:00 PM

Council Chambers

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### 1. Call To Order

The Harrisonburg Planning Commission held its regular meeting on Wednesday, February 12, 2020 at 7:00 p.m. in the City Council Chambers, 409 South Main Street.

### 2. Roll Call/Determination of Quorum

Members present: Mark Finks; Brent Finnegan; Zanetta Ford-Byrd; Sal Romero; Jim Orndoff; and Gil Colman, Chair.

Members absent: Kathy Whitten.

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

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

**Present** 5 - Gil Colman, Brent Finnegan, Mark Finks, Zanetta Ford-Byrd, and Sal Romero

**Absent** 1 - Kathy Whitten

### 3. Approval of Minutes

Chair Colman asked if there were any corrections, comments or a motion regarding the December 12, 2019 Work Session minutes or the January 8, 2020 Planning Commission minutes.

Commissioner Finks noted an error in the January 8, 2020 minutes. On page one, paragraph 13 where it says Finks it should be Finnegan.

Commissioner Finks moved to approve the December 12, 2019 Work Session minutes and the January 8, 2020 Planning Commission meeting minutes, as amended.

Commissioner Finnegan seconded the motion.

All members voted in favor of approving the the December 12, 2019 Work Session minutes and the January 8, 2020 Planning Commission meeting minutes, as amended (6-0).

3.a.

3.b. Minutes from the January 8, 2020 Planning Commission Meeting

#### 4. New Business - Public Hearings

4.a. Consider a request from 7-Eleven, Inc. to amend the Zoning Ordinance to allow vehicle fuel stations within the B-1, Central Business District

Chair Colman read the request and asked staff to review.

Ms. Banks said that before getting into the specifics of the request it is helpful to understand the history of how vehicle fuel stations have been regulated within the City's downtown. In 1939, the City's first Zoning Ordinance (ZO) defined "gasoline or oil filling stations" and allowed them as a permitted use within the downtown area. In 1958, after a comprehensive rewrite of the ZO, "filling stations" were permitted within the downtown only by approval of the Board of Zoning Appeals (BZA).

In February 1963, after the 1962 City annexation, a comprehensive rewrite of the ZO was approved. The 1963 ZO defined "service stations," however, service stations were still not a permitted use within the City's downtown and the ability to have a service station approved by the BZA was removed.

Comprehensive rewrites of the ZO were approved in 1969 and 1987; where again, the updated use regulations did not allow service stations within the downtown. In 1996, the City completed its most recent comprehensive rewrite of the ZO and it was at this time that the City added the ability for special use permits (SUPs) to be requested in all zoning districts. Vehicle fuel stations were not permitted by right or by SUP within the City's downtown as part of the 1996 ZO rewrite.

It should be understood that the first time the Zoning Ordinance identified portions of the downtown as the Central Business District (CBD) was in 1958. The CBD was bounded by Rock Street to the north, Bruce Street to the south, Mason Street to the east, and the C & W Railroad to the west. The 1958 CBD boundary remained unchanged until January 1981, when it was expanded north to Johnson Street and east to a line approximately 400 feet east of Mason Street. Since 1981, there have been numerous rezonings around the fringes of the original CBD, creating the current district boundary. Over the years, filling/service/vehicle fuel stations within the CBD became nonconforming either due to being incorporated into the CBD during a comprehensive rewrite of the ZO or by a City-initiated expansion of the B-1 district approved by City Council.

The applicant is requesting two, separate but simultaneous requests, which include 1) to amend the ZO within the B-1, Central Business District Section 10-3-85 by adding vehicle fuel stations as an allowable use through approval of a SUP, and 2) applying for the SUP to allow a vehicle

fuel station on a B-1 parcel. The specifics of the requested SUP are addressed in a separate staff report.

The applicant has proposed to allow vehicle fuel stations by SUP, which include regulations that are intended to mitigate concerns regarding the use. The ZO defines a *vehicle fuel station* as “[a]ny building, structure, or land used for the dispensing, sale or offering for sale at retail of any vehicle fuels, oils or accessories. The text proposed by the applicant to be added to Section 10-3-85 of the ZO is as follows:

(12) Vehicle fuel station as accessory use to a permitted use, subject to the following restrictions: (i) allowed only on corner lots; (ii) may have no more than eight (8) fuel dispensers; and (iii) the footprint of the area encompassed by the canopy over the pumps may not exceed the size of the footprint of the principal structure.

If approved as proposed above, B-1 property owners would be able to apply for a SUP to allow for a vehicle fuel station only if it was as an accessory use to a by-right use of the B-1 district, the parcel was a corner parcel, there were no more than eight fuel dispensers, and so long as the footprint of the vehicle fuel station canopy did not exceed the building footprint of the principal use. To be clear, one fuel dispenser generally has two fuel pumps and can serve two vehicles concurrently (meaning that eight fuel dispensers could serve 16 vehicles simultaneously); and, although the fuel station would be accessory, its canopy could be the same footprint as the principal building.

As described by the ZO, “[t]he B-1, Central Business District is intended as an urban and regional center for the conduct of commercial, financial, professional and governmental activities to which the public requires direct and frequent access. [The B-1] regulations are intended to protect and improve activities, and to prevent uses not requiring a central location which would create friction in the efficient performance of the primary activities of an urban and regional center.” Most of the CBD is designated in the Comprehensive Plan’s Land Use Guide as Mixed Use. Mixed Use areas are areas where more walking, biking, and public transit is encouraged; where community members, if they must drive, should not have to drive directly to a use but could park on-street, in a public parking lot, or in a privately owned but publicly accessible parking lot and walk to their destination. Vehicle fuel stations specifically serve people who are driving cars to and from that specific site and who generally are there for a short period of time. This brings increased traffic generation and frequency of vehicles crossing and disrupting pedestrian spaces (i.e. sidewalks) and generally places the vehicle uses (parking and fueling stations) between pedestrian spaces and principal buildings. In downtown areas, communities typically desire to mass buildings close to the street to promote a more pedestrian friendly design. As well, the City’s B-1 zoning district is relatively small; +/- 97-acres, which is approximately 1 percent of the City’s land area not in roads or railroads. Staff has identified 17 vehicle fuel stations within two miles of Court Square by way of driving on City streets.

As stated above in the background information, vehicle fuel stations have not been a use permitted

by-right within the City's downtown since before 1958. The few vehicle fuel stations located in the CBD that were nonconforming to the ZO, are now all closed and have lost their nonconforming status.

Staff believes it is not in the best interest of the City's downtown to add vehicle fuel stations in the B-1 district and recommends denial of the request to amend the ZO to add vehicle fuel stations as a use permitted by SUP.

However, should there be a desire to approve the ZO amendment to allow vehicle fuel stations by SUP, staff suggests the following amendments, which could help to further reduce the impacts of a vehicle fuel station located in the B-1 district:

- (12) Vehicle fuel station as accessory use to a permitted use, subject to the following restrictions: (i) allowed only on corner lots; (ii) may have no more than four (4) fuel dispensers; and (iii) the footprint of the area encompassed by the canopy over the pumps may not exceed 75 percent of the size of the footprint of the principal structure.

Comparing the applicant's proposed amendment and staff's suggested amendment, both would only allow vehicle fuel stations on corner lots and as an accessory use. The differences include that staff recommends reducing the maximum number of fuel dispensers from eight to four (meaning that eight vehicles could be served simultaneously), and rather than allowing the canopy over the fuel pumps to be of equal size to the principal structure, staff recommends limiting the canopy to 75 percent of the size of the footprint of the principal structure. Being that the vehicle fuel station is to be an accessory use to a permitted use, staff believes that the vehicle fueling area should be of a smaller footprint than the principal building.

Chair Colman asked if there were any questions for staff.

Commissioner Ford-Byrd asked how many dispensers were in place, previously.

Ms. Banks said that there were two dispensers, so four pumps.

Commissioner Romero asked what the reason was for closing the gas station.

Ms. Banks said that she did not know.

Commissioner Finnegan asked why staff chose 75%. I understand that you do not the canopy to exceed the size of the building. Could we say "no larger than the footprint of the building?"

Ms. Banks said that it is an accessory use. Seventy-five percent is a reasonable number. It is not as large as the principle use that is there. It is a number that could be changed.

Mr. Fletcher said that it gives an indication that it is a secondary use. That the principal building

has its main footprint, then the canopy has a lesser size indicating that it is supposed to be a secondary. It is not a principal use.

Ms. Banks said that it does not dominate the site.

Chair Colman asked if the accessory structure has to comply with accessory structure requirements, such as setbacks and location.

Ms. Banks said that there are setback requirements for canopies and, yes, it would have to comply with all those requirements.

Chair Colman asked if they can be in the front of the principal structure.

Mr. Fletcher said that the B-1 setbacks would apply. There are zero setbacks. They could not encroach the property lines.

Ms. Banks said that there are not requirements in B-1 regarding location.

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

Lori Schweller, Williams Mullen, representing 7-Eleven, came forward to speak to the request. I have a presentation to bring up for you. (Throughout the presentation, Ms. Schweller points to images in the presentation slides.) We have representatives of the applicant here, including Charlie Carpenter, with Creighton Development which is managing the project for 7-Eleven; Jeremy Yee, civil engineer; and Kimley Horn. We are requesting a zoning ordinance amendment and a SUP. The reason for those requests is that 7-Eleven would like to improve and modernize the existing store to better serve the City and the neighborhood. This is the existing store. As you can see it's a pretty much a blank canvas. The store is set back on the paved part of the parcel, with very little landscaping. It is a small store without many amenities. Looking north, you can see the Rockingham County government center, to your left, and the Roses shopping center to your right. This is also Harrisonburg's hub for the transit. All lines of transit meet at this parking lot. That is why those buses are there. There are some shelters for travelers, as well. Looking south, you can see our closest neighbor, the AutoZone, to the left. This is the block. 7-Eleven shares this block with AutoZone, on your left, and on your lower right, a fire company. That green area, the grassy area, is part of our parcel. The entire top portion is the subject parcel.

This is the general area of the City. You can see that all this central area, which happens to be B-1, has a large number of government office uses. You have Rockingham County government offices, the Post Office, Social Security, the Police Department, Fire Department, and then interspersed with that, are commercial uses. All of this to the east is residential.

The fuel pumps here are very small. There are two pumps, presumably four dispensers. Those

were removed in October 2014. The plan for improving this site is to shift the building back about 15 feet to the East. Provide a little bit more room in the front, more landscaping, trees, flowers. There has been a lot of interest especially at the community meeting. We had two representatives from Harrisonburg Downtown Renaissance who wanted to talk about the layout of the site. We also had a local architect Mr. Sites came to talk about the layout of this site. We can get talk about that with you, if you have questions. We are offering a right-of-way along North Mason Street. It is ten feet, which would provide 17-1/2 feet from the curb to the end of that right-of-way to provide for your future multipurpose path along North Mason Street. There is a sight distance that would be offered to the city. That would be an easement here on the intersection.

We are proposing a pergola along this corner here. The reason for that is because we cannot move the building to the street to provide that urban walkable feel. What we are proposing is more landscaping and an architectural element to help give it more of an urban feel and to beautify the streetscape so that people walking along North Mason Street and along East gay have a better pedestrian experience. This is the canopy, here. This is conceptual. It can shift around. We are would install a new sidewalk along Community Street. This area is residential. There would be a sidewalk here and here. This driveway onto East Gay Street would be aligned with the driveway at the Roses shopping center for safety purposes, as was suggested during our traffic analysis. There will only be one driveway here, on North Mason Street. This is the proposed streetscape. You can see the pergola in the foreground to give it a more urban feel and to provide some architectural element up close to the sidewalk. This is a rendering of the improved site.

As part of this modernization we want to improve the store. The store is currently around 2500 square feet. It would be a 4050 square foot building. It would have hot foods. It would have fresh foods. It would have cold case and a coffee bar. In order to improve the store, the first step is the zoning ordinance amendment. This entire area is zoned B-1. We are on the edge of that zone. That was expanded a little bit around 1981. We are on the edge of B-1 and fuel stations are not permitted in B1. They are permitted in some of the neighboring areas zoned B-2, B-1A, which I understand has not being implemented, and M1. Existing land uses in the area are primarily public facilities and commercial retail. We understand that your Comprehensive Plan and your future land use map does call for mixed use in this area. If you look on your future land use map in the Comprehensive Plan, you see all those government uses are still government uses but all of that previously B-1 area has is shown as mixed use. We understand that as your desire for the future of Uptown Harrisonburg. Rezoning is required for mixed use. No residential, of any sort, no mixed use is permitted in B-1. We are not proposing a rezoning at this point. We are not proposing a redevelopment of this site. We are proposing improving an existing use to make it better for the community and to make it better for those coming into town and leaving town. The fueling stations at a 7-Eleven do not draw people into an area to go to that fuel station. They serve those who are already there, close by, such as those who are going to the County office buildings, the Post Office. They serve those who are already there. We think that it is appropriate to have, as an accessory use incidental to permitted use, a fueling station.

Fueling stations are customarily associated with convenience stores and convenience stores are permitted by right in B-1, as with these other uses listed here. No type of residential or mixed use is permitted. Nothing we are suggesting today would prevent this site from being redeveloped in the future with a mixed-use condominium or for a portion of this parcel to be developed in the future. We are only talking about improving the use that is there today by making fueling stations accessories uses, and only by SUP. You have the conditions or the factors that would be required for vehicle fueling station in the B-1 district. They would only be on corner lots, which is necessary for the circulation of traffic and trucks. It may have no more than eight fuel dispensers. The footprint of the area encompassed by the canopy, which you saw on our concept plan, may not exceed the size of the footprint of the principle structure. Obviously, a canopy is completely see-through. It is going to be 15 feet high. You are not going to see that. The area that the fuel pumps sit on is not going to be 4050 square feet. It will not appear to be as large as the store itself. In fact, what I showed you on our concept plan is showing you an area that can accommodate eight fuel dispensers. It is about 230 or 250 square feet larger than the building, so that would have to change given this last condition.

