



City of Harrisonburg

City Hall
409 South Main Street
Harrisonburg, VA 22801

Meeting Minutes Planning Commission

Wednesday, January 12, 2022

6:00 PM

Virtual

1. Call To Order

The Harrisonburg Planning Commission held its regular meeting on Wednesday, January 12, 2022, at 6:00 p.m. in the City Council Chambers, 409 South Main Street.

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

2. Roll Call/Determination of Quorum, Election of Officers, and acknowledgement of Ethical Principles in Planning

Members present by electronic, video communication: Brent Finnegan; Jim Orndoff; Kathy Whitten; Richard Baugh; Dr. Donna Armstrong; and Laura Dent. Adriel Byrd arrived at 6:07 p.m.

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

Present 7 - Brent Finnegan, Jim Orndoff, Adriel Byrd, Kathy Whitten, Richard Baugh, Donna Armstrong, and Laura Dent

2.a.

The first order of business is the election of officers for 2022. Are there any nominations for the position of Chair?

Commissioner Whitten nominated Commissioner Baugh because I believe change is good.

Commissioner Baugh accepted the nomination.

Councilmember Dent nominated Commissioner Finnegan, if continuation is allowed.

Ms. Dang said it is. There are two nominations, one for Commissioner Baugh and one for Commissioner Finnegan. Are there any other nominations?

Commissioner Baugh asked Commissioner Finnegan if he was willing to Chair again.

Commissioner Finnegan said that he is willing to do so again, if the body is supportive of that.

Commissioner Baugh said Commissioner Whitten asked me if I was willing to put my name in the for the nomination. I am. I have had the job before. I am not necessarily... It is whatever the group wants to do.

Ms. Dang asked Commissioner Baugh to clarify his position.

Commissioner Baugh asked for a vote.

Commissioner Whitten said that Commissioner Byrd is not here yet, to participate in the vote.

Commissioner Baugh asked does anybody here particularly want me to have this job over Commissioner Finnegan, besides Commissioner Whitten? Hearing none, I withdraw my name. Thank you, Commissioner Whitten.

Commissioner Whitten said you are welcome. I do think that change is good.

Ms. Dang called for a roll call vote.

Commissioner Baugh	Aye
Commissioner Orndoff	Aye
Commissioner Armstrong	Aye
Commissioner Whitten	Aye
Commissioner Finnegan	Aye
Commissioner Byrd	Not Present
Councilmember Dent	Aye

All members voted in favor of appointing Commissioner Finnegan as Chair for 2022.

Chair Finnegan continued the meeting and said Commissioner Byrd just joined us. Are there any nominations for the position of Vice Chair?

Councilmember Dent nominated Commissioner Byrd.

Commissioner Byrd accepted the nomination.

Commissioner Armstrong Aye
 Commissioner Baugh Aye
 Commissioner Byrd Aye
 Councilmember Dent Aye
 Commissioner Orndoff Aye
 Commissioner Whitten Aye
 Chair Finnegan Aye

All members voted in favor of appointing Commissioner Byrd as Vice Chair for 2022.

Chair Finnegan asked if there were any nominations for the position of Secretary.

Commissioner Whitten nominated Nyrma Soffel.

Commissioner Baugh seconded the motion.

Chair Finnegan called for a roll call vote.

Commissioner Armstrong Aye
 Commissioner Baugh Aye
 Commissioner Byrd Aye
 Councilmember Dent Aye
 Commissioner Orndoff Aye
 Commissioner Whitten Aye
 Chair Finnegan Aye

All members voted in favor of appointing Nyrma Soffel as Secretary for 2022.

2.b.

Chair Finnegan said that the bylaws state that Planning Commission members must acknowledge the *Ethical Principles in Planning*. Commissioner Finnegan read the following statement:

“I pledge to use the American Planning Association’s “Ethical Principles in Planning” document as a guide to ethical conduct while performing my duties as a Commissioner of the Harrisonburg Planning Commission.”

And then asked all members to acknowledge the pledge by saying “aye.”

All members acknowledged the *Ethical Principles in Planning*.

3. Approval of Minutes

Chair Finnegan asked if there were any corrections, comments or a motion regarding the December 8, 2021 Planning Commission minutes.

Commissioner Byrd made the following corrections:

The vote count for the first item of New Business - Public Hearing, special use permit request for a short-term rental at 43 Maplehurst Drive, should read (5-1).

The vote count for the second item of New Business - Other Items, to close an undeveloped public alley located behind 211 East Washington Street, should read (6-1).

Commissioner Whitten moved to approve the minutes with the stated corrections.

Commissioner Baugh seconded the motion.

All members voted in favor of approving the December 8, 2021 Planning Commission minutes.

The minutes were approved.

3.a.

4. New Business - Public Hearings

4.a. Consider a request from Heather and Bronson Griscom for a special use permit to allow a short-term rental at 217 Franklin Street

Chair Finnegan read the request and asked staff to review.

Ms. Banks said that the Comprehensive Plan designates this site as Neighborhood Residential. These areas are typically older residential neighborhoods, which contain a mixture of densities and a mixture of housing types, but should have more single-family detached homes than other types of housing. This type of land use highlights those neighborhoods in which existing conditions dictate the need for careful consideration of the types and densities of future residential development. Infill development and redevelopment must be designed so as to be compatible with the desired character of the neighborhood.

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

- Site: Single-family detached dwelling, zoned UR
- North: Across Franklin Street, single-family dwellings, zoned UR
- East: Single-family dwelling, zoned UR
- South: Across Ash Tree Lane, single-family dwellings, zoned UR
- West: Single-family dwelling, zoned UR

In June 1980, the subject property, then zoned R-2, Residential District, received a setback and lot density variance from the Board of Zoning Appeals (BZA) to allow the conversion of the second floor of an existing detached accessory building/garage into an accessory dwelling use. The BZA conditioned that the accessory dwelling use was restricted to that of a single-family dwelling classification. It is staff's understanding that the accessory dwelling use has been rented

out as a long-term rental on and off throughout the years. (Of note, the accessory dwelling use is not a non-conforming use, it is a use approved by the BZA; therefore, the accessory dwelling use can be re-established at any time.)

The applicants are requesting approval of a short-term rental (STR) operation at 217 Franklin Street and describe the property as their primary residence. The property is located in the Old Town area of the City, along the southern side of Franklin Street, about 75-feet east of the intersection of Franklin Street and South Mason Street.

As stated in the applicant's letter, they desire to use the second floor space above a detached garage on the property as a short-term rental (STR) and describe the space as a one-room studio apartment with a bathroom. The applicant's state that the space would accommodate a total of four individuals. While the proposed operation is similar in scale to a homestay, the requested operation is not classified as a homestay because the space in which the property owners want to operate the transient use is not within the principal building.

The applicants have been informed that if the SUP is approved, they will need to work with the Building Code Division to ensure that all building code requirements are met for the space above the garage. This may require a building permit or other trade permits be issued for the space, inspected and approved prior to its use as a STR.

Section 10-3-25(28) of the Zoning Ordinance (ZO) requires STRs to "provide one parking space for each guest room or accommodation space, or as may be more or less restrictive as conditioned by a special use permit." With a request to rent for STR one accommodation space, the property should provide one off-street parking space. In addition to the off-street parking space required for the STR, the ZO requires one off-street parking space for the non-transient dwelling unit. Therefore, if approved, a total of two off-street parking spaces would be required. Currently, there is a paved parking space on the property, adjacent to the detached garage, which is accessed from Ash Tree Lane at the back of the property. The applicants explain that guests would park there. Also, there is a drive and parking space at the front of the property, off Franklin Street, along the eastern side of the property.

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

1. All STR accommodations shall be within the existing accessory dwelling above the detached garage described in the application.
2. There shall be no more than one STR guest room or accommodation space.
3. The number of STR guests at one time shall be limited to four.
4. Prior to operation, the operator shall submit to City staff a completed Short-Term Rental Pre-Operation Form. Furthermore, the operator shall maintain compliance with the items identified in the Pre-Operation Form when short-term rental guests are present.
5. Minimum off-street parking spaces do not need to be delineated and can be accommodated utilizing the driveways or other areas on the property.
6. If in the opinion of Planning Commission or City Council, the short-term rental becomes a

nuisance, the special use permit can be recalled for further review, which could lead to the need for additional conditions, restrictions, or the revocation of the permit.

Condition #1 prevents the ability for the STR operator to convert or construct any other accessory building on the property into space for a STR that was not previously vetted for impacts to the surrounding properties. If the applicant later wishes to create additional living spaces within an accessory building for a STR, they must return to Planning Commission (PC) and City Council (CC) with a new SUP request. Condition #2 limits the total number of guest rooms and accommodation spaces on the entire property to one. Condition #3 limits the total number of STR guests to not more than four. Condition #4 requires that prior to beginning operations that the operator shall submit to City staff a completed Short-Term Rental Pre-Operation Form and shall maintain compliance with the items identified in the form when STR guests are present. Condition #5 provides flexibility for the property owner to maintain the residential appearance of their property by not requiring them to delineate the required off-street parking spaces. Condition #6 allows PC and CC to recall the SUP for further review if the STR becomes a nuisance.

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

Because the City has approved multiple STR SUP applications in similar locations throughout the City and with comparable operating situations, staff recommends approval of the request with the suggested conditions. Staff believes that the proposed use is consistent with good zoning practice and will have no more adverse effect on the health, safety or comfort of persons living or working in the area and will be no more injurious, economically or otherwise, to property or improvements in the surrounding area than would any use generally permitted within the district.

Chair Finnegan asked if there were any questions for staff.

Commissioner Whitten said that attached to the packet was the excerpt of minutes from a BZA meeting that was held June 2, 1980 in which the decision contains a statement that reads: "Mr. Byrd [former director of Community Development] recommended that the motion be supplemented to restrict uses to that of a single family dwelling classification and otherwise comply with all other City regulations." That may complicate things a bit because the BZA is an entity. I am not sure that we can give permission for four people to live in a place that was supposed to be maintained as a single-family. I could probably accept two people, but I am not sure. I am not sure that we can change anything that was approved by the BZA. What would be the decision on that from our legal mind?

Ms. Banks said that staff had already made the determination that this was not an individual single-family home on this property. That decision was made; therefore we allowed this SUP

request to move forward.

Commissioner Whitten asked if Mr. Russ reviewed the determination.

Mr. Russ said we discussed the issue that you raise. Ultimately, if the Planning Commission and City Council approve it, the applicant can rely on that decision even if there were technical errors in allowing the application to move forward. Once it has been voted on and approved, they can rely on that. I am not concerned about it. It is interesting to think, "What exactly did they mean by single-family dwelling classification?"

Commissioner Whitten said that knowing those years, it was an effort to not make it a student rental. That was an issue in those years and still continues to be.

Commissioner Byrd added, for the sake of clarification, that is a different Mr. Byrd.

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

Bronson Griscom spoke to the request. Thank you for considering our request. We are happy to comply with all the conditions staff laid out. I did review the two public comments that came through and am happy to reflect on those and address those. I think they were both essentially addressed by the conditions. One was dealing with parking. That is resolved because we have off-street parking. The prior owners of our residence, the Nichols, had received permission to do long term rental of this unit. I do not know if that preceded the 1980 issue, which I was not aware of. We currently have permission for long-term rental. This is a shift from that long-term to short-term. It was a grandfathered condition, so most units on our street do not have that. This is not a shift from not using it as a rental to using it as a rental. It is a shift from long-term to short-term. I am happy to answer any questions. Thank you for considering this request.

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

Commissioner Whitten asked if the applicant has done long-term rentals in that unit.

Mr. Griscom said we inherited a renter that was in the unit when we bought the residence. She had a lease, so we could not immediately evict her. The answer is yes.

Commissioner Whitten asked what is your rationale for changing from long-term to short-term?

Mr. Griscom said that there are a number of different considerations. We wanted the option to use the space for family. With our last renter, we were concerned about trash. We had experience with Airbnb from a property in West Virginia. We like the ability to review and approve our guests. Bottom line is that we thought that we would have less impact on the neighborhood by doing this shift.

Commissioner Whitten asked how much are you going to charge for the rental of that unit?

Mr. Griscom said I do not know. We have not resolved that. We are aware of two other STR permissions that are within a block of us with a similar situation as our own who have already been granted approval. We were going to talk with them and get a sense of where the market is. I do not know.