That is my presentation regarding the first component of our request. I would love to take your questions.

Commissioner Finnegan said that staff has recommended to allow no more than 4 fuel dispensers. How does that affect this particular project?

Ms. Schweller said that this redevelopment would not be economically feasible with just four dispensers at this site. We can do this project with six dispensers. If that were a requirement for the language of that zoning ordinance amendment, we could do that with six. If we did that with six, we could do a canopy that did not exceed the size of that 4050 square foot building. That would work for us, but four would not work for this applicant.

Commissioner Finks asked that the applicant speak a bit more about the decision process to not ask for a rezoning on a specific project. What was the thought process?

Ms. Schweller said that one of the options that we did think about and we did discuss with staff, extensively, was the option of rezoning to B-2 because fuel stations are permitted by right in B-2. If you look at the zoning map, it looked like there was not very much B-2 in this area. There are only a few parcels remaining that would B-2. It did not quite feel appropriate to rezone to a higher density right there. With B-1, you can keep the zoning. The parameters here would not apply to every parcel. We have so many parameters here that there would not be many parcels that can meet the requirements of a corner lot, the necessary size for the circulation for that many fuel pumps. We thought that it was more flexible to leave it as B-1, consistent with the rest of the surrounding parcels, and add the various provisions that we added to our zoning ordinance amendment and SUP request.

Commissioner Romero asked if the applicant had an opportunity to be involved in a dialogue with

the community, especially the residential area around the site.

Ms. Schweller said yes. We had a community meeting that we conducted at a local community gathering place. Ms. Ford-Byrd was there. Mr. Sites, who is a local architect came, and two members of Downtown Renaissance came, one of whom is also architect, Mr. Stoltzfus. A lot of the discussion had to do with the layout of the project, but no one from the residential community. I think that is what you are asking me. No one from the residential community along Community Street or that area came to that meeting. We did send out letters inviting them.

Commissioner Romero asked where the meeting took place.

Ms. Schweller said that it took place at Westover Park.

Commissioner Romero said that Westover Park is at the other side of town.

Ms. Schweller said that they explored about five or six different places for the meeting. Many of them were booked. We chose the only one that was available. I can get the information for you.

Commissioner Romero said that it makes a big difference if it was Lucy Simms versus Westover Park.

Ms. Schweller said that they were hoping to have one much closer to the site. Unfortunately, there was nothing available.

Chair Colman said that what is interesting is that you had fuel pumps in the same location, before, and they did not succeed. There was another fueling station down the street, maybe two blocks away. It closed not too long ago. I find it interesting that they are proposing to put back a fueling station there.

Ms. Schweller said that our 7-Eleven folks might be able to speak to that more. The environmental requirements become more stringent over time. Our guess is that they were removed because it was too expensive to upgrade those existing pumps. What we are putting in would be a more modern, completely up-to-date version.

Commissioner Finks said asked, when you're looking at the conceptual phase of what to do with the property, was any discussion about leaving an area on the property for a charging station and not just focusing on gas pumps?

Ms. Schweller said that she did not know. I do not know that we have discussed that. It may have come up at the community meeting. I think it may be under discussion.

Commissioner Finks said that would be a concern for me. A lot of discussion, in the future, is going to be regarding electric vehicles. If we are currently looking at setting aside properties for

gas pumps, you would want people to be looking at the future uses of the properties and allowing for the space for electric vehicles to be charged.

Ms. Schweller said that she would confirm with her team and come back to answer the question.

Eugene Stoltzfus, architect in Harrisonburg, with offices located at 61 South Main Street, came forward to speak to the request. I'm concerned about the way the concept. I am concerned with how primary this is for automobiles. This is an urban setting. We did a study in 2008, Harrisonburg Urban Vision and Values, that was funded by the City and by Harrisonburg Downtown Renaissance. The city takes very seriously the idea that when we build downtown, in the B-1 area, that we built we bring our buildings, our stores, our shops, our commercial buildings out to sidewalk because that makes it readily accessible to pedestrians. The neighborhood that is to the east of this parcel, has access to it, use public transportation a lot. They come down here a lot. This is not really addressed to the urban environment that you would want to have when an area is dominated by pedestrians. There are a lot of cars downtown and we all drive cars. I do not feel badly about having access to a fuel station downtown, but I think it should be built not primarily focused on a suburban model of catering primarily to automobiles.

If you look at this site, it strikes me that the patio that is shown there is going to be removed. As you look at the site, where is there a place for pedestrians. Where is there a place for social interaction. I think that there has been an attempt to remove that. I can understand where some of that may come from. There is a fair amount of drug activity in this area. However, we should not deprive the citizens of this large neighborhood from having normal interaction and places to gather and meet because there are a few people, a small minority, who the police want to be able to track, and everyone wants to be able to see. I think it would be much stronger if the store could be out on Mason Street, out on the sidewalk and hold that urban vision of how we want to build our City.

Panayotis Giannakaouros, resident of Harrisonburg, came forward to speak in opposition to the request. I will speak only to the matter at hand, right now. If it goes to the SUP, I have some specific things to touch on some things that Mr. Stoltzfus said about the role of the green space and the present structure in the life of the community, and perhaps the relationship the City has to that with respect to the green space that has not been happening. I will focus on the first part, at this point.

In our Central Business District, we have a stream that runs through it. What I have not heard extensively addressed are the environmental repercussions of having a fueling station. There are a couple of factors to consider. One is the possibility of leaks, either doing construction or after. There have been leaks by fueling stations that are on Blacks Run in Harrisonburg. Those are troublesome incidents. I appreciate that the technology may be higher now, but we have seen promises about technology with pipelines recently. Another element of environmental consideration is the spillage onto the sidewalk and the fumes. If the vision of the City moves forward, of having more residential presence near this site, then those people who live there will be exposed to this pollution. I would present these as considerations against this alteration of our

Central Business District. It is a motion in the direction of supporting fossil fuel infrastructure, not only that there might be alternative fuels, different fuels that would be used, but it also presumes the single passenger fueled automobile as the mode of transport. There is motion in the direction of not depending as heavily on that kind of transit into the walkable, pedestrian-oriented central course. Granting this new type of usage within B-1 would be going against the direction of the general trend, not only in our City, but nationally.

Ms. Schweller came forward to respond to some of the concerns. 7-Eleven has begun providing alternative fueling in California. The first electric fueling stations have been put in 7-Elevens in California, as of December. Those are being run as test cases. That may be a possibility in the future. It is not out of the question.

We were pleased to hear the concerns about more neighborhood-model principles on the site. We do understand, but fueling stations are special in that there are a lot of security concerns about the parcel. We have been working with the City of Harrisonburg police, as well as speaking with Downtown Renaissance, about this site and how this site is laid out. There are several reasons that the pumps need to be in front of the building. From the applicant's point of view, it is a matter of safety and security. The person or people working in the store need to be able to see the entire front of the parking lot. They need to be able to see the entire fueling area. That is a matter of safety. The police also want to see all the way to the front of the store. You have people in the store who have to see through to the right-of-way and people in the right-of-way who need to see through to the store. That is why the canopy has to be tall enough and we are talking about slanting the fuel pumps so that there is better visibility between the fuel pumps. That is something that is very important to the police. Unfortunately, that is the reason that they have suggested that we remove the patio. They are concerned about loitering on the property. There is a large green buffer area in the back. What you cannot see from the concept plan is that this has a higher elevation than the level of the store. It is like a berm. It obscures most of the back of the store from the residences along Community Street. Our initial thought was to enhance that area, to plant more, and make it more beautiful along the sidewalk. The police's guidance was that we should not do that. We want to keep that area clear so that they can view that area. They do not want to encourage people to spend time on the site, other than coming to the store and using the amenity there. Those are some of the reasons that it is important to have the pumps in the front. One of the conditions is that the pumps be only on the western side of the parcel and not behind the building. You also would not want to have the pumps on the residential side of the building because that would put them closer to the residences. Currently, they will not see them from where they live. We wanted to offer the pergola and maybe some rod iron fencing as a way to make it have more of a feel. We cannot put a building there, but we can have an architectural element that gives a sense of enclosure as you walk along North Mason Street.

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

Commissioner Ford-Byrd said that she did not get into the details because the health concern was

not in this particular application, but it did come up. I was able to read where the staff talked about where staff talked about the traffic, noise, lighting and smells. We have heard that from some members of the audience, as well. That is a big concern for me. I do not see where the beautification and the healthy 7-Eleven food outweighs those concerns. I would be leaning towards moving to deny the application.

Commissioner Finnegan said that he is also leaning towards denial. It sounds like if there is some modification, such as the recommendation by staff to limit it to four fuel dispensers, we heard the applicant say that would make it economically unfeasible. It does not sound like that is a good compromise solution either. This is part of the land that was redeveloped during project R-4. Right behind it is a street called Community Street. We are saying that we do not want people gathering there. Something does not sit right with me about that. I am leaning towards denial, as well.

Commissioner Finks said that specifically addressing the ordinance amendment, I do not feel that even with the proposed text added, I still do not feel comfortable allowing gas stations in B-1. Even with it being a corner lot, even with the amount of pumps, there are plenty of other corner lots where I would not want to see a gas station. This opens up potential issues down the road, as we start to redevelop different sections of B-1. I would not want to open that up, regardless of whether or not this is a good location for a gas station. I am not comfortable with making that change.

Chair Colman said that it does not align with the Comprehensive Plan. We want to make it more walkable. This goes in the opposite direction. We are talking about renewable energy and being environmentally friendly. As technology improves, these types of services are improved protecting the environment to the extent that they can, but they are still a risk. My main concern is that it does not align with what we are looking for on our Comprehensive Plan or with our environmental recommendations for the City to take advantage of renewable energies. I do not feel inclined to support this request.

Commissioner Romero said that he agrees many of the things that have been said already. In addition, I think that it is critical, incredibly important, that we involve the community when it comes to putting this kind of service right next to a community that has traditionally and historically not been treated in a way that any person should be treated. I have talked with multiple people in the northeast neighborhood. Every person I have talked with is not in favor of this application. It would make sense that there would have been further outreach into that community, to have had some effort to involve them, especially considering the fact that there is an active organization, the Northeast Neighborhood Association (NENA). I have heard from the members of that community that there is not a desire for this to happen. I would say no, as well, because that community has been left out.

Commissioner Finnegan said that when you look at the auto-centric development that has been taking place in Harrisonburg for the last hundred years, as in most American cities, if you look

across the street from that building, it is one giant open parking lot, that is now used for a bus stop. We took a community, bulldozed it, paved it and now... I am not in favor of encouraging more car-centric development.

Commissioner Finnegan moved to recommend denial of the request.

Commissioner Finks seconded the motion.

All members voted in favor of recommending denial of the request (6-0). The recommendation will move forward to City Council on March 24, 2020.

**This Zoning Ordinance was recommended for disapproval to the City Council due back on 3/24/2020**

**4.b.** Consider a request from 7-Eleven, Inc. for a special use permit to allow for a vehicle fuel station at 380 North Mason Street.

Chair Colman read the request and asked staff to review.

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

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

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

Site: Convenience store, zoned B-1

<u>North:</u>	Across East Gay Street, retail shopping center, zoned B-1
<u>East:</u>	Across Community Street, single-family detached dwellings, zoned R-2
<u>South:</u>	Retail automotive store and Fire Department, zoned B-1
<u>West:</u>	Across North Mason Street, Colonnade mixed use building, zoned B-1

The site is a +/-1.2-acre corner and through lot with frontage along North Mason Street, East Gay Street, and Community Street. Currently, a 7-Eleven convenience store, a use permitted by-right in the B-1 district, operates on the site. If the SUP request is approved, the applicant intends to redevelop the site with a new, modernized, +/- 4,050 square feet, 7-Eleven convenience store and vehicle fuel station. (The existing convenience store is +/- 2,556 square feet.) The site previously contained a fueling station; however, the pumps and associated tanks were removed in October 2014 and the site's nonconforming status was lost two years later.

As part of their request, the applicant has placed several self-imposed conditions on the site if the SUP is approved. The conditions, written verbatim, are as follows:

1. Upon request by the City, the Owner shall dedicate to the City right-of-way along the western parcel boundary, approximately 10.5' from the property boundary line (approximately 17.5' from the back of the curb along North Mason Street), for the shared use path ("North End Greenway").
2. Only one entrance shall be permitted from North Mason Street to serve the convenience store with vehicle fuel station.
3. Only one entrance shall be permitted from East Gay Street to serve the convenience store with vehicle fuel station. This entrance shall be located to align with the existing driveway serving the shopping center across the street (as recommended by the Traffic Impact Analysis report).
4. No parking shall be permitted on the Property along its boundary with East Gay Street.
5. All fuel pumps shall be located on the west side of the principal structure between the building and North Mason Street.
6. As long as the area between the primary structure and Community Street is undeveloped, no additional trees, shrubs, or fencing may be planted or installed in the area east of the convenience store between the store and Community Street. The foregoing shall not prevent the Property from being redeveloped or prevent additional development on the Property in the area between the current store and Community Street.

These conditions would provide for the necessary right-of-way for the future construction of the North End Greenway shared use path; prevent multiple entrances along North Mason Street into the site; remove the existing entrance along East Gay Street and align the single new entrance with the Rose's Shopping Center entrance, which will provide better movement of vehicles in and out of the site; not allow parking within the development along the East Gay Street boundary; and require the rear area between the principal structure and Community Street to remain open, void of trees, fences, etc., unless developed or redeveloped with a permitted use (the intent of this condition is to provide better sight observance from the public street into the rear of the property). The last condition was brought about after a Crime Prevention Through Environmental Design (CPTED) review by the Harrisonburg Police Department.

The applicant has also submitted a conceptual site layout. It should be understood that this layout is for conceptual purposes only. If the SUP is approved, the development of the site would not be bound to the exact layout provided. The layout does, however, demonstrate the self-imposed restrictions described above. As is the case with all sites, the project must comply with all zoning and land development regulations and any conditions placed on the SUP that might be approved by City Council.