Commissioner Whitten asked what the monthly rent was.

Mr. Griscom said that the monthly rent was about \$920 per month.

Ms. Banks said that she wanted to get back to the public input comments received. One email was regarding traffic on Ash Tree Lane and had suggested that staff put a condition on the SUP regarding this. Monitoring the traffic would be a difficult condition for staff to enforce. Perhaps the applicant would be willing to put something on their advertising platform that informs potential renters that they could enter and exit the property off of Mason Street without having to travel Ash Tree Lane. As you can see, it is very narrow and has a sharp curve to get back out to Campbell Street. It is something for the applicant to consider.

Mr. Griscom said that it is a good point and had occurred to me when I read that public input. If they use a mapping system, it will send them off of South Mason Street. I think that is a good idea that we could just add it into the logistical information that is provided when it is booked. For their benefit and the benefit of the neighbors, that makes sense.

Chair Finnegan said my comments are along the lines of what Commissioner Whitten already hinted at, which is, we have a housing crisis in Harrisonburg. There is a difference between a home that is lived in by the owner and is rented out to guests, as in Airbnb and doing what you are doing which is taking housing units off the market and turning them into STR. Certainly more money can be made from an Airbnb rental per month than the average market rent for an apartment in Harrisonburg. Could you speak to that concern?

Mr. Griscom said that he did not quite understand.

Chair Finnegan said that taking what is now an apartment off the market and turning it into an Airbnb. That is different from living in a housing and renting out a bedroom or two on Airbnb. This is an apartment unit that is being taken off the market and turned into an Airbnb.

Mr. Griscom said sorry if I am being obtuse. The concern is that it is less availability of housing at a lower cost?

Chair Finnegan said that it is less housing for people to live here. The difference between a whole home rental where the owner-occupier lives in the house and rents out a couple of bedrooms

versus an apartment that used to have a tenant in it and is taken off the market and turned into an Airbnb. If we vote for this, are we incentivizing more people to do what you are requesting now, to make more money off of an Airbnb as opposed to renting it out. That is the concern.

Mr. Griscom said I think the situation is unique to us because most people do not have this. For some reason that I do not understand, we were grandfathered. It is as far as I know, our permission to do rental that exists now is not normal. Most people in our area do not have that permission. Most people in our neighborhood would not be moving from a long-term rental to a short-term rental. They would go from non-rental to rental. That is my understanding. It is unique to us. The question is should we be granted permission to do that. Another consideration is that a friend of ours is going to have more work. They have the opportunity to do the cleaning and turnover of the space. That is a part-time job that would not otherwise exist. That is somebody who is going to benefit from that and is interested in that. The person we are renting to previously was a student. I do not know if there is a shortfall of student housing. I am not giving you a very good answer because it sounds like a broader question for the town that I am not in a position to answer. There is the question of additional employment that we are delivering by doing this, if it is approved. I agree with you. I do not mean to dodge the point. If you rent it for a certain number of nights per month, we might be making more than a long-term rental. Whether we actually do make more money is an open question. I do not know how much we will rent it and it depends on the use by our own family. What triggered the decision for us was the concern that we had a year lease and were concerned about the impact that they were having. Our neighbor was complaining about it, but they had a lease. For six months, there was not a lot that we could do until that lease was up. This way, we have more ability to keep the condition of the place at a level that is respectful to our neighbors. That is a major part of it. I do not have a simple answer to your question. I think that it is complicated.

Chair Finnegan said that it is complicated. Thank you for responding. One of the things that I am concerned about is incentivizing more people to do this. That is my concern as we are having a full-blown housing crisis as shown by our Housing Study report. That is something I hope we will take into consideration in considering this request.

Commissioner Whitten said Chair Finnegan's questions are valid and exactly where I was headed. The applicant is probably going to charge \$150 per night. It is very clear to me that if you rent it during the weekend nights, it would come in at way over \$900 per month. The other question is are you planning to be there when this is rented?

Mr. Griscom, yes.

Commissioner Whitten asked, yes, categorically, yes?

Mr. Griscom said yes, we are planning to be there when it is rented.

Chair Finnegan asked if there were any questions for the applicant. Hearing none, he asked if

there was anyone on the phone wishing to speak to the request. Hearing none, he closed the public hearing and opened the matter for discussion.

Chair Finnegan said that I have made my concerns clear. I admit that I have voted for several of these accessory dwelling units to be part-time STRs. Sometimes we vote for things that later we regret. I am not against Airbnbs, but I do believe that if we are going to prioritize housing, I do not want to incentivize more of these requests to take apartments off the market and turn them into full-time STR.

Commissioner Baugh said I generally think that your points are well taken, Chair Finnegan. The applicant said that they know they have these rights but are not sure what they are or why they have them. Some of us know what they are and why he has them. Basically, it is a matter of law that if what you do is permitted under zoning rules and then the rules change, but you continue that use, that is what we crudely refer to as grandfathering in this context. What that means is that we established that that unit had this extra apartment at the time that it was permitted. It is no longer permitted, so you cannot do this to your home in Old Town now. But because it has been continuous that way, you get to continue doing it. It is an advantage that you have over your neighbors. Your neighbors who were not grandfathered do not get to do that. I think that I come down on the side of the point that the Chair is making. If someone moved into Harrisonburg and we do this, then it is one less apartment available for a person looking for a full-time residence. That is not what we want to be encouraging at a time when our housing supply is as tight as it is now.

Commissioner Byrd said we are referring to this accessory building as if it has to be an apartment. The property owner could simply not lease that room and use it for their own personal use and have guests over. No one would know. I am having a hard time understanding the view that we would be approving the removal of a rental unit when this building was not supposed to be that in the first place and was approved a number of years ago. I do not see the connection to how that would carry over to other people in the City doing the same thing.

Chair Finnegan said that if you have an accessory dwelling unit on your property and you rent it out for \$900 per month. You can make a lot more than that with STRs. What is not clear about that?

Commissioner Byrd said that you are still operating under the assumption that I have to rent out the unit. I do not have to do that, and it does not become an abandoned building, it is just an empty structure that has another use on my private property. I do not see the connection.

The applicant asked to comment.