To the east of the subject site, across Community Street, are single-family detached dwellings, zoned R-2. Staff is concerned that the redevelopment of the site with a vehicle fuel station will add vehicular traffic, noise, lighting, and smells related to fumes from the gas pumps, which could negatively impact the health, safety, and comfort of persons living in the area. In other locations in the City, where properties adjacent to residential uses have rezoned to B-2, staff has suggested that those applicants consider proffering out vehicle fuel stations as a by-right use because of these concerns.

The subject site is located in the northeast quadrant of the B-1, Central Business District, with commercial/retail, business/professional offices, governmental, residential, and public safety uses located to the north, south, and west of the property. The applicant describes in their letter that the “[p]roperty is located in north downtown which has a more suburban character than the core downtown and government center;” however, the City’s Comprehensive Plan’s Land Use Guide indicates this area as planned for Mixed Use. This area could redevelop to have a character similar to the core of downtown south of Elizabeth Street where more walking, biking, and public transit use is encouraged and not necessarily motor vehicles. As noted in the applicant’s self-imposed conditions, the North End Greenway shared use path is planned for the area, which will encourage more people to walk and bike in this area. However, by reestablishing a fuel station at this location, staff believes we are moving in the wrong direction for this area of the downtown.

Staff recommended denial of the proposed ZO amendment to add vehicle fuel stations by SUP in the B-1 district. Along with that, staff does not believe it is in the best interest of the City to support this SUP request for a vehicle fuel station at this location and therefore recommends denial of the SUP request.

However, should the ZO amendment request be approved as was presented by the applicant, and should there be a desire to approve the SUP request herein, staff suggests that all the applicant’s self-imposed conditions become part of the SUP and be approved with the following additional conditions:

- There shall be no more than four (4) fuel dispensers;
- The footprint of the area encompassed by the canopy over the pumps may not exceed 75 percent of the size of the footprint of the principal structure.

Note that the conditions recommended above mimic the regulatory provisions that staff had

recommended as a lesser option for those individuals to consider that might have desired to allow vehicle fuel stations by SUP as was discussed in the ZO amendment staff report.

Staff believes a redevelopment allowing a vehicle fuel station of any size on this site would have a negative effect on the adjacent neighborhood. This site is along the fringes of a residential neighborhood to the east and currently, there is a lot of pedestrian traffic from the neighborhood to the existing convenience store. If the proposed ZO amendment described in a separate staff report is approved as submitted by the applicant, then, unless conditioned otherwise, approval of this SUP request without staff's suggested conditions grants the ability to have up to eight (8) fuel dispensers, equal to 16 fuel pumps, with a canopy footprint the same size as the principal structure that is built on the site.

As noted above, staff recommends denial of the request.

Chair Colman 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.

Lori Schweller, representing 7-Eleven, came forward to speak to the request. As we discussed in the last item, the proposed zoning ordinance amendment would permit fueling stations on B-1 parcels by SUP only. That would give the Planning Commission and City Council an opportunity to evaluate on a case by case basis whether fueling station were appropriate for any particular parcel through the legislative process and public hearings. That would give you control to only permit them where they are appropriate. The SUP review criteria include some of the following, the health, safety and comfort of persons living in the area.

We have discussed with the Harrisonburg Police Department their security concerns about this block. Our revised conduct plan is showing you elements that provide for better visibility and security of the site than would currently be there. There will be healthy food options at the store and then the convenience of having fuel on site for residents and workers. In speaking with the economic development director, I understand there is a real need for fuel in this part of the City. It is definitely an area that people come into to use County services and City services. The site is served by all public services, all utilities, and their negligible increase in traffic. We did do a traffic impact analysis. It would not hinder the development of this parcel or neighboring uses. 7-Eleven does not intend to develop at grassy area behind building. There is nothing here that would deter it from doing so. You have heard the conditions. I will not repeat those.

As far as safety and security, these are some of the things that we have been working with the city Police Department on and that would include site lighting, fencing, shrubbery and glass windows along the front of East Gay Street. I should have pointed out that East Gay Street would be flush with the sidewalk to give it the more walkable feel on that side of the building. Currently, in the back of the building you can see there are trees in that grassy area and, because of the lay of the land, you can see in the second picture the building could easily be obscured by trees. The plan was to add street trees along Community Street and a new sidewalk and more shrubbery to make

it more inviting and beautiful place. Unfortunately, that contradicts the security concerns of the police. That is the reason why we are showing you a concept plan and conditions that would remove that foliage in the back. This is what it looks like currently. We saw this green buffer as an asset, hoping to buffer it from the community.

We did a Traffic Impact Analysis (TIA) and we found that the levels would not be increased significantly compared with those under a no build conditions. We have talked about aligning the driveway on East Gay Street with the Roses shopping center. We have made the North Mason Street driveway narrower, so it moves that as far south as it can be way from the intersection for safety purposes. The City traffic engineer did find the TIA with those mitigations to be acceptable. There is a little bit of concern about traffic. I would like to point out that delivery trucks, such as this 50-foot delivery truck, already do visit the 7-Eleven to bring goods, visit the post office, Goodwill, AutoZone another retail in the area. You would not have an influx of trucks that you are not already experiencing in the area. The Roses shopping center is a transit hub for all the city bus routes, so there are a lot of buses in that area. 7-Eleven stores do pull their fuel customers from existing traffic and from nearby area. I am happy to take any further questions about the SUP request.

Panayotis Giannakaouros, resident of Harrisonburg, came forward to speak in opposition to the request. If the SUP is permitted under the rezoning, then on a case by case basis I would offer you testimony that this would be one place where it should not be done. There are a number of reasons. First of all, I would like to say that I am dismayed to hear the input from Harrisonburg Police Department. That way of thinking has affected much of our City. It has decimated many of our public places, most saliently in that neighborhood in Liberty Park, if you want to have look at what that has done. The theory that they must be working under I do not know. I would like to talk to whoever they came at HPD.

I will give you a little history of this parcel. In 2013, we renamed a street for Martin Luther King. Subsequent to that, the community that had been mobilized came forward with substantive requests. The substantive request that was brought forward, in a mass movement that was the most significant event of that year according to the Daily News Record, was to stop punishing our nephews who have served their time. That was a part of mobilization around the City, a little piece of which involved the green space behind the 7-Eleven lot. I think that it has come forward, and I want to emphasize that I do not think 7-Eleven is the opposition here. They were very helpful in cooperating with the community to turn that green space into an amenity that everybody could use. As we worked on that site, the hundreds of people who went by to go to convenience store stopped and took an interest and took an active part in maintaining and envisioning that green space. As we worked with it, we found that indeed it was the last undeveloped, unpaved spot after the tearing down that happened during R-4 redevelopment. On that site, you can see the outline of the continuation of old Mason Street. Above that, on the steeper hill were the sites of three houses whose foundations you can still see. I believe we can also see some of the plantings that were present around those houses. That area, after it had been cleared, remained a center for community activity. There were carnivals. There were other activities. It was a natural place for gathering. We have heard testimony now that it remains enfeebled as it is, a place for gathering. I

the think the fact that locals hang out is not a dis-amenity. I would speak against moving in this direction as HPD has pushed us. I do sympathize with 7-Eleven. After we stopped being able to have that project there, and part of the reason we were not able to continue that project, was because we felt like we were doing something transgressive at the time. We felt like the City is going to say something. "You can't do this. This does not abide by the norms of having a cut lawn. We cannot get away with this." Everybody who took part loved it, but people felt responsible. A number of things converged, and that made us back off. After that ceased, I saw that 7-Eleven went back to a reasonable maintenance routine where they prevented succession, but they allowed customarily the thing to grow up and it was an amenity. There is plenty of research that shows that such greenspace has psychological and health positive effects and negative effects on crime.

A few months ago, I noticed that crews had come in and cut down that space. I stopped one of them to ask what is going on. They said that the City finally got to 7-Eleven and is pressuring them. I do not know if that is true. I could not get any 7-Eleven folks to confirm that. So far, I am starting to see the City and how we think about our public spaces and our police department being the actors here driving how 7-Eleven is pressured to develop that lot. I think we should not go in that direction. When we were having that 7-Eleven project, I testified repeatedly that it a part of a contribution to a rapid decline, a precipitous decline, in our crime rate. I speculated many times as to why there might be a correlation. The thing that I kept coming up with was that there was a greater sense of agency within the community. Only recently, I found that there was another person, as broken windows policing and so on is becoming increasingly discredited, who agreed with me, who has also seen that agency did contribute to drops in crime. He had some statistics. This author says, "It is a strange thing how demonstrations tend to solve problems." Keep in mind that we had mass movements for those two years, that we could call demonstrations. Some were. It is little known that crime rates go down in almost community where you have demonstrations. In Montgomery, Alabama, when we had a bus boycott, the crime rate in the African American community went down 65% for a whole year. That is a little bit like what we saw in Harrisonburg. Any time we have had demonstrations in the community, people have found a way that they have had a channel to express their longings and a way to fight non-violently to get at the power structure to know that you are doing something, so that you do not have to be thwarted. This is Martin Luther King in a speech that was published the day he died. I think that is the thing to guide our planning and our looking forward, and perhaps to support 7-Eleven in doing something alternative to make that not be a food desert anymore, to bring that green space forward, to bring the history forward, rather than forcing them to turn to the profit motive and put in toxic gasoline pumps. They are not a problem because they smell bad. They are a problem because they are toxic fumes.

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

Commissioner Finks moved to recommend denial of the SUP.

Commissioner Ford-Byrd seconded the motion.

Commissioner Finks said that denying this request is a matter of function. If we were to approve this SUP, it would be in conflict with the previous item.

Chair Colman said that there was a picture from across the street, the Colonnade, which is a mixed-use building. It is not too far from the downtown district. I hope that all that area will become a mixed-use area. That is the land use that we consider when updating the Comprehensive Plan.

All members voted in favor of recommending denial of the request (6-0). The recommendation will move forward to City Council on March 24, 2020.

**This PH-Special Use Permit was recommended to full council.to the City Council due back on 3/24/2020**

- 4.c.** Consider a request from Virginia Mennonite Retirement Community, Inc. for a special use permit to allow multiple family dwellings at Park Road, Spruce Court, Pine Court, Hawthorne Court, and Shank Drive

Chair Colman recused himself from this agenda item due to a conflict of interest and left the room.

Vice Chair Finnegan read the request and asked staff to review.

Ms. Dang said that the Comprehensive Plan designates this site as Institutional. These areas are planned for development by certain institutional uses, like private colleges and universities, hospitals, and retirement communities that operate on large land areas and may function in a campus-like environment.

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

Site: Duplexes and multi-family apartment buildings associated with Virginia Mennonite Retirement Community, Inc., zoned R-3/I-1

North: Duplexes and multi-family apartment buildings, zoned R-3

East: Single-family detached dwelling, and across Virginia avenue, a house of worship, zoned R-3

South: Multi-family apartment buildings and facilities associated with Virginia Mennonite Retirement Community, Inc., zoned R-3/I-1

West: Across Park Road, Park View Mennonite Church and duplexes associated with Virginia Mennonite Retirement Community, Inc., zoned R-2

The area generally referred to as VMRC is a +/- 46.2-acre property comprised of three subsidiaries; Park Village, Inc., Heritage Haven Inc., and Virginia Mennonite Home, Inc. An institutional overlay master plan for the original +/- 45-acre tract of VMRC was approved in March 1997. This master plan described all uses within the campus, but primarily focused on the Virginia Mennonite Home subsidiary and the construction of the five-story Park Gable retirement

housing and fitness center. VMRC took advantage of reduced setbacks and greater height for the Park Gable building, as well as relief in parking requirements for the campus. In June 2004, an addition was made to the 1997 master plan when 1.2 +/- acres along Park Road was added to the Park Village, Inc. section of VMRC. In July 2009, the master plan was amended to add a child daycare center as one of the allowable uses for the Woodland Facility, located on a +/- 3.5-acre portion of the Virginia Mennonite Home, Inc. portion of VMRC. The child daycare center never moved into the Woodland Facility and in December of 2009 VMRC again amended the master plan to demolish the Woodland Facility and surrounding cottages in order to construct the Green House Homes, which provides skilled nursing care for up to ten occupants in each building. The homes were to be constructed along a loop road within the Woodland area and relief from the required parking was approved as part of the master plan amendment. In July 2011, VMRC once again amended the Woodland area to allow for a reduction in setback requirements for the Green House Homes after right-of-way was dedicated along Parkwood Road and Virginia Avenue for the public streets.

Then finally, in June 2017, VMRC amended the portion of the master plan associated with the Park Village area of the campus. This amendment incorporated a new area into the R-3 and I-1 zoning classifications and allowed for reduced setbacks and relief in parking requirements for this portion of the campus. At that time, the master plan narrative described that changes to the Park Village neighborhood would be made over many years, as tenant turnover takes place. VMRC desires to tailor renovation and redevelopment to emerging market conditions; therefore, a master plan detailing the future design for the neighborhood has not been developed. Instead, the 2017 master plan amendment provides a framework for the orderly design of the future development.

The applicant, Virginia Mennonite Retirement Community, Inc. (VMRC), is requesting a special use permit (SUP) to allow for multi-family buildings of up to twelve units. The applicant's letter describes that the SUP is requested to replace three existing multi-family/quad-plex townhouse-style buildings located along Park Road, between Village Drive and Shank Drive, with three new similarly styled buildings with a larger footprint.

The exhibit included with the application illustrates three buildings, each with four dwelling units facing Park Road. As part of the requirements for obtaining a SUP to build multi-family units in the R-3 district, an applicant must substantiate that they have met several conditions to justify the development. Those conditions outlined in the Zoning Ordinance (ZO) consist of the following:

1. existing multiple-family development, or land planned for multiple-family development according to the Land Use Guide, is located adjacent to, across the street from or in close proximity to the proposed development;
2. the applicant has demonstrated that adequate vehicular, transit, pedestrian and bicycle facilities currently serve the site, are planned to serve the site according to a city or state plan, will be provided by the applicant at time of development, or are not needed because of the circumstances of the proposal;
3. 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;

4. the applicant has shown that the site is environmentally suitable for multiple-family development.