Chair Finnegan said that the public meeting is closed, but I will allow a very brief comment from the applicant.

Mr. Griscom said that what Mr. Byrd is mentioning is very real. We may not rent it, if we are not given permission to have the STR. We may not rent it for the long-term.

Ms. Banks said I want to make a clarification between non-conforming, grandfathering and permitted use. For this particular structure, the BZA approved for this accessory dwelling to be on this property. They referred to it as a density variance. Essential it is some type of use variance. It was approved by the BZA therefore it is a by-right use. They can have that accessory dwelling there. With a non-conforming use, as Mr. Baugh previously explained, if that non-conforming use were not to be used for two years, you could not go back and restart it. You would lose your non-conformity. With this unit, because it is an approved, permitted use by the BZA, they could rent this out for three or four years as a STR and go back to using it as a long-term rental or flip flop back and forth because the BZA has granted that permission.

Commissioner Baugh said that is a good explanation. I think it is fairly straightforward. If you make a list right now of how many apartments there are in Harrisonburg, you come up with a number. If we grant this, that would make it that number minus one, subject to all sorts of other things that could happen. That piece that I am talking about is what some of us are focusing on. The number of apartments right now is X. We approve this. That number will be X minus one.

Commissioner Armstrong said that in terms of employment, I also have concerns with rentals and maintaining occupancy in those which are STR. In terms of employment, that is a concern, too. The other point is that this SUP transfers with the property. That is something that we need to consider. I intend to fall on the side that it is not a question of requiring long-term rental but incentivizing not doing long-term rentals. I do not think that it is in the spirit of this SUP in my opinion.

Councilmember Dent said that I come down more in the middle and to the side of the homeowner to decide whether they want to rent out a long-term rental or not. We are not technically losing a rental if they decide not to. It is that they decided to do so in the past. I would be inclined to grant them the right to do what they want with their property and rent it occasionally as a STR.

Commissioner Whitten said I spoke to City Council last night about my great concern and I have spoken it to you. I still have great concern. The cost of housing in Harrisonburg is going up. When we grant these STR it increases the value of that house. If you are next door and you are not renting your house out, and your neighbor is, your value went up and so did your tax bill. So did the cost for anybody who wants to buy or rent a home in our City. If you do not see that, you cannot read. I need you to really pay attention to this. I know for a fact from talking with Ms. Banks today, I made the flippant remark, "well at least we do not have hedge fund managers looking to get into the action in Harrisonburg." She said, "Actually, we do. I have had calls." Do not think that this is not coming to our door. It has come to the door of Davis, West Virginia. They have had to rethink what they do with STRs. They have made their stipulation what I have asked for all along. That is, a person that owns the house should be present in the house. If we do not put some restrictions on this, we are going to be having small hotels in all of our

neighborhoods. Our hotels will suffer and so will our neighborhoods. My speech is over.

Commissioner Whitten made a motion to recommend denial of the STR request.

Commissioner Armstrong seconded the motion.

Chair Finnegan called for a roll call vote.

Commissioner Armstrong Aye

Commissioner Baugh Aye

Commissioner Byrd No, for the stated reasons that this is an accessory building. I see all these arguments applying much stronger if it was for the main building. This is a separate building and they have an odd approval to do a different thing with that piece of property.

Councilmember Dent No

Commissioner Orndoff No

Commissioner Whitten Aye

Chair Finnegan Aye

The motion to recommend denial of the SUP request passed (4-3). The recommendation will move forward to City Council on February 8, 2022.

This PH-Special Use Permit was recommended for denial to the City Council due back on 2/8/2022

Yes: 4 - Finnegan, Whitten, Baugh and Armstrong

No: 3 - Orndoff, Byrd and Dent

4.b. Consider a request from Vincenzo Luigi Dattolo with representatives Blue Ridge Marble, LLC for a special use permit to allow manufacturing, processing and assembly operations at 84 Pleasant Valley Road

Chair Finnegan read the request and asked staff to review.

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

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

Site: Marble and Granite countertop sales and showroom; zoned B-2

North: Commercial businesses and vacant land; zoned B-2

East: Vacant building; zoned B-2

South: Across Pleasant Valley Road, commercial businesses; zoned B-2

West: Commercial businesses; zoned B-2

The applicant is requesting a special use permit (SUP) per Section 10-3-91 (1) of the Zoning Ordinance to allow a manufacturing, processing and assembly use, involving 15 persons or less per shift, at 84 Pleasant Valley Road. If approved, Blue Ridge Marble, LLC would operate a cultured marble sink and vanity manufacturing business from the location.

The +/- 2.9-acre site consists of a +/- 15,140 square feet enclosed building, several pole-shed structures and associated paved parking. Currently, Ital Marble and Granite, LLC operates from within the building, occupying +/- 10,140 square feet and, if the SUP is approved, Blue Ridge Marble would occupy +/- 5,000-square feet.

The applicant describes the cultured marble sink and vanity process as a “modest” operation. It consists of blending a marble “matrix” with a polyester resin and pouring into molds. A mold sits for approximately 24 hours, before being released and the finished product is lightly polished and boxed for delivery. All operations, equipment, and storage will be indoors, which is required by the SUP in the B-2 district. The process functions with two employees and occasional deliveries would be made to the site.

Parking will need to be provided on site for the proposed use as well as for the existing use. The Zoning Ordinance requires manufacturing operations to have one (1) parking space for every two (2) persons working on the premises on a maximum shift, plus parking spaces for every truck or other vehicle used in connection therewith. With only two employees and no other vehicles associated with the manufacturing use, one off-street parking space would be required for Blue Ridge Marble. For the existing Ital Marble & Granite, LLC, use, which is considered a retail use and consisting of 10,140 square feet, parking is calculated at one parking space for every 250 square feet of gross floor area - totaling a required 41 spaces. Therefore, a total of 42 off-street parking spaces are required on the site to accommodate the Zoning Ordinance parking requirements. Currently, there are 18 marked parking spaces; it appears they have the ability to stripe or designate the additional parking spaces needed.

The applicant has been informed that if the SUP is approved, they will need to work with the Building Code Division to ensure that all Building Code requirements are met and to obtain a change of use permit for the portion of the building they will occupy. Additionally, the required parking spaces will need to be striped or designated. If signage is desired for the business, a separate sign permit is required. The applicant will need to work with Planning and Zoning staff to ensure that all parking and sign regulations are met.