The applicant has addressed each condition within their attached letter. Park Village is an existing multi-family dwelling neighborhood within the VMRC Master Plan and staff believes they meet the criteria of each of the listed conditions.

Staff understands VMRC's desire to tailor renovation and redevelopment to emerging market conditions and that VMRC is not able to plan for redevelopment of the entire Park Village neighborhood. As staff has only vetted a proposal for 12 multi-family dwelling units in the general vicinity illustrated in the attached exhibit, staff recommends the following condition for the requested SUP:

The special use permit allows up to 12 multi-family dwelling units in the general location shown in the exhibit submitted by the applicant.

This restricts VMRC to having only up to 12 multi-family dwelling units in the general location shown in the exhibit. There is no restriction or requirement on the number of buildings allowed within this general location. The applicant understands that in the future, if more than 12 multi-family dwelling units are desired in this general location or if there is future development or redevelopment of multi-family buildings on other portions of VMRC's campus, the applicant will be required to go through the SUP process again.

Within their letter, the applicant has requested that the City allow them five years from SUP approval to obtain any necessary land disturbing permit or building permits for the multi-family buildings. Section 10-3-130 (c) of the ZO states that "[w]henver a special use permit is approved by the city council, the special use authorized shall be established, or any construction authorized shall be commenced and diligently pursued, within such time as the city council may have specified, or, if no such time has been specified, then within twelve (12) months from the approval date of such permit." Staff is comfortable recommending an extension from 12 months to five years with the following condition:

The special use shall be established, or any construction authorized shall be commenced and diligently pursued within five years from the approval date of the special use permit.

If the SUP is approved with this condition, the property owner should plan their submission schedules accordingly for engineered comprehensive site plan review and/or building permit review to ensure that the special use is established or the construction of at least one multi-family building is commenced and diligently pursued within five years.

During the engineered comprehensive site plan review, issues such as parking requirements, parking lot landscaping, setbacks, stormwater, and street entrances, will be reviewed.

Staff recommends approving the SUP request with the following conditions:

- The special use permit allows up to 12 multi-family dwelling units in the general location shown in the exhibit submitted by the applicant.

The special use shall be established, or any construction authorized shall be commenced and diligently pursued within five years from the approval date of the special use permit.

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

Commissioner Finks asked if there was any discussion among staff of the possibility that this five-year condition would set a precedent.

Ms. Dang said that she is aware of one other instance where this has been done. I am not concerned about precedent. Most people have been comfortable with the 12 months, as they usually have a development project in mind that they are willing to start with the SUP.

Mr. Fletcher asked for clarification of the question.

Commissioner Finks asked if there has been any discussion among staff about concern that allowing this sets some sort of precedent. I know it is covered, that there is an allowance for City Council to change the time, but since we have not done it that often, I wondered if there was some sort of discussion over the concern of a precedent.

Mr. Fletcher said that Ms. Dang's response is appropriate. If we would have had concern, we would have stated it in our report.

Ms. Dang said that she had a statement from Commissioner Whitten, who was unable to attend the meeting. She says that she supports the request, but she is not sure that five years seems reasonable. "I do not want to open the door for others to apply in this way. I understand the latitude in working with applicants, but I feel that two years should be adequate." Staff does not have concerns about extending it to five years.

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

Scott Kleist, Vice President of Technology and Facilities at VMRC, 5101 Virginia Avenue, came forward to speak to his request. In response to concerns regarding the five-year request, I would like a clarification. Is it five years to complete three buildings or to start?

Ms. Dang said that it would be to start.

Mr. Kleist said that the intent is that we start as soon as we get the site plans and building permits approved. I am sure that will be within five years. Hopefully, it will be six months. Are there any questions?

Panayotis Giannakaouros, resident of Harrisonburg, came forward to speak to the request. Having participated in a number of the discussions that went on around short-term rentals, I am familiar with the discussion about time limitations on SUPs. I would urge you, if you can, to remove the time condition on this SUP permit because, as I have observed, it opens the door to saying “it is okay for you to do this because you are special.” I think that is something we should absolutely avoid. That was well discussed and well deliberated at previous times. I would call that back to your memory. If it is okay for this developer to do it, I think it should be okay to do it. I suggest removing that condition, if you can, because it is a bigger precedent that you have deliberated.

Vice Chair Finnegan 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 addressed the concerns regarding setting a precedent. From Ms. Dang’s presentation, there is already the ability for City Council to allow more time, as it stands today. While I do hold concerns, there is already the mechanism, the ability for that to be done. Whether it sets a precedent or not, it is something that would be allowable regardless.

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

Commissioner Orndoff seconded the motion.

All members voted in favor of recommending approval of the request (5-0), with conditions, as presented. The recommendation will move forward to City Council on March 10, 2020.

**This PH-Special Use Permit was recommended to full council.to the City Council due back on 3/10/2020**

## **5. Unfinished Business**

- 5.a.** Consider a request from Harrisonburg Cohousing, LLC to rezone 650 Keezletown Road from R-1, Single Family Residential District to R-7, Medium Density Mixed Residential Planned Community District.

Chair Colman recused himself from this agenda item due to a conflict of interest and left the room.

Vice Chair Finnegan read the request and asked staff to review.

Ms. Dang said that the Comprehensive Plan designates this site as Low Density Mixed Residential. These areas have been developed or are planned for residential development containing a mix of large and small-lot single-family detached dwellings, where commercial and service uses might be finely mixed within residential uses or located nearby along collector and arterial streets. Duplexes may be appropriate in certain circumstances. Mixed use buildings containing residential and non-residential uses might be appropriate with residential dwelling units

limited to one or two dwelling units per building. Attractive green and open spaces are important for these areas and should be incorporated. Open space development (also known as cluster development) is encouraged, which provides for grouping of residential properties on a development site to use the extra land for open space or recreation. The intent is to have innovative residential building types and allow creative subdivision designs that promote neighborhood cohesiveness, walkability, connected street grids, community green spaces, and the protection of environmental resources or sensitive areas (i.e. trees and floodplains). Residential building types such as zero lot-line development should be considered as well as other new single-family residential forms. The gross density of development in these areas should be around 7 dwelling units per acre and commercial uses would be expected to have an intensity equivalent to a Floor Area Ratio of at least 0.4, although the City does not measure commercial intensity in that way.

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

- Site: A single-family detached dwelling, zoned R-1
- North: A single-family detached dwelling on property, zoned M-1 and R-1
- East: A single-family detached dwelling, zoned R-1
- South: Across Keezletown Road, single-family detached dwellings, zoned R-1
- West: Single-family detached dwellings and commercial uses, zoned R-1, R-3C, and M-1

The applicant is requesting to rezone one +/-5.5-acre parcel from R-1, Single Family Residential District to R-7, Medium Density Mixed Residential Planned Community District. The property is located along the northern side of Keezletown Road, its western boundary approximately 525-feet from Keezletown Road’s intersection with Country Club Road. The applicant proposes 28 dwelling units including eight multi-family (apartment) units, 15 townhouse units, two duplex structures (four units), and one single-family detached dwelling. The maximum allowed density proposed by the applicant would be six units per acre. The proposed R-7 master planned community is planned to be called “Juniper Hill Commons.”

The narrative for Juniper Hill Commons states:

“The design of Juniper Hill Commons is based on the concept of cohousing, which originated in Denmark in the 1960s. Cohousing homes are privately owned by the residents as in a typical [homeowners association] or Condo Association, with a club house (common house) and walkable design to foster community. With the first cohousing community built in the United States in the early 1990s, the trend has since grown considerably in North America with over 165 completed communities, as well as hundreds more in various stages of planning or development.”

The narrative further explains the vision and other details of the proposed project, and therefore such information does not need to be repeated in this report. The submission includes a

conceptual site layout that illustrates a conceptual arrangement and location of the types of residential units, parking and travelways, and a general landscaping plan. It should be understood that the site would not be bound to the conceptual site layout. However, parking lots and travelways, housing areas, and open space would be restricted to the locations depicted in the required master plan layout.

The R-7 district is intended to provide opportunities for the development of planned residential communities offering a mix of single-family detached units, single-family attached units, and in certain circumstances, multi-family units. R-7 communities are developed under an approved master plan that incorporates regulatory text for the communities. Aside from particular provisions of the Zoning Ordinance (ZO) that must be met, the approved master plan is the “zoning” by which the development must abide. The R-7 zoning district requires a minimum of two contiguous acres at the time of application, a minimum of 15 percent open/green space, and at least two types of residential housing types, where no one type can exceed 70 percent of all residential units. Maximum density is limited to 15 units per acre.

To date, the City has approved four R-7 master planned communities:

- Brookside Park located at Roberts Court, Drake Lane, and Suter Street, rezoned to R-7 in 2006, amended in 2007 and 2011;
- The Quarry located along Linda Lane and Smithland Road, rezoned to R-7 in 2007;
- Collicello North located along Collicello Street north of 5th Street, rezoned to R-7 in 2013; and
- The Village at Chicago Park located along Saturday Drive off of Chicago Avenue, rezoned to R-7 in 2014.

It should be understood that any needed Subdivision Ordinance variances or other subdivision related matters should be considered when making a recommendation for master planned projects as approving the plan of development could be perceived as also providing an endorsement for the subdivision matters during the platting phase. As shown in the conceptual site layout for Juniper Hill Commons, the arrangement of the proposed parcels within this development will, at minimum, require approval of a variance to Section 10-2-42 (c) of the Subdivision Ordinance during the platting phase to allow parcels to not have public street frontage.

As required, the applicant has submitted a master plan, titled “Master Plan Zoning Requirements for Juniper Hill Commons,” and an associated master plan layout, which together, if the request is approved, would be the “zoning” by which the development must abide. The R-7 district allows the applicant to propose their own area and dimensional regulations for the development except for maximum building height which the R-7 district regulations limit to a maximum of 40-feet and three stories for all buildings, except for multi-family dwellings, which may have a maximum height of 50-feet and four stories. Additionally, the R-7 district allows the applicant to propose alternative regulations to address off-street vehicle and bicycle parking and for provisions found in Article T. Modifications and Adjustments of the ZO.

As proposed, Juniper Hill Commons would meet or exceed all the minimum required provisions to construct an R-7 development. The development site is +/- 5.5-acres and Section C (a) of the master plan sets the maximum density to six dwelling units per acre (40 percent of the maximum density allowed in the R-7 district). Furthermore, Section C (c) restricts the location of each housing type to the locations depicted on the master plan layout.

Section F (3) of the master plan references the +/- 2.79-acre area on the north side of the stream and illustrated on the master plan layout as being reserved for open space, parks, trails, and other green space amenities such as, but not limited to, accessory buildings that are non-conditioned and that are no more than 20-feet in height. As noted above, R-7 developments must have at least 15 percent of the site reserved as open space or for parks-Juniper Hill Commons would supply about 50 percent.

Section A of the master plan describes the uses permitted by right within the development. The applicant plans to include single-family detached, single-family attached (duplexes and townhomes), and multi-family dwellings. The applicant has reduced the number of townhouse dwellings allowed to be attached from eight units as allowed by the R-7 district to six attached dwelling units. In consideration of limiting the size of multi-family (apartment) buildings on the site, the applicant has also reduced the number of multi-family dwellings allowed per building from 16 as allowed in the R-7 district to six. The R-7 district limits occupancy to a single family or not more than two persons.

Section B of the master plan allows uses permitted by special use permit in the associated district regulations of the ZO if approved by City Council.

Section C of the master plan describes the area, density, and dimensional regulations for Juniper Hill Commons. While Section 10-3-57.5 of the ZO prescribes minimum requirements for such developments, the R-7 district allows lot area, lot width, lot depth, yards for all uses to be set by the approved master plan. Furthermore, the provisions of Article T. Modifications and Adjustments of the ZO can also be adjusted through approval of the master plan, which Section E addresses.

The conceptual site layout and narrative describes eight multi-family (apartment) units, 15 townhouse units, two duplex structures (four units), and one single-family detached dwelling, for a total of 28 dwelling units. On the +/- 5.5-acre site, this equals a density of approximately 5.1 dwelling units per acre. With the proposed maximum gross density described in Section C (a) of 6 dwelling units per acre, the master plan would allow up to 33 dwelling units on the site, which would be restricted to the locations as depicted in the master plan layout. It should be understood that the exact number of the allowed dwelling unit types may vary so long as the density of the development does not exceed six dwelling units per acre, no one housing type exceeds 70 percent of all residential units, and that multi-family units do not exceed 30 percent of all the residential units in the community as regulated by the R-7 district.

Per Section C of the master plan, all buildings, including community buildings and accessory structures, would have five feet building setbacks from all property lines, except along Keezletown Road and along the side and rear exterior property lines of the development. The minimum setback for principal buildings along the Keezletown Road public street right-of-way would be 15-feet in consideration of required front yard setbacks for existing and future developments on Keezletown Road. Except for the R-6 and R-7 districts' master planned communities, where the applicant can propose their own setback regulations, and the B-1 district where there is zero setback requirements, all other residential zoning districts require a minimum front yard setback of 10 to 30 feet. The minimum setback for principal buildings along side and rear exterior property lines of the development is proposed to be 7-feet for one- and two-story buildings and 10-feet for three story buildings (similar to the new R-8 district). This addresses staff's concerns about radiant heat and fire spread between buildings on this property and on adjacent properties, along with the angle for ladder placement for fire and rescue personnel between these buildings. Remember that in most zoning districts, buildings are separated from each other by 20 feet because there is a 10-foot side yard setback required for both buildings. Additionally, in order to allow the five foot minimum setback for interior property lines of the development, staff and the applicant worked together to develop regulations in Section F (1) of the master plan that prohibits structures and obstacles (exclusive of HVAC equipment) between buildings that are 20-feet or less apart. Also, within Section C, the applicant has reduced the maximum building height allowance for multi-family dwellings from 50-feet and four stories allowed by the R-7 district to 40-feet and three stories.