Staff considers this an appropriate reuse of vacant space within an existing building. The process is self-contained within the building and does not promote additional traffic on site. Overall, staff believes the cultured marble sink and vanity processing use should have no adverse effect on the health, safety or comfort to people in the area and is compatible with uses generally permitted in the B-2 zoning district. If approved, staff suggests conditioning the SUP with the following:

- The special use permit shall be limited to the processing of a matrix and production of marble sinks and vanities use as described in the applicant's letter, or to a substantially similar process.
- If in the opinion of Planning Commission or City Council, the use becomes a nuisance, the special use permit can be recalled for further review, which could lead to the need for additional conditions, restrictions, or the revocation of the permit.

Staff recommends approving the special use permit with the suggested conditions.

Chair Finnegan asked if there were any questions for staff.

Councilmember Dent said that 42 parking spaces seems excessive to me given that a retail outfit is doing fine with 18, so why for two people would we need to add 42. That seems out of proportion.

Ms. Banks said that our parking regulations for the retail use are based on the overall square footage of the building. I imagine that originally this building had more parking spaces marked and over time they have disappeared. Whenever we look at projects like this and we see a deficit in meeting our parking requirements, we require that they bring their parking up to meet the requirements in the Zoning Ordinance. I happen to agree that it is a lot. Parking is something that is being looked at and considered in the Zoning Ordinance update.

Councilmember Dent said I might propose an amended condition to the effect of, perhaps a waiver of that maximum amount to a lower more reasonable amount.

Ms. Banks said that is not a condition that we can do. We do have the other SUP where you could ask for a reduction in parking, but part of that request also says that you have to have the open green space left available. In this case, the whole parcel was already paved.

Councilmember Dent said that you pointed out areas on the map where they could stripe new parking.

Ms. Banks said that they could stripe, put curb stops or put landscape timbers to designate the parking.

Chair Finnegan said that he agrees. That is an extremely high number of parking spaces for the use of this building.

Commissioner Whitten said that is the requirement that we have now. It is being looked at. We hope it will be successful and we hope that they will stay there. Maybe they will need more parking eventually. If someone else moved in there, with that square footage, they could need 42 spaces. It seems excessive for now, but it is the law that is on the books at this point. If they can make the change in the ordinance on the side of less parking, then I am in favor of that too.

Commissioner Byrd said I want to make sure I understand. This is a SUP so that they can do manufacturing. Staff is recommending a condition to make it specific to this matrix formation process.

Ms. Banks said yes and added or a similar process.

Councilmember Dent said my second question is the health and safety of that process, since it is enclosed even though it is a large warehouse space. Are there any toxic fumes associated with this resin? Does it need special venting? How would we determine those needs for the site?

Ms. Banks said that we can ask the applicant. When they are working with the Building Codes division, that is something that will be discussed.

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

Daniel Claxton, applicant's representative, came forward to speak to the request. The applicant is the building owner. I am one of the co-owners of Blue Ridge Marble. To answer the question about the fumes, there is an acetone process that is used to clean the bowls that has a fume that comes off of it. The cleaning area is an open area that is well ventilated that has fans. We will talk with the building codes staff. If they determine that there is something additional that we need, we do not have a problem looking into getting some type of filtration or something like that. That is something that we were anticipating anyway.

Chair Finnegan asked if that is regulated. I assume that fumes out of manufacturing plants and processes, places like this, have to adhere to State and Federal environmental standards.

Mr. Claxton said we are in contact with the *[statement inaudible]*. There is a report draft with them. I think it is called a W-7. They were not concerned acetone. There is a spray application of a gel-coat that goes on the mold before the matrix goes in there. They were more concerned about the spray. Having a paint booth is what they were regulating for us.

Chair Finnegan asked if there were any questions for the applicant's representative. Hearing none, he asked if there was anyone on the phone wishing to speak to the request. Hearing none, he closed the public hearing and opened the matter for discussion.

Commissioner Baugh moved to recommend approval of the SUP as recommended by staff.

Commissioner Whitten seconded the motion.

Chair Finnegan called for a roll call vote.

Commissioner Armstrong Aye
 Commissioner Baugh Aye
 Commissioner Byrd Aye
 Councilmember Dent Aye
 Commissioner Orndoff Aye
 Commissioner Whitten Aye
 Chair Finnegan Aye

The motion to recommend approval of the SUP request, as presented, passed (7-0). The recommendation will move forward to City Council on February 8, 2022.

This PH-Special Use Permit was recommended to full council.to the City Council due back on 2/8/2022

Yes: 7 - Finnegan, Orndoff, Byrd, Whitten, Baugh, Armstrong and Dent

No: 0

4.c. Consider a request from Our Community Place to rezone 50 and 52 Reservoir Street from R-2, Residential District to R-5C, High Density Residential District Conditional.

Chair Finnegan read the requests and asked staff to review.

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

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

- Site: Duplex dwelling, zoned R-2
- North: Duplex and single-family dwelling, zoned R-3C and duplex, zoned R-2
- East: Single-family dwelling and vacant parcel, zoned R-2
- South: Vacant parcel, zoned R-2
- West: Across Reservoir Street, cemetery, zoned R-3

The applicant is requesting to rezone a +/- 7,757 square foot property from R-2, Residential District to R-5C, High Density Residential District Conditional. Simultaneously, the applicant is requesting a special use permit (SUP) per Section 10-3-55.4 (6) to allow reducing required parking areas to permit fewer than the required number of vehicle parking spaces for any use, provided that an amount of open space equal to the amount of space that would have been used for the required number of vehicle parking spaces is left available for parking in the event that, at the discretion of the City Council, it is needed at some time in the future. The subject property is located along the eastern side of Reservoir Street, mid-block between East Market Street and Long Avenue. If approved, the applicant would renovate and buildout the basement of the existing

duplex currently located on the site, creating a four-unit multiple-family building, and would not provide any off-street parking for the apartment use.

Rezoning

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

- Dwelling units may be occupied by a family or not more than three (3) unrelated persons.

The R-5 district allows by right dwellings to be occupied by a family or not more than four persons. This proffer reduces the allowable occupancy of dwelling units to either a family or not more than three persons. With this proffer, because the minimum off-street parking requirements of Section 10-3-25 (7) allows for reduced parking when occupancy is restricted, the multiple-family use has the flexibility of providing only one parking space per unit, for a total of four off-street parking spaces. Additionally, staff has discussed with the applicant that bicycle parking, per Section 10-3-25.1, will be required for the multiple-family use.

The applicant describes within their letter that they intend to provide affordable housing to very low-income individuals who are homeless, but are housing ready. These individuals may receive Housing Choice Vouchers or have sufficient income to afford a low-cost rent. While staff supports the applicant's intent, it must be acknowledged that this is not proffered and should the property be sold, a future property owner could rent the dwellings at market rate or in some other fashion.

The City's Comprehensive Housing Assessment and Market Study (Housing Study), which was completed in January 2021 identified a shortage of rental housing units that are affordable to the lowest and highest income renter households (0-30% and above 80% AMI) and found that "[t]here is significant mismatch with many higher income households residing in more affordable units and lower income households residing in more costly units." Among renters, the study noted several key findings of the housing mismatch, which included:

- "There are significantly more households than units in the 0-30% AMI tier. This tier includes most student households (including dependent and independent students), persons needing supportive housing, elderly households, and other household types that are non-student, non-elderly households.
- The vast majority of rental units are naturally occurring affordable housing, meaning that the unit is affordable to a household earning up to 80% AMI without public subsidy; 81% of all rental units are affordable to households with incomes up to 80% AMI.
- Because there are many more households with incomes above 80% AMI but few available for this income tier, these higher income households occupy rental units that cost less, therefore increasing competition among lower income households for the affordable units
- The vacancy rate is low; CHAS [Comprehensive Housing Affordability Strategy] data identified that only 2% of rental units were vacant."

The Housing Study explained that when the rental vacancy rate is low at 2% (or 3.5% per

American Community Survey data), it indicates “a very tight market with an inadequate inventory. This creates high levels of competition within the market as renters compete for scarce units and where the lowest income households have the fewest options.”

The housing study also identified that “[o]nly 10% of all [rental] units are affordable to 0-30% AMI households, most of which are large units” and that “[t]here are only 230 studio and one-bedroom units affordable to 0-30% AMI households, which is a critical unit type needed to meet the needs of households consisting of 1-2 persons and single persons needing supportive housing.” The proposed renovation and buildout would contribute to help to address the need for more one-bedroom units in the City as the applicant intends to renovate the structure, where each unit would only have 1 bedroom.

Another component of the Housing Study places the subject site within Market Type C and notes that “Market Type C has above median access to amenities yet is the most affordable market type in the City. The creation and preservation of affordable housing and construction of middle income housing would be appropriate here as there are already amenities in place that would make these areas attractive locations for housing, particularly as some low- and moderate-income households either do not have access to a private vehicle or have more drivers in the household than there are cars indicating that one or more household members will need to rely on public transit. In addition, sales prices are lower in Market Type C than in other Market Types making this a potentially more feasible location to create and preserve affordable housing.” Rezoning the property to R-5 would make it possible for the applicant to accomplish the point made in the previous sentence.

What the applicant is proposing will provide for low-cost, affordable housing for the lowest income households; recognizing and acting on some of the affordability and cost burdens laid out in the Housing Study.

The property is shown in the 2018 Land Use Guide as Medium Density Residential which states that multi-family dwellings (apartments) are supported in “special circumstances.” Staff notes that:

- The directly adjacent parcels to the north of the subject property, that front along East Market Street, are designated as Mixed Use within the Land Use Guide; a designation that supports a mixture of residential and commercial uses, as well as a mixture of housing types. The properties along East Market Street in this area are made up of single-family detached, duplex, and multi-family dwelling units.
- With regard to the Comprehensive Plan, the applicant’s proposed housing is aligned with Goal 6, “To meet the current and future needs of residents for affordable housing.”
- The location of the subject property has access to amenities such as public transit, grocery stores, parks, and jobs, which is a need for the households anticipated at this location.

Staff believes the above points are reasons for considering the proposal at this site as a “special circumstance” for the allowance of multi-family dwelling units at this location.

If approved, the applicant would need to apply for, and receive, the proper approvals for all necessary building and trade permits for the conversion of the duplex into a multi-family dwelling.

The applicant has also been informed that if the rezoning is approved, they must act on their plans to convert the two-unit structure to a four-unit structure, because a duplex is not permitted in the R-5 zoning district.

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

Commissioner Orndoff seconded the motion.

Chair Finnegan called for a roll call vote.

- Commissioner Armstrong Aye
- Commissioner Baugh Aye
- Commissioner Byrd Aye
- Councilmember Dent Aye
- Commissioner Orndoff Aye
- Commissioner Whitten Aye
- Chair Finnegan Aye

The motion to recommend approval of the rezoning request, as presented, passed (7-0). The recommendation will move forward to City Council on February 8, 2022.

This PH-Rezoning was recommended for approval to the City Council due back on 2/8/2022

Yes: 7 - Finnegan, Orndoff, Byrd, Whitten, Baugh, Armstrong and Dent

No: 0

4.d. Consider a request from Our Community Place for a special use permit to allow reducing required parking areas at 50 & 52 Reservoir Street

Special Use Permit

Concurrently, the applicant has applied for a SUP per Section 10-3-55.4 (6) to allow for the reduction in required parking spaces within the R-5, High Density Residential District. Required parking for a multi-family dwelling use in the R-5 district is calculated at a ratio of 1.5 spaces for each dwelling unit with one bedroom. With a proposal to have four one-bedroom units, typically the site would be required to have six spaces. However, as noted earlier, because the applicant has proffered a reduction in occupancy within each dwelling unit, only one parking space would be required for each dwelling unit, thus, only four spaces would be needed for zoning compliance. Behind the existing duplex there is ample unused area where parking could be installed. As required, a site sketch has been provided indicating that the four off-street parking spaces could be provided in this area. The parking area would be accessed from East Market Street, through an existing alley.