Section D of the master plan governs off-street vehicle and bicycle parking requirements for the development. Section D differs from Article G, Off-Street Vehicle and Bicycle Parking of the ZO in a number of ways. Of note, the locations of parking lots and travelways are restricted to the designated areas depicted on the master plan layout; the development can have more compact parking spaces than what the Article G allows; the distance between parking spaces the Keezletown Road public right-of-way is increased; an opaque wall or fence of at least six feet in height is required when parking spaces are located within 20-feet of side and rear exterior property lines; the number of tree plantings required in the landscape border adjacent to public street right-of-way is increased; and the master plan has modified requirements for landscaping islands. A more detailed summary of the differences between Section D of the master plan and Article G of the ZO is provided in an attachment.

Section E of the master plan replaces Article T. Modifications and Adjustments of the ZO. Section E modifies, supplements, and qualifies regulations appearing elsewhere in the master plan. Of note, accessory buildings can be constructed anywhere on the property and are not limited to parcels that have been improved with a principal building or use; and accessory buildings in the open space area are limited to non-conditioned buildings, such as gazebos and sheds, that have a maximum height of 20-feet. A more detailed summary of the differences between Section E of the master plan and Article T of the ZO is provided in an attachment.

Section F of the master plan is titled Other Regulations. Sections F (1) and (3) have been described earlier in this report. Section F (2) requires a designated point of collection for dumpsters, trash cans, or other containers which will be picked up or emptied by private commercial refuse services. Additionally, Section F (2) requires that dumpster and refuse storage areas be screened and located within the area illustrated on the master plan layout. Section F (2) does not preclude individual households from having trash cans outside on their own properties. Section F (4) requires an eight-foot tall, opaque fence be installed and maintained along the property boundary with the adjacent parcel identified as TM 72-B-3, which currently has a single-family detached dwelling. This was included by the applicant after conversations with the owners of TM 72-B-3.

Section 10-3-57.2 of the ZO describes the purpose of the R-7 district and states that eight design objectives shall be achieved. The applicant has addressed these objectives in Section IV of the narrative.

The ZO allows multi-family developments in approved R-7 communities so long as certain conditions specified in Section 10-3-57.6 (d) of the ZO are met. Staff believes such conditions are met:

1. Adequate vehicular, transit, pedestrian and bicycle facilities currently serve or are planned to serve the site. During the engineered comprehensive site plan and construction phase, the applicant will be required to provide sidewalks along Keezletown Road and dedicate the necessary right-of-way for future City plans for bicycle facilities on Keezletown Road. At this time, there are no transit routes serving Keezletown Road, however, transit routes are within a reasonable walking distance from the subject site and future bicycle and pedestrian facilities are shown in the City's Bicycle and Pedestrian Plan and the Comprehensive Plan's Street Improvement Plan along Keezletown Road and Country Club Road;
2. Compatibility with adjacent existing and proposed single-family detached and attached residential development is achieved through the master plan's requirements for parking lot landscaping and fencing requirements, minimum setback requirements from the public street right-of-way of Keezletown Road, restriction of residential dwellings and the community building to specific areas depicted in the master plan layout, and reduction of the maximum height, maximum number of stories, and the maximum number of dwelling units within multi-family buildings. The master plan layout indicates that multi-family buildings would be located in the center of the development away from adjacent properties. Additionally, Section F (2) of the master plan requires that private refuse collection be provided at a designated point of collection, that said facilities shall be screened by fences or walls to hide them from view, and requires refuse collection areas be restricted to the dumpster area illustrated on the master plan layout.
3. The site is environmentally suitable for multi-family development. Section 10-3-57.6 (d) of

the ZO states “[t]here shall be adequate area within the site to accommodate buildings, roads, and parking areas with minimal impact to steep slopes and floodplains.” This condition is unusual as there is no established criteria of how it should be evaluated. The master plan layout and conceptual site layout show the location of the existing stream and the proposed buildings. There is no mapped floodplain on the site. The applicant also provided an exhibit illustrating where there are steep slopes on the site using contour intervals of two feet. Steep slopes are defined by the ZO as:

“*Steep slopes:* Natural slopes prior to land disturbance or construction that exceeded fifteen (15) percent (0.15). Such slopes are measured as the rise in elevation over the horizontal distances between contour lines on a topographic map with a contour interval of five (5) feet or less.

While there are steep slopes on the site that will be re-graded, staff believes the site has merit to be developed as presented. The majority of the steep slopes that are on the site are located to the north of the stream. The master plan layout and Section F (3) of the master plan requires that the area north of the stream would be used for open space, parks, trails, and other green space amenities such as, but not limited to, accessory buildings. As described in the narrative, it is explained that the intent is to maintain this area as open/green space for a playfield, orchards, and gardens.

With regard to the Comprehensive Plan, the subject property and properties to the north and to the east are designated as Low Density Mixed Residential and the properties to the west are designated as Mixed Use. Low Density Mixed Residential is described as for “residential development containing a mix of large and small-lot single-family detached dwellings, where commercial and service uses might be finely mixed within residential uses or located nearby along collector streets. Duplexes may be appropriate in certain circumstances. Mixed use buildings containing residential and non-residential uses might be appropriate with residential dwelling units limited to one or two dwelling units per building.” The Land Use Guide goes on to describe that the gross density of development in Low Density Mixed Residential areas should be around seven dwelling units per acre. The Mixed Use designation is “intended to combine residential and non-residential uses in neighborhoods,” and “are prime candidates for ‘live-work’ and traditional neighborhood developments (TND).” Additionally, the residential density in Mixed Use areas outside of downtown is recommended to be around 24 dwelling units per acre, and all types of residential units are permitted: single-family, single-family attached (duplexes and townhomes), and multi-family buildings. While the proposed Juniper Hill Commons development does not conform exactly with either Low Density Mixed Residential or Mixed Use, staff believes that the proposed development serves as a good transition between the more intense Mixed Use areas and the lower intensity and lower density Low Density Mixed Residential areas. A map of the Land Use Guide designations around this area is attached.

Although Juniper Hill Commons would allow townhomes and multi-family units, which is not planned in Low Density Mixed Residential areas, the gross density of the development fits the description of “around seven dwelling units per acre” for Low Density Mixed Residential areas. The narrative and conceptual site layout indicate a gross density of 5.1 dwelling units per acre and

the master plan limits the development to a gross density of six dwelling units per acre. Although the City does not calculate density in this way, if one only considers the acreage between the stream and Keezletown Road (approximately 2.75-acres), the gross density of the development as described in the narrative is about 10 dwelling units per acre (28 dwelling units divided by 2.7-acres) and as allowed by the master plan is about 12 dwelling units per acre (33 dwelling units divided by 2.7-acres).

Staff believes the proposed development provides a good transitional area between two different Land Use Guide designations, provides innovative residential building types, and provides a creative subdivision design. This development also helps in the furtherance of achieving Goal 5 of the Comprehensive Plan, which, among other things, is to promote the development of new neighborhoods that are quiet, safe, beautiful, walkable, enhance social interaction, and offer a balanced range of housing choices.

Staff recommends approving the rezoning request to R-7 as submitted.

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

Ervin Stutzman, 1315 Harmony Drive, came forward to speak in favor of the request. Thank you for the opportunity to say a few words on behalf of this project. My name is Ervin Stutzman. I am one of the members of Harrisonburg Cohousing, LLC, and I generally chair the meetings. My wife Bonita and I love the new home we built in Harmony Heights in 2000, but the compelling vision and values of this planned cohousing neighborhood drew us into becoming equity members early in 2018.

First of all, let me offer a word of thanks to the city staff for their careful, thoughtful work with our application. They helped us navigate the complexity of the R-7 zoning application process to assure that our vision aligns with the city's carefully laid out comprehensive guidelines. We are grateful.

Juniper Hill Commons is a carefully-planned neighborhood based on a vision for healthy social interaction and environmental sustainability. The community layout, specific amenities and house plans are designed to help meet those goals. We believe that persons of all ages can thrive in this environment—a walkable, safe community that encourages a healthy lifestyle and a healthy natural environment. It provides for privacy as well as meaningful social interaction, for personal property as well as shared common areas.

I also wish to acknowledge some of the concerns that have been expressed by neighbors near our property at 650 Keezletown Road. Because we want to be good neighbors, we arranged for several occasions to meet face-to-face with neighbors to discuss their specific concerns. In recent weeks, we have made a number of changes to our Master Plan in response to their concerns.

Further, I want to thank Peter Lazar of Sheeflee, LLC, for his work as a consultant and developer on our behalf. We are fortunate to have found an entrepreneur who understands cohousing from the inside out. He has lived in the cohousing community at Shadowlake Village in Blacksburg for 15 years and serves as President of the Cohousing Association of the United States. He is currently building a cohousing community called Emerson Commons in Crozet, Virginia.

Peter Lazar is here this evening, as well as Josh Yoder, a representative from Colman Engineering. Together, they have provided the conceptual layout for us. Either of them may best be able to respond to any technical questions related to our rezoning application. But first, Peter will say a few words about cohousing as a movement.

I believe the city staff have presented our case well, and we hope that you take action in keeping with their recommendation. Thank you again for considering our rezoning application, so that we can form a new kind of community in this city that we are proud to call home.

Peter Lazar, Sheeflee, LLC, came forward to speak to the request, supplemented by a PowerPoint presentation. What is cohousing? The co- in cohousing is not communism or cohabitation. It stands for community. That is the name that was given to the concept when it was brought to the United States from Denmark in the 1990s. In Denmark, it is very common. Fifteen percent of housing is cohousing style neighborhoods. It is a form of new urbanism where houses are clustered. It is pedestrian oriented with lots of green space. Amenities are much higher than you would normally see in a neighborhood of that type, with a clubhouse, playground, community gardens, and other features. It is arranged in a way to facilitate human interaction and people running into each other.

This is not only in the physical structure, but also the governance. It is a typical condo association or HOA legally, except that residents participate in it. They do not hire a management company to run things but manage it themselves.

The picture on the right is in my neighborhood. These deep porches are in the design presented for Juniper Hills Commons to facilitate outdoor interaction with true deep porches. On the left is a neighbor, Michael, who is representing the elders and a child sledding to show the multi-generational aspect of cohousing. Central to cohousing is putting people in front, not cars, so the design forces you to run into your neighbors. It is not a club where you join, rather you buy a house. The design is that there are points where you run into people. Rather than drive your car around and press that button and the garage door goes up, and you go in without ever meeting your neighbor, you have to walk to your house. That is where you run into people. You get your mail from a similar place. It is all by design. It moves parking to the exterior.

It balances community and privacy. Privacy is more than fifty percent of the equation. This is a picture of Emerson Commons in Crozet, near Charlottesville. Juniper Hills houses, duplexes and townhomes have their own private back yards and have their living rooms in the back, but they also have their public central places. It really is the kind of village that raises children. With the

century of the automobile, the internet and dual earning families it becomes harder and harder for the backdoor life that many of us have enjoyed. It still happens in places. The size of the neighborhood, typically between 24 and 36 homes, helps you get to know everybody. No cars, so it is a great place that kids can feel safe and parents can feel safe that the kids can run in packs with friendly people around.

Spontaneous socializing happens. That picture is in my neighborhood, a happy hour that happened. Affinity groups, that is me with some neighbors that like to mountain bike. Events and traditions happen. The clubhouse is a major amenity. It is called a Common House. There are potlucks, events, and common meals. You can also reserve it. It becomes an extension to one's own home. Your houses can be a little bit smaller because you do not need a guest room. You can reserve a guest room. When my in-laws visit, they stay in the Common House guest room.

Our mantra is "more fun, less stuff." You do not need as much. You can live in a smaller house. There are more shared aspects to life. That is what cohousing is.

There are other cities with cohousing. Boulder, Colorado has eleven within five miles. There are six around Raleigh-Durham. There are clusters around the country. It is a growing trend. I think that Harrisonburg is an ideal market for cohousing. College towns seem to be a classic location for these neighborhoods. This part of the vision and goals seems like it was written for cohousing, with *neighborhoods that are quiet, safe, beautiful, walkable, enhance social interaction, and offer a balanced range of housing choices.*

Sometimes, I see in new urbanist neighborhoods that rich people live in the big houses on the hill and there are the medium size houses and the apartments where you start out, sometimes you see an old folk's home, so all you need is the cemetery to complete the cycle of life, all separated. The people in a cohousing neighborhood, whether millionaires or on a fixed income, they all live together. When you are at a common meal, you do not know, you cannot tell. I think that is a very attractive housing model.

It is always difficult to make cohousing happen. It was big deal, in Blacksburg, to get through the Planning Commission. Ultimately, a few years later, Blacksburg awarded Shadowlake Village the town beautification award for its beautiful neighborhood.

This is what Emerson Commons looks like. This is what I am constructing now. Seventeen of the 26 houses are on the ground and it is already a thriving community. This will be the first all solar community in the State of Virginia. Sustainability is an important aspect of what we do. We are hoping that Juniper Hills Commons can be the second all solar community in the State of Virginia. All houses are oriented exactly south, which you can see by the roof lines on the site plan. This is a picture of raised beds. Food, whether it is growing food, cooking food or eating food in company, is part of the lifestyle.

Mr. Lazar then went through a number of pictures of different cohousing neighborhoods from

around the country.

Dathan Young, 29 Shenandoah Avenue, came forward in favor of the request. I have been a part of Harrisonburg Cohousing since it started. As someone who is from Harrisonburg, and has lived here for over a decade, this both revolutionary and traditional. I think that this more than just a development so that there is more housing in Harrisonburg. This is about expanding a vision for how we can live in Harrisonburg in another way. It is very exciting. I hope you think so, too, after we get past these technical aspects. It is from grassroots, here.

Carina Young, 29 Shenandoah Avenue, came forward in favor of the request. I have been working on this project for about seven years. I am so excited that I am going to be one of the people who live in it. I would like to move in before my children are grown. We looked at a lot of different properties before we decided on this one. I think it is a great idea. I think it would be wonderful if we could have more of these around the country and in our city.

Sue Freesen, 750 Keezletown Road, came forward to speak in favor of the request. I am a neighbor to this property. My husband and I recently purchased that property because of its closeness to 650 Keezletown Road. We have been part of the planning group with Harrisonburg Cohousing for five or six years. We had a farm in Staunton. We did business here in Harrisonburg. We have been part of the Harrisonburg Farmers Market for the last eighteen or so years, selling meat from our farm. We have been part of the Harrisonburg community from afar. Our history with cohousing goes back even further. We have had this vision as a couple and with our children. We have wanted to live in community. We have wanted to look for intentional community. Cohousing is a different name, but the same concept of intentionally choosing to live in connection with your neighbors. We are very excited to be a part of this. That is why we moved to where we moved, to be close enough to be able to participate easily in all that was transpiring with this activity. I encourage you to vote in our favor.

Barbara Colson, residing in Massanutten, came forward to speak in favor of the request. I tend to be an introvert. It is very easy for me to isolate myself. I know that, as I age, being able to live in a supportive environment, where you have balance, where you can stay in your own space and have access to a wonderful community and relationships is very important to me. I am very much involved as a bird watcher. In addition to living in community, is ensuring that the rest of that hill that we are talking about has habitat that is rich and diverse for bird life and other pollinators. That is also exceedingly important, not just to me, but to several other community members. I am excited. I have been involved since the beginning, as well. It should have happened several years ago, but it is going to happen.

**This PH-Rezoning was recommended for approval to the City Council due back on 3/10/2020**

Panayotis Giannakaouros, resident of Harrisonburg, came forward to speak in favor of the request. As I listen to this presentation, this should not be a rezoning. This should be how we look at our entire City by right. It is a vision that is suitable for making our City sustainable, for reaching the goals that we talk about. I would just add to the conditions that they have suggested, that their

green space should not be encumbered by the tall grass and weeds ordinance and their auxiliary structures should be allowed to be dwellings, as just a couple of potential improvements on the direction in which they are already going. I would be interested in knowing on what areas they had to compromise with the City and that they feel their vision was still superior. I think that can be a benefit to us, going forward. We heard, specifically, about how people interact and socialize. I personally cultivate my yard by hand, and that gives me the ability to interact with other people who are forced to resort to walking dogs to have personal interaction. This community builds that kind of humanity into their community. When we were talking about building a new jail, some time ago, the question came up, early in the formation of Judge Paul's committee, onto which I came as an advisory member, why did we have to build a new jail? What was the difference between us, and in my case, some communities that I knew in the United States that had global level incarceration rates? The thing that I presented at that time, was something that we heard in this testimony, that everybody mixes together, and you cannot tell who is who. That is how you reach safety on multiple levels. This is also an alternative to the way that we currently look at things in the City. In Ms. Dang's presentation, there was a juxtaposition of things that we do currently, that are a problem, and things that we do currently that are potentially positive directions. We had as a condition number eight presented "visually compatible with the residential character of the neighborhood." That residential character, R-1, is something that has been a burden on us at every turn. We need to get rid of that. Trying to legislate aesthetics that have no scientific basis, unlike some of the aesthetics that I talked about natural spaces that do have some foundation, is something that we should not be thinking about. This should be a guide, instead.

Something that we had talked about that makes some sense, condition number three, environmentally suitable, minimum impact on steep slopes and floodplains, those are the kinds of things that we should be thinking about. That is the direction in which this group is oriented.

I noticed in your packet that there were some objections that were voiced in terms of R-1 zoning. I think that those should not be considered because that logical basis is a faulty logical basis. It is a way that we use our public power to give private benefit to specific individuals that was motivated with segregation in mind. If that is the argument, that is not a valid foundation. I will also remind you, as a precedent, that some time ago, these discussions of views and these discussions of density and so on, and transitions, were discussed in a rezoning that was proposed by Giles Stone. That was approved. We have a precedent of this. One of the residences involved in that was looking at having a big wall put in front of their picture window. That is the extent that our City Council has been willing to say that they are not going to create property rights for you at the public expense versus somebody else's plot. This development is nothing like that, so you already have precedent that more than exceeds approving this development.

Vice Chair Finnegan called for a five-minute recess.

Vice Chair Finnegan reconvened the meeting and asked if there was anyone else wishing to speak in favor of the request.

Karen Robertson, Pleasant Valley Road, Rockingham County, came forward in support of the request. I am interested in moving into this community in the future. A couple of years ago, we toured Shadowlake in Blacksburg. What I keep remembering from that tour was that at least two people said to me, "I live in this community. I live alone. I am not lonely." That really has stuck with me.

Vice Chair Finnegan asked if there was anyone else wishing to speak in support of the request. Hearing none, he asked if there was anyone wishing to speak against the request.

Carmen Barron, 630 Keezletown Road, came forward in opposition to the request. My husband and I live next door to and on the west side of the parcel that the applicant seeks to rezone. We submitted a letter to the Planning Commission, in January, expressing our concerns with the rezoning request and proposed development. We appreciate the opportunity to discuss some of those concerns. I want to make clear that we have no issues, personally, with any of the individuals which are part of the Harrisonburg Cohousing group. We have had the opportunity to meet many of them over the last several months and they all seem to be very lovely people. Nor do we have any concerns whatsoever about the fact that the development, if approved, would be a cohousing community. Although it may not be the lifestyle everyone would choose, we appreciate their intention to develop a community where they may implement their cohousing ideals.

To be clear, our opposition to the rezoning request and the development is grounded entirely on the proposed development's inconsistency with both the City's long-term plan for the Keezletown Road area and the City Zoning Ordinance and the significant negative consequences on the neighboring community and adjacent properties that would flow from the design and density of the development. We understand that in addressing rezoning questions, Virginia law requires the City to consider, among other things, the compatibility with the long-term plan and assessment of the negative impacts rezoning would have on adjacent and nearby property owners relative to the benefit to the community at large. We do not believe that these factors were given adequate consideration in the staff report. We ask the Commission to consider these factors in making your decision. No one disputes that the rezoning request is in conflict with the City's Comprehensive Plan approved by City Council a little over a year ago. The City's long-term plan designates this site as a low-density mixed residential, a mix of large and small lot single-family detached dwellings. This is inconsistent with the proposed dense development of several multi-unit buildings including apartments and numerous parking lots on about two and a half acres. We are aware of no new circumstances that would justify a change to the City's long-term plans since its adoption in 2018. We ask the Commission to abide by that plan and deny the rezoning request.

The staff report notes that the new development would have a density of 5.1 dwelling units per acre, but this does not take into consideration that the units will be located on two and a half acres, meaning that the actual density would be about twelve dwelling units per acre, almost twice what the anticipated long-term plan is. Numerous parking lots, townhouses and apartments are incompatible with the long-term plan. The staff report suggests that the parcel might be a useful

transition area between intense mixed-used and density, lower density residential, but that ignores the fact that the parcel is bordered on both sides by R-1 residential. This would not be a transition area. It would be R-7 development smack in the middle of the neighborhood overwhelmingly zoned R-1. The staff report also fails to address the negative impact rezoning and the development would have on the existing nearby property owners. We appreciate that Harrisonburg Cohousing group has put a lot of thought and effort into the project, including engaging the chairman of this commission to design it. No matter how well designed, we believe that the proposed development with a large common house, numerous parking lots and apartment would be an eyesore when compared to the compatibility of an R-1 development of single-family detached homes with garages and driveways. If the property is rezoned to R-7, our property values, and those of our neighbors, will undoubtedly go down. We, and our neighbors, purchased our properties knowing that the area was zoned R-1 and expected it to arbitrarily change. The applicant also purchased the property knowing that it was already zoned R-1, therefore the applicant must show that the benefits to the community at-large outweigh the negative impacts on the nearby property owners. There has been no such showing.

With respect to the benefits to the community, this is not an affordable housing opportunity. For example, we have been told that a one-bedroom apartment could cost around \$220,000. Nor do we believe that there is a pressing need in this community for this type of residential development. It is our understanding that Harrisonburg Cohousing group has eight families signed up and that it needs additional members before construction can begin.

In recommending approval, the staff notes that the proposed development could meet goal five of the Comprehensive Plan which seeks new, beautiful safe neighborhoods. This is not a reason to rezone to R-7. The same goal can be achieved through R-1 development. In our view, it all boils down to this, the Commission is being asked to elevate the interests of the families in the cohousing group and any future families who may join over the interests of the nearby families and property owners who are opposed to the development. A vote to approve the rezoning request would be a vote to favor the rights of the applicant group over the rights of the existing neighborhood, neighboring landowners, coupled with the project's incompatibility with the City's long-term plan. We believe approval of this request would be the type of spot zoning prohibited by Virginia law.

We also believe the development would not comply with the R-7 Zoning Ordinance requirement that multi-family development be compatible with the existing single-family homes, such that adjacent views are not dominated by buildings or parking lots. The applicant proposes to build a parking lot within feet of our property line. Because our home sits higher than the applicant's property, we will look directly down onto a parking lot from the main floor of our home.

We are also concern about the heights of the proposed buildings. We have been promised that due to the grading that will be done, the roof to the common house will not be any higher than the roofs of the existing single-family homes. As that requirement is not in the proposed master plan, we have no legal assurance that this will be done.

For all of these reasons, we ask the Commission to deny the applicant's rezoning request. Before I take a seat, I would like to ask for a show of hands of others in the room who also oppose the request.

Vice Chair Finnegan said that there are thirteen in opposition.

Nancy Haas-Salomon, 833 Sandtrap Lane, came forward in opposition to the request. We have talked to some of the neighbors in the area, some that live in exactly my neighborhood and others. I am speaking on behalf of myself, mainly, but also some of the comments of many of the neighbors that are not in town and have had to do it by email. Our concerns are not with the cohousing itself. We do not have anything against that. It is a different way of living, but we do not have anything against the cohousing principles or way of living. Our concerns have more to do with traffic issues, emergency vehicles and flooding. The way things are today, without anything being built there, and we realize something is going to go on there, whether it is that or even if it is single-family homes on a more dense basis, Keezletown Road already has some serious traffic problems. I do not know why, but this is the fact. We have trucks, agricultural trucks that go at speeds that are over the speed limit, so it makes it dangerous to circulate in that area. We have had near and some accidents at the intersection of Keezletown Road and Country Club Road because there is no traffic light. I invite any of you to go to that intersection and be there. We did not used to have rush hour, when I first moved here in 1995, but now we do. It has become a major problem because people become impatient. The fact that Aldi's and McDonald's opened on Country Club Road a few years ago added traffic. That is creating a major problem.

We are also concerned about the flooding because we already have had some rainy seasons that have caused some problems where they had to close Country Club Road because the water coming from Keezletown Road gushed into the neighborhood. There is a creek on the property that will swell from all the water. Last year, there were little lakes that formed that the geese were using as if they were regular lakes because the water would not recede. Those are our main concerns.

R-7 says that the City would like to have walkways for people to walk more. I am one of them. I love to walk. Now I cannot walk on Keezletown Road. I fractured my foot and my doctor said to not walk there because you cannot control the traffic. There are no walkways that would lead from their proposal, or whatever is built there, to the restaurants and shops that are very near. They would be walkable if it was not for the traffic which has become a safety issue.

Another concern is that if anything is built there with only one entrance for emergency vehicles, it becomes a dangerous situation if emergency vehicle cannot go in and there is no other exit.

Ms. Haas-Salomon reiterated her concerns about flooding and walkability. She noted a letter submitted by Lisa Hawkins on behalf of another neighbor that addressed some of her concerns regarding walkability. Ms. Haas-Salomon thanked the Planning Commission for the hearing on

this matter.

Lisa Hawkins, attorney with Flora Pettit representing CH, LLC, owner of tax parcel 70-A-1. It adjoins this parcel to the rear and extends from there over to Country Club Road and all the way to the elementary and middle school site. It is a relatively large parcel. It is improved with several residences, one of which is in very close proximity to the rear property line of this proposed development. That all said, even though I am speaking in the anti-camp, there are a lot of things about this proposal that we support. We support the time and thought that went into the plan. We support the concept of a higher-density, clustered development of mixed uses, and mixed housing types. We think that is a good model for the City in the future, and something that it should look at doing more of. We appreciate a lot of the changes that were made by the applicant to address some of the concerns that were raised by neighbors and others, such as imposing height restrictions on the buildings and other things, to take into account some of what they heard.

One of the concerns expressed in the letter that is in your packet was about setback from Keezletown Road. In follow up conversations with staff, we learned that that had, in fact, been taken into account. We applaud the staff and the applicant for thinking ahead and planning for that in an appropriate way. That concern is no longer a concern on our part. It was included, but we did not know that because it was not shown on the plan, at that time.

We do remain concerned about stormwater drainage. There is a serious challenge there. I think that we also recognize that is not a problem for this developer to solve. It is not of their making. It is the City's issue and something that we hope the City will take leadership on in seeking to address. This applicant should not be charged with fixing something, but we do hope that the City is confident that its ordinances will provide that whatever development occurs on this site will not make an existing situation worse. That is what we would like and hope. Whatever occurs there will need to plan appropriately for stormwater management, so as to not exacerbate what is already an existing problem.

Finally, we appreciate the efforts of Juniper Hills Commons to engage and educate its neighbors and the larger community about what it is planning. What it is doing is planning. It is land use planning. It is essentially creating its own stand-alone zoning ordinance. Because of that, what that master plan does not say, matters just as much as what it does say. It is a stand-alone zoning for that property. Our concern is that so much attention has been focused on what is happening in the front development area that too little attention has been paid to what is happening in the open space area which adjoins my client's property.