The applicant has stated that the main reason for requesting this particular SUP is to help keep renovation costs as low as possible, so that rents can be kept as low as possible. Since tenants will be clients of Our Community Place, they anticipate that the tenants will not have vehicles

explaining in their letter that “very few of the people we work with have cars or trucks due to their very limited income.” Additionally, the applicant further explains that “should one or two of the residents end up with vehicles at some point, we have a verbal agreement with the owner of the two adjacent rental properties... where residents in our building have permission to park when space is available.”

The applicant should understand that, if the SUP is approved, the area that would have been used for parking must be recorded in the deed, must also remain as open space, and shall not be used to meet any conflicting requirements of the Zoning Ordinance. Staff also discussed that if parking had to be installed in the future as shown on the site drawing, all parking lot landscaping requirements, per Section 10-3-30.1, would apply and one of the four parking spaces would be required to be a van accessible space with access aisle.

Staff supports the applicant’s objective to provide needed affordable housing dwelling units at this location. As well, staff believes that the requested SUP is consistent with good zoning practice and will have no more adverse effect on the health, safety, or comfort of persons living and working in the area and will be no more injurious, economically, or otherwise, to property or improvements in the surrounding area.

Staff is supportive of the requested rezoning and special use permit at this location.

Chair Finnegan asked if there were any questions for staff.

Commissioner Whitten said I know you worked with them to help them come up with the best plan. Was it considered to zone it R-3C instead of R-5C and what is the difference?

Ms. Banks said it was the lot area. It is only 7,757 square foot lot. In R-3, each dwelling unit is required to have at least 3,000 square feet of lot area, so there is not enough lot area to zone it R-3. Also, in the R-3, apartments are by SUP.

Commissioner Whitten it bothers me that we are going from medium to high density. When you look at the surroundings, it is single-family and R-2.

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

Sam Nickels, Executive Director of Our Community Place, came forward to speak to the request. I am here with Tim Cummings, OCP’s housing specialist. We have been working on this project for many months. This is OCP’s first venture into buying and renovating and expanding of affordable housing. We have entered into it because we have spent a great deal of time trying to get very low income people into housing. The barriers are extremely difficult for those folks to overcome. We decided that we are going to do it ourselves. We are going to property manage it and we are going to make a long-term commitment to it. We are going to provide supportive case

management for people who are coming off the street and into this housing to help them learn how to adjust to these situations, such as what it is to be a good tenant and help them stay in the housing long-term. The benefits of that are proven from multiple studies. It will have a positive economic impact on our community as well as quality of life for both the community and the people who are obtaining housing. This property is being financed without any bank financing. It is all being done with donations and housing social investors who are local people who want to support this effort and are doing so on highly favorable terms, such as 40 year loans at two percent. This kind of effort to a non-profit is a way that we in the community can address this challenge. I would like to thank Adam Fletcher, Alison Banks, Amy Snyder, and Ron Schuett for the feedback I have gotten on the project. We also have two engineering firms and an architectural firm who are donating their time to the project. We are still going to have to invest \$150,000, plus in-kind donations to the build out. It is a big effort, but we intend to do it in a way that makes the building look good and attractive, highly energy efficient, that provides a good quality of life for those living there and is affordable and adaptable to the needs of people that will be moving in. I am happy to answer any questions. Thank you for your work both on this project and the many other challenging planning issues that you have to deal with.

Chair Finnegan said that he can see that a lot of work went into this request. I can see that a lot of things were thought through. He then asked if there were any questions for the applicant.

Commissioner Whitten said I want to know about the agreement with the adjacent rental properties for parking. It is a verbal agreement. Can you get that in writing?

Mr. Nickels said that the owner that we had that agreement with sold it to an adjacent property owner. The new owners are the couple who own the Friendly City Inn. They bought two properties to the north of us and the vacant lot to the south of us. I talked with them. They are investing in properties and do not have specific plans yet. I mentioned this and he said that they would consider it. We would have to talk more about it and they would think it through. There is nothing firm there. I will mention several other things. One is that the right of way lane passes behind the house. The next house over owns about 10 parking spaces. Those are never used at all. I have never seen a car parked there. That is another option for an agreement. In addition, the space behind the building that at relatively low cost, if we needed to, could be filled in with gravel. We are also doing a lot of work through the architectural firm to try to determine exactly what we need to do for disability accessibility and the impact that will have or what it will require in terms of parking. We are thinking through all of these issues. The final thing that I will mention is that Long Street, which is one lot away from ours, cuts off just above our building. There are a lot of cars parked along that street and there is a lot of open parking there as well. I know that does not meet requirements for off street parking, but I am saying that there are a lot of parking options that are available all around us. If we needed those, we would enter into a contract with the owners of those properties that are not using their parking.

Commissioner Whitten said I would encourage you to do that. The other question I had is about the management. What does that look like? You mentioned in your letter “supportive case

management”. Will there be somebody at this location living there? Or is it a check-in from time to time? How does that work?

Mr. Nickels said that there are two different issues. There is property management and there is case management. Mr. Cummings already does property management for us at other locations. He is also a landlord. He owns a building in Richmond, which he has worked on for 20 years. He has a lot of property management experience. He is the main one who places folks into our housing. He will work on keeping the property in good condition, making repairs as needed, collecting rent, and so forth. We have a bookkeeper who assists in the management of that part. In terms of case management, it depends on the needs of the person. For some people, when we move them into housing, they do fine and we do not need to do any follow-up with them. That is probably about 40 percent. Another 30-35 percent would be people who need some assistance, especially in transition. We would interact with them on site or take them places, as needed, and work with them on a variety of issues. Then we have about 25 percent of the people we work with that we have to provide intensive case management services to. We have three full-time case managers in addition to Mr. Cummings and myself who also do some work with folks. Those folks will visit people in their homes, manage crises, resolve issues between neighbors, help someone through an employment crisis and access emergency funds so that the rent can be paid and they do not lose the place. That intensive work tends to come and go. It might be very intense for a week and then you do not need to be with the person for two months. Then there is another crisis, and you have to work intensively with them. We are very used to that. We have managed it for several years now. Our intent is to expand. This is our first project. Our intent is not to move people in who need highly intensive case management. We are focusing, at this point, on people who are solidly housing ready and we know that they are going to be successful, they have a stable income source, and they will not require highly intensive management. We need to get this project off the ground. We want it to be successful. We want to make sure that it is working. That is the approach that we are looking at taking at this point.