Open space, under the City's ordinance, is

Land within a private development set aside, dedicated and designed to protect natural environmental resources, to serve as a visual amenity, and/or to provide recreational opportunities that is owned by a property owners association and is designed and intended for the common use or enjoyment of the residents of the

development. Such land shall be primarily naturally vegetated or landscaped, but may include limited paved areas, such as sidewalks, pedestrian plazas, trails, and recreational courts. Such land shall not include streets, street rights-of-way, driveways, parking areas, structures, above ground public utilities, including stormwater management facilities, or other improvements, except as may be approved for recreational or historic preservation purposes in a development plan or site plan.

That is open space under your Zoning Ordinance definition. The Master Plan narrative says

As shown on the Master Plan Layout, open space, parks, trails, and other green space amenities such as, but not limited to, accessory buildings, will be located north of the stream.

That is it.

On page 9 of the Master Plan it says

Only non-conditioned accessory buildings, such as gazebos and sheds, up to a maximum height of 20-feet, are permitted within the open space area...

What does accessory mean here? Accessory is defined in your ordinance as

As applied to use or structure, means customarily subordinate or incidental to, and on the premises of such use or structure. The words "on the premises of" mean on the same lot or on the contiguous lot in the same ownership.

In our case, we are talking about a structure, so it is an incidental or subordinate related structure to another structure or use on the property. We know what that means when we are talking about a house. You know what a shed is. You know what a gazebo it. You know what a detached garage is. We are not talking about a house. We are talking about a cohousing community of 33 dwelling units. What are we talking about? Is it a mammoth community picnic shelter? Is it a big warehouse full of tractors and maintenance supplies for the community garden? It is a greenhouse? Take sheds and multiply it by 33. Take a gazebo and multiply it by 33. That is our concern. At present, there is nothing in the rezoning master plan that addresses scale of any of those improvements, or coverage, or anything that would impose a limitation on the size of those structures, other than that they are an accessory. They are an accessory to a community use, which is pretty open, even if you limit it to recreation type structures. Sheds does not.

We would ask that the Planning Commission and staff work with the applicant, who are aware of our concern. Work with the applicant to create some additional language that addresses the types of accessory structures that would be permitted in the open space area, the scale of those structures and the location of those structures. Right now, there would be a five-foot setback from

property lines. That is a very large area. There is no reason that those types of structures need to be within five feet of a property line. There is plenty of room. Pull it back thirty feet. There is a residence that is located one hundred or two hundred feet from the rear property line. There are woods there, but there is a house not that far away. You can imagine a very large structure five feet from that property line could be pretty intrusive. We are asking for some support, in the planning process, to address that specific concern. Building on something that Ms. Dang said in her presentation, that is where most of the steep slopes are. Limiting the scale of those would also support your Comprehensive Plan and ordinance goals and requirements that ensure that the development have minimal impact on steep slopes. That is where the steep slopes are on this site, in that open space area. It would very supportive of that goal. I think that if you do not impose those restrictions, this plan could, potentially, not be in compliance with that objective and guideline.

We would also ask for some controls on vehicular traffic within the open space, by limiting that traffic to sporadic tractors and trucks related to open space and recreational uses of that property and related construction. The applicant has said that is all that is intended and has now added a limit on paved roads in the open space, but nothing in the Master Plan makes it clear that is the intent.

In addition, we have asked Juniper Hill Commons and now ask the Planning Commission to support our request for a fence or other physical barrier along the rear and a portion of the side property lines of the open space to both delineate the property line and to protect against the liability risk of residents or children crossing onto the adjoining property, which affords a direct path to the elementary and middle school complex as well as Country Club Road from the project site. Knowing it is unsafe to walk down Keezletown Road to Country Club Road and the emphasis in the Master Plan on walkability of the site, we are concerned about the very real liability risks to a property owner that exist even when a trespasser is hurt, and the legal and practical risks are even greater when children are involved.

We very much appreciate the time and effort that has gone into the Master Plan, but there is more work to be done to ensure that the interests of the City and the neighbors are adequately taken into account. Thank you for your time and attention.

Vice Chair Finnegan 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 asked if the applicant representative had a response to the last concerns regarding the potential for a wall on the back side of the property and the concerns about the accessory buildings.

Mr. Stutzman, board member for Juniper Hill, said that they did meet with Ms. Hawkins to discuss these issues. We think these are reasonable requests. We said that we need to take this up with our membership. What I heard her say about the back, though, was not a wall, but simply

a dividing fence. Just some designated place that says "Stop here." That is the way that we understood it. In terms of roads, we have no intention to build roads. The only vehicles would be what she described, sporadic. There may be a pick-up truck to take mulch up to put on a path or a vehicle to take people up to a pavilion if we have a picnic up there. We do not intend to build 30 sheds. We do not intend to build 30 pavilions. This would be completely out of character with our community. We have shared things. We already believe that we are mostly in conformity and we would be happy to have further conversation. We do not see a necessity to put it in the master plan.

Vice Chair Finnegan asked staff if they have any comment regarding the spot zoning concern.

Ms. Dang said that she is not concerned. As we described in the staff report and the presentation, this provides that transitional area between the two land use designations. We feel that it is supported by the Comprehensive Plan, even though it does not match exactly.

Commissioner Finks said that the adjoining property is labeled as mixed-use in the Land Use Guide.

Ms. Dang said that the majority of the properties surrounding this area are zoned R-1. That is the existing zoning designation. Our Land Use Guide calls for Low Density Mixed Residential. The R-1 density is four dwelling units per acre. In order to achieve around seven dwelling units per acre called for Low Density Mixed Residential, we may be looking at other rezonings of other properties to develop, if they were to be in conformance with the Comprehensive Plan. They can develop as R-1, or they could also rezone for that increase in density.

Vice Chair Finnegan said that they have heard several concerns regarding traffic and flooding. Any questions for staff about traffic or flooding?

Ms. Dang said that regarding the flooding concerns, this development will be required to meet the state and local stormwater management regulations for managing the stormwater coming off of their development. I would encourage residents to continue talking with the Department of Public Works. They maintain the stormwater improvement plan and drainage program that people could apply for and could to help evaluate priorities of stormwater issues that are across the City. These being the existing drainage problems that exist throughout the City. In terms of the comment made regarding emergency access into the development being served only by the one entrance, we have reviewed this multiple times with staff from multiple departments. I did not think that it was a concern because it had not been brought up, but I did make a point to speak with the Fire Chief to ask him if he was concerned that there is only one entrance. His short answer was that the code does not require a specific number of entrances into a development based on layout, but it does give him the ability to require an additional entrance when he feels that it is necessary. It is a subjective decision. He said that he would take into consideration the type of development, how many people are there, etc. This is not a traditional apartment complex. He did not see that there was a lot of traffic into the development. His opinion was that the one entrance would be sufficient

for emergency access.

The other concern was about traffic related to Country Club Road and Keezletown Road. I have heard from a number of residents regarding the wait time at that intersection, and that there should be a traffic light. I know that there has been consideration by the Public Works Department for a traffic light. They monitor it. A traffic light is warranted based on particular standards that they use to review based on delays and number of accidents and other criteria. When the intersection meets the warrants, they would recommend funding or installing a traffic light at that location. Additionally, there are plans for future improvements to Keezletown Road, adding new bike and pedestrian facilities. That is something in the City's Street Improvement Plan. This development is only responsible for those improvements that are within their frontage. They are not responsible for connecting all the way to Country Club Road, although I would agree that additional walking and pedestrian facilities is something that is needed in many places throughout the City.

Commissioner Finks said I had an email from a citizen that had a concern about the fact that it was a blind, unbanked curve when coming out of the development, looking east, over the hill, towards the County. I know that a TIA was not necessary in this regard, but was there any discussion about the placement of the main road entrance out of this and its correlation to the curve on the road?

Ms. Dang said you are asking, with the location of the entrance, regarding the ability of people leaving the development and their ability to see traffic in every way? Yes, there was quite a bit of discussion about the location of the entrance. Where the entrance is proposed to go, the development will have to work with the adjacent property owner to the east for some sightline easements to clear brush and possibly cut down some of the embankment so that they can have better sightlines so that they can get out. That will be addressed during the engineered comprehensive site plan phase, when they design the site.

Vice Chair Finnegan said that when we went on the site visit, we talked about the bus stop. The school bus would not be pulling in and out of that development, as it is currently planned. It would stop on Keezletown Road.

Ms. Dang said that she spoke with the School Bus Superintendent. He reminded me that the school bus practice is to stop on the public street and not enter into a private development. When this property is to be developed, they would determine the safest spot, within proximity of that development or in front of the development to stop the school bus to pick up the children.

Commissioner Romero said that they could take a look at existing bus stops and see how closely they may align with that. I have to admit that this is a new concept to me. I will be doing a lot of research and meeting and reaching out to people. That is what I like to do, so that I have a better idea as I make decisions. Every time we look at a property within the City, we cannot forget that we have a big issue with lack of housing, especially affordable housing. To what extent would this project be able to support any sort of housing that would be affordable to a lot of our population.

There are apartments and duplexes. Would this be in the market for any of those people, at all? Would there a possibility to have several units available for this sort of a thing?

Mr. Fletcher said that you would have to ask the applicant what their plans are for marketing.

Vice Chair Finnegan said that his understanding is that it would not fall under the category of affordable housing, as we think of it, as below Fair Market Rents (FMR).

Commissioner Finks said that we also have to keep in mind that as new housing comes into the City, that is going to open up possible affordable housing in other places in the City where people are still living in starter homes. You could be opening affordable housing just by extension of creating more housing in the City.

Vice Chair Finnegan said that in contrast with other subdivisions where all the houses are roughly in the same range, this has a range of housing. I think that it was in the presentation. I am not sure what the range is.

Commissioner Romero asked if the Commission could ask the applicant what the range will look like.

Nancy Gunden, 1567 Hillcrest Drive, said that she is a member of Harrisonburg Cohousing. The range goes from the lower \$200,000 to the mid-\$300,000 range.

Vice Chair Finnegan asked if there are any other concerns from the Commissioners that have not been addressed or need to be addressed, such as the need for fencing. I will say that I would not feel comfortable walking to TJ Maxx from this location. Crossing Country Club Road is difficult. I do not even feel safe pulling out of that intersection, sometimes. As new developments happen, as we approve new developments, sidewalks are added. We are incrementally making these places more walkable and bikeable.

Commissioner Finks had another question for the applicant. During the second presentation there was discussion of the clubhouse being able to be used for a variety of events. Can the clubhouse be reserved or rented by people outside of the cohousing community? Or can it only be used and reserved by people in the cohousing community?

Peter Lazar said, no, it would require a community resident for reserving it. It is thought of as an extension of one's home. It is not a public space. If you had a club, and you are a resident, you could invite people over like you could to your own home. That is how it is typically treated and will be here.

Vice Chair Finnegan reminded those in attendance that the public comment section is closed, however he invited the community member to speak.

Nancy Haas-Salomon came forward. I went into the website of Shadowlake Village because they

had cited as an example of an existing cohousing project. It says there that the clubhouse, as they call it the common house, is open to public rental. It also says that they cannot rent the whole unit, but they can rent rooms. For example, if there is a two-bedroom unit, they can rent one room. There is one for sale and one for rent.

Vice Chair Finnegan said that it sounds like it may be up to the individual community. There is nothing restricting that use in this.

Ervin Stutzman came forward. The question is about how these things are regulated. They are regulated by community, usually consensus. A community can make a decision to do things differently than other cohousing communities. Mr. Lazar was speaking about how it was in the one he lived in and how many do it around the country. On most of these kinds of things, whether a pet policy, or any kind of policy for rentals, it would be determined by the governance of the specific community, not under some other association or group.

Vice Chair Finnegan asked if there is anything restricting the use of the clubhouse from the City.

Ms. Dang said that she would consider it as they do short-term rentals. Even with the amendments we are proposing, which we will discuss later this evening, if short-term rentals or homestays became a by-right ability, someone had to be living there as a primary residence. If it does not have someone living there permanently, they could not use that as a by-right. In our existing short-term rental regulations, they would have to get a SUP to rent it out to others.

Mr. Fletcher said that it would be just like with other residences. It does not permit transient housing dwelling spaces.

Commissioner Ford-Byrd said that there seems to be some more discussion to be had on this topic. From what I am hearing, there are general concerns, but I think that with continuing to meet and talk about it, there is some common ground that could be reached. I would hope that that would happen between tonight and the City Council meeting.

Commissioner Ford-Byrd moved to recommend approval of the request.

Commissioner Finks seconded the motion.

All members voted in favor of recommending approval of the request (5-0). The recommendation will move forward to City Council on March 10, 2020.

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

## **6. Public Comment**

Chair Colman opened the public comment portion of the meeting and invited the public to speak.

Panayotis Giannakaouros came forward for to speak to the Commission. I would like to welcome a newly configured Planning Commission. Mr. Jim Orndoff is a new appointee. We have had some changes in our composition. Welcome as a new body. You are also taking your seat at a very interesting time in planning and zoning nationally and at the level of the Commonwealth of Virginia. I am sure you know, and I hope that the public will look into this, that Virginia joined Oregon and the city of Minneapolis in challenging its approach to zoning. I referred to that a little bit in some of my earlier comments. That is very salient in Harrisonburg that has been leading the way in broaching some of those issues. The way that those issues failed in the General Assembly can be instructive to us in how we deliberate and how we send forward examples that later are used by the rest of the state.

In particular, Ibraheem Samirah submitted three bills that were pertinent to changing our approach to zoning. Two of those failed. The other went out of committee. The one that went out of committee proposed to impose a fee or tax on vacant properties. That fact that it got out, while others that challenged zoning did not, I think is instructive. If you look at what he did, I hope that we will not take his approach as an example. We took a very different approach to vacant properties when we looked at implementing spot blight on 200 Kelley Street. We held back, understanding that that house represented wealth to somebody in the community and we were very slow to take that. As it turned out, we did not have to do anything in that case. That not only allowed the house to naturally transition to a use that is beneficial now, but it helped us avoid a demolition. Demolitions are big sources of pollution in less resourced neighborhoods. I think our approach was better than Mr. Samirah's and pointed out a potential weakness in that we could potentially taking the wealth of some of the least wealthy people in the community if we take an approach like that. Nonetheless, his bill went through. The other two bills did not go through. In those bills, Delegate Samirah had supporting arguments that very nicely laid out the segregationist roots of zoning that I have tried at this podium. Under a previous chair, my first amended rights were seven times violated. I could not make those arguments. Mr. Samirah did get to make some of those arguments. They were submitted in written testimony addressing the origins and in oral arguments, he also made that case. Unfortunately, the argument was not brought up to date as I have frequently done, that I have tried to do in this body and that I have successfully done before City Council, exposing some of our current ways of think of thinking that are unexamined sometimes. What shot down his argument in committee was a delegate from Northern Virginia who said, "but the people who moved in had a certain expectation." Her argument remained unrefuted. The problem, the stitch that was dropped, was that the expectation that people had was that would move into an exclusive neighborhood and that their neighborhood would remain exclusive. Where does that expectation come from? We have done the homework to trace that back to "the reason for that was no good reason." The reason for that was to keep neighborhood exclusive, therefore should not be a reasonable way to proceed. The thing that we should have been, and that I have advised Mr. Samirah to have done, would have been to directly attack the concept of R-1 zoning and residential character, as you have heard me do many times. That would let us back on more functional, more reasonable arguments that are not built on sand.

We see some contradictions in how people come forward. People say this is going to do

something bad to my property value. That is another coded argument, an unexamined argument. Now that we are talking about affordable housing, we see that contradiction. If your property value goes down, that is great. That is what is supposed to happen when we talk about affordable housing, especially if that property value was propped up by exclusion. That is putting some of the stitches together so that we can reason properly about these things. The fact that this has support at the state level and at the National level and potentially at the Federal level with the leading presidential candidate on the democratic side being strongly on the side of the arguments that I am making, I think would recommend to us to be truly a new Planning Commission and to think from whole cloth about these issues in this exciting time, charting the way forward for our City.

Chair Colman closed the public comment portion of the meeting.

## **7. Report of Secretary & Committees**

### **7.a. Proactive Code Enforcement**

Ms. Dang said that the proactive code enforcement remains temporarily suspended pending the hiring of a Zoning/Planning Technician.

### **7.b. Rockingham County Planning Commission Liaison Report**

There was no Planning Commission liaison in attendance at the February Rockingham County Planning Commission meeting. Assignments for March through October were made.

### **7.c. Board of Zoning Appeals Report**

None.

### **7.d. City Council Report**

Commissioner Romero said that there have been two City Council meetings since the last Planning Commission meeting.

At the City Council meeting held January 14, 2020, there was a request from Peale Properties LLC to rezone 129 West Wolfe Street, that was the appliance hospital, and it was approved unanimously. There was a request from Jeanie Marie Turner for a STR SUP on Carriage Drive and it was approved unanimously. There was a request for a SUP to allow a business and professional offices on CF Pours Drive, this was the engineering firm, and it was approved unanimously. There was a request for a SUP to allow facilities designed for storage or repair of over the road tractor trailers on South Main Street, this was the truck repair, and it was approved unanimously. There was a request from Matchbox Realty to rezone 231, 251 and 261 South Liberty Street, that is the Daily News Record building, and this was tabled to wait until the parking study results come in. There was a request from the Norton Group to rezone parcels 1043, 1045, 1059, 1061 and 1063 South High Street, there were also two related SUPs and they were approved unanimously.

At the City Council meeting held February 11, 2020, there was a request by Habitat for Humanity

to rezone a property on Virginia Avenue to R-8 that was approved unanimously. There was a request to rezone a property on Pear Street and that was approved unanimously.

City Council is please with everything you are sending their way.

Chair Colman said that hopefully we are doing a good job with vetting, analyzing and discussing things that are coming to them. I think that it is important to do that. Something that they had requested before is that we express, when we vote, our reasons for voting. I discussed with Ms. Dang the update to the Zoning Ordinance. I look forward to looking at the Zoning Ordinance and what zoning means for our City and how we are going to handle it. It is a great opportunity for us, especially in light of current events and how zoning has evolved.

## 8. Other Matters

### 8.a.

Ms. Dang said that included in the packet is a four-page memo that had a list of projects. We have committed to provide you with an update, every six months, through a memo and discussion at a regular meeting, on projects that staff is working on that you have expressed interest in or that we feel that we need to bring to your attention that we may have initiated in response to court rulings, such as the Sign Ordinance that was updated and adopted by City Council in January. It was received by City Council from the Planning Commission in December and passed the second reading on January 14, 2020. We have a webpage, listed in the memo, for the public. We will keep it up for a little while to describe the changes. Eventually, that page will come down and the entire Sign Ordinance will be in the Municode website.

There has been a change to wireless small cell facilities within the public street and alley right-of-way in response to declaratory rulings from the Federal Communications Commission (FCC) allowing wireless telecommunications providers to locate small cell facilities within the right-of-way. Community Development staff, Public Works staff and the City Attorney's Office have worked together on our process and procedures for receiving applications to allow them or to know about them in the public right-of-way. Those are projects that we have completed.

List B includes the review of the short-term rental regulations. I appreciate your patience, as we have not presented that to you this evening. I will see if there is enough time for staff to review it over the next month, but it may be that it will be delayed for another month until your April meeting. We would present it to you at that time. For your next meeting, there are no short-term rental SUPs on the horizon.

The next item is the comprehensive update of the Subdivision and Zoning Ordinance. I would like to revisit that and give you a more thorough update. Other projects that are underway include housing policies. There is a team of staff members from various City departments working on the Comprehensive Housing Study RFP. The intent is to analyze the current housing market to quantify existing housing supply, assess demand for different housing types, identify barriers and

list potential policy tools to address housing gaps. The work group has been working for several months on this and anticipates the RFP to hire a consultant to go out later this month, in February. The project would be completed around the end of this calendar year. It should be a quick turnaround for that project.

Staff is continuing to work on the Floodplain Management Ordinance. That has slowed down due to the vacancy in our division and us needing to fill the gaps that we have without that position.

I will not go into detail for the other projects listed in lists D and E. List D has projects that are things that we want to address, that we need to work on, but are on hold. List E are other projects that we wanted to bring to your awareness, including the 2020 census. Census day is April 1, 2020. Participate by completing the census for your household, but also encourage others to do the same as this information is important in how federal funding is allocated to communities like ours. A lot of information about our community come from the Census survey, so please help us get those completed.

Phase 1 of the Environmental Action Plan (EAP) was adopted by City Council on January 14, 2020. Staff is beginning to work on plans for phase 2 and phase 3 which involve establishing baselines and targets related to all of the goals and strategies.

We have been working on the water and sewer forecasting. Efforts involve looking at our Land Use Guide, projecting future developments impact on the water and sewer supply and needs. Our drinking water supply has limits, can it support future plans of development and what are the limits to our ability to treat sanitary sewer as it goes to the regional wastewater facility in Mount Crawford? We have been working with a team represented by different City departments to help the Public Utilities Department plan appropriately for future needs.

Mr. Fletcher said that this was a great deal of effort. This was a tremendous amount of effort involving a lot of work with Public Utilities. I do not want to downplay that project, at all, because it took a lot of time and a lot of effort.

Chair Colman said that he imagines that there is some dependency from the County side, especially with development adjacent to the City. I assume they are also looking at how much we can provide.

Ms. Dang said that is right. It might inform decisions and approvals of Public Utility applications in the future.

As Councilman Romero had alluded to, the Downtown Parking Study continues, and a final report is anticipated at the end of this month. Following, the initiation of a Downtown Master Plan is anticipated later this year. The other projects are things that we have talked about on which there is no action.

Commissioner Finks asked can you give us an update on the hiring of a consultant for the Downtown Master Plan?

Mr. Fletcher said that the lead is coming from the City Manager's office. Brian Shull, Economic Development Director, is also involved. Aside from what is shown here, it is still waiting for the other studies to be completed before they move forward, such as the Downtown Parking Study and a project from Public Works regarding Main Street and Liberty Street. It is on the forefront of the City Manager's mind. They want to keep momentum moving forward.

Chair Colman said that it is interesting that we heard the request that we heard today to put gas stations back in the downtown area. It seems that the Downtown Master Plan will inform us if that is something we want. I am glad we voted against it. In current context, it does not fit. When we have a Downtown Master Plan, we can decide in a more informed way about what would be appropriate. I am excited that is coming up.

Commissioner Finnegan said that he hopes that we are approaching a tipping point in car-centric development and that we are moving away from that. It is my hope that is reflected in the Downtown Master Plan.

Ms. Dang said that we wanted to take some time to talk about the comprehensive update of the Subdivision and Zoning Ordinance. This is going to be a huge project. Staff has been working together on the Request for Proposals (RFP) document to procure a consultant to assist us with the update of the two ordinances. We anticipate this being a multi-year effort. We have been working since September 2019 on the RFP. The scope of work will restructure the zoning and subdivision ordinances to be streamlined, clear and user-friendly. The intent is that it be easier to navigate. This document has been amended over time and we do find inconsistencies with definitions and other items. We will update those. It may be that the Zoning Ordinance, as we know it today, is going to be formatted very differently. That is something that we are open to and would like to work with consultants on that possibility. We will update the inconsistencies and update definitions to ensure clarity and reduce the need for interpretation. We will update the ordinances to ensure that they are compliant with the Code of Virginia. We have included in the draft RFP that the update efforts of both ordinances should reinforce the vision, goals and objectives of the Comprehensive Plan, that includes walkability, encouraging mixed use, allowing different housing types, promoting the development of lower cost and affordable housing for both rental and homeownership, expanding opportunities for infill development, and addressing all of the discussions that we have had regarding off-street parking to meet demands but not create over-supply. All of those things, among others that we have talked about and have included in the Comprehensive Plan are to be considered in this Zoning Ordinance update. Likewise, engagement with stakeholders and the Planning Commission should inform what updates will be considered and included in the updates of these ordinances. We will evaluate and analyze different alternatives as we explore these questions, such as master plan zones and overlay zones, and their effectiveness and what we can do better. The impact of our ordinances on the form and character of development, including the question of whether the City should initiate a comprehensive

rezoning of property, which we do not do. We have rezoning applications come in, even to become conforming with the Comprehensive Plan's Land Use Guide. We would explore what it would look like, what we should be considering, if we were to consider redoing our zoning map, proactively or comprehensively rezoning properties. We are open to considering that, as well. Through this process, our intention is that once a consultant is hired, we would work with the consultant to determine what the public outreach strategy would be. At this time, I do not have a preconceived idea of what that would might look like, but we would ask based on their experience what they would recommend and we would lay out whether it is a schedule or other format that we use to reach out to the general public and to the various stakeholders.

At the last meeting there was discussion and a suggestion that the Planning Commission might be involved in the RFP selection process. While I appreciate your interest in the process, we would like to have staff move forward through the RFP process. That has been the City's general practice. It is not unheard of that other communities might involve commissioners or other Council-appointed members of committees and boards. In practice, our City staff selects and hires the consultant like we would hire staff. The Zoning Administrator, Mr. Fletcher, Mr. Russ, and I, along with someone from the City Manager's office will be part of that selection process. We consulted with the Procurement Office on the idea of whether the Planning Commission could be involved and their recommendation was that staff continue to lead the RFP process, and when we hire the consultant, we would engage you, at that time, to guide the work and be advisory in the work that we will continue to do.

Mr. Fletcher said that we looked at the minutes to determine when was the last time we hired a consultant. It would have been around 2002 because the 2004 Comprehensive Plan was approved. Planning Commissioners were involved, at that time. There was a committee that included Planning Commissioners.

Ms. Dang said that at that time, Planning Commissioners established a group of ten or so people that was called the Comprehensive Plan Advisory Committee. Out of that committee, which involved a mix of commissioners and community members, three of those committee members were somehow involved in the RFP process. It is not clear exactly what their involvement was, but they were involved in some way.

Mr. Fletcher said that Procurement's recommendation was that staff continue through.

Ms. Dang said that our proposed schedule is that we could release the RFP as soon as the end of this week or early next week. Pending the period of RFP review, questions and answers, potential interviews and negotiations with the consultants, we are looking at early May to be able to select the consultants, which is before the end of the fiscal year.

Commissioner Finnegan said that there has been some discussion about allowing accessory dwelling units or duplexes in R-1 single-family neighborhoods. The question for us is, do we move forward, as is or wait for the General Assembly to change it for us? That did come up in the

General Assembly, this year, as was mentioned. I did want to draw attention to a story in The Citizen that says that the City's estimated population falls for a second consecutive year. Part of that is due to housing stock and housing options within the City. We are the Planning Commission and we should be thinking about the decisions we make here and the effect that they have on the availability of housing for the people who need it.

Chair Colman said that he hopes that redefining the zoning districts is addressed. Our City is becoming more of an urban area. We have the County and the sprawl into the County, but ideally it would be nice if our downtown continues expanding in the same way, where we allow for more dense housing. Even in neighborhoods like Sunset Heights, we say they are R-1, but they are not R-1. They are R-2 and maybe some R-3 there. We think that is the idea that we have for a neighborhood, well it is more dense than what the R-1 allows for right now. Maybe we need to reconsider what R-1 density and lot size should be. Those are the things that I am excited about. What are the things that we can look at to change and improve the housing stock and opportunity to do a lot of infill development and further develop the neighborhoods that we have talked about? Can we do something about identifying neighborhoods, creating focus? We will see what is proposed, what is discussed, during the meetings with the consultants.

Ms. Dang said that you are on the right track with all of these ideas and things that we need to challenge ourselves on. Just having the discussion, whether we end up doing them or not, we need to put them on the table. Between now and when the consultants are procured and we have your first meeting with them, think about all these things, write them down, be prepared to present these questions. Based on their experience, they can help us evaluate the positive and/or negative impacts of all these things.

## **9. Adjournment**

### **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 Planning Commission 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](http://www.harrisonburgva.gov/interpreter-request-form)

El servicio de intérpretes inglés-español está disponible para las reuniones públicas de la Comisión de Planificación. 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>