Chair Finnegan asked, if this is successful, do you plan to do more of these? What is your vision for this?

Mr. Nickels said yes. At this point, the OCP board has only approved this initial project. We did go through a housing strategic process and developed a housing plan. At this point, the board wants to see how this goes from a variety of perspectives and sustainability. I anticipate that we will continue to expand projects like these in the coming years. I think that it is very likely that future projects will not be focused on purchasing properties but focused on building properties. We are partnering with groups like Habitat for Humanity. We have been in talks with Habitat where they might build a quadplex. We would buy that from them, own it and property manage it. That would be a very low cost approach to get the project going. It would be new. It would be adding to the housing stock, not taking away from other housing for the low income group.

Chair Finnegan asked if there were any questions for the applicant’s representative. Hearing none, he asked if there was anyone on the phone wishing to speak to the request. Hearing none, he

closed the public hearing and opened the matter for discussion.

Chair Finnegan said I can tell that a lot of work went into this request. I appreciate the work of staff, and the applicants for having this vision. I know that it is hard to make these work in a totally market driven system where the housing prices keep going up. I am encouraged to see action being taken on some of these discussions that we have been having for years. Looking at the front page of the Daily News-Record, yesterday, we have “Rockingham County Supervisors Expect To Lower Real Estate Tax After Prices Surge” and, right below that, we have “Refuge from Cold... John Morris, a homeless city resident poses for a photograph outside Open Doors at dawn on Monday. He moved to Harrisonburg to be closer to his kids, but had issues with his landlord and has been homeless for several months.” These are City issues, and it is going to take an “all of the above” approach, I believe. I am cautiously optimistic and supportive of this request.

Mr. Fletcher said I want to remind the Commission of one item. In listening to Commissioner Whitten’s concern, if I was reading in between the lines there about concern over parking issues, the Commission does have the authority to recommend the condition that if Planning Commission and City Council believe that the SUP, and in this case it being, if not providing parking becomes a nuisance, that you can recall it for further conditions, revocation of permits or you can state that you can require them to put in a certain number of parking spaces. I do not recall whether or not staff specifically spoke about that being a condition in this SUP, but it is within the authority of Planning Commission to recommend a version of that, if you wish. If you do not recommend that condition, it does not become a condition of approval.

Ms. Banks said we did not include that as a condition because it is built into the regulation, if I am not mistaken. It says that in the event that the discretion of City Council was needed at some time in the future.

Commissioner Whitten said that helps, but the thing that weighs heavy on my mind is that the SUP, by the very nature, if it is not successful, that reduction goes along with the property. That could be at market rates, and we might have a difficult time getting the parking put in if it was needed. I would encourage them, if this passes, to try to get an agreement for parking adjacent before they go before City Council. If I was on City Council, I would want to have that assurance that it was taken care of.

Commissioner Armstrong said we use the phrase “affordable housing” a lot, but it does not capture the challenge of this population going from homelessness, or in some cases transitioning from incarceration, lots of different circumstances to try to get into housing. It is really great. I realize the concern about resale of the property and conditions of parking, but for the population that this is targeting, getting a vehicle is truly not their biggest challenge. I applaud this effort.

Councilmember Dent said I second that applause. In our discussions of affordable housing, I appreciate the spectrum of the very lowest income, zero income, imagine that, to 30 percent. How to help them to get that hand up to get people from homelessness into stable housing is by

far the most challenging. I applaud OCP and Mr. Nickels for taking on that challenge.

Commissioner Armstrong said that another advantage is that as people graduate from this residential situation and advance, that is a real contribution in our community. First of all, those are success stories for this kind of transitioning, and this also provides mentoring in our community. That is a real contribution.

Commissioner Byrd said in this SUP is a reference to Section 10-3-55.4(6). Are you saying that in that it says at the “discretion of City Council” they could remove the reduction of required parking? Is that correct?

Ms. Banks said that the SUP that they are asking for is to allow “reducing required parking areas to permit fewer than the required number of vehicle parking spaces for any use provided that an amount of open space equal to the amount of space that would have been used for the required number of vehicle parking spaces is left available for parking in the event that, at the discretion of City Council, it is needed at some time in the future.”

Commissioner Byrd said if they do not fill up the back area and leave it available for future parking, they are fulfilling the requirements.

Ms. Banks said that as long as they keep the back area open and it is green space, they are meeting the requirement. If at some point, the parking becomes a problem and City Council feels that they need to put parking in, then they would have to establish a parking lot in that back area.

Mr. Fletcher said to clarify, it does not have to be entirely open. They have to keep open to space needed to provide the number of parking spaces, not the entire back area.

Commissioner Orndoff made a motion to recommend approval of the SUP request.

Councilmember Dent seconded the motion.

Chair Finnegan called for a roll call vote.

- Commissioner Armstrong Aye
- Commissioner Baugh Aye
- Commissioner Byrd Aye
- Councilmember Dent Aye
- Commissioner Orndoff Aye
- Commissioner Whitten Aye
- Chair Finnegan Aye

The motion to recommend approval of the SUP request, as presented, passed (7-0). The recommendation will move forward to City Council on February 8, 2022.

A motion was made by Orndoff, seconded by Dent, that this PH-Special Use Permit be recommended to full council to the City Council, due back on 2/8/2022. The motion carried with a recorded roll call vote taken as follows:

Yes: 7 - Finnegan, Orndoff, Byrd, Whitten, Baugh, Armstrong and Dent

No: 0

Chair Finnegan noted that the meeting was at the two hour mark and offered to call a break.

Ms. Dang agreed. I also want to make you aware that I have received an e-mailed comment from a community member informing me that the video on channel three has been going in and out. She is concerned that the poor quality might limit public comment.

Chair Finnegan said that this is an ongoing issue. This week we had to revamp the system. It is frustrating to us, to me, that we are doing this work and people cannot participate. I share the frustration of that commenter. We will do our best to speak clearly and hopefully resolve these technical issues.

Mr. Fletcher noted that there is a delay in the broadcast of the live meeting and urged everyone to be patient to ensure that everyone has the opportunity to participate. Although the meeting is virtual, we are providing as much opportunity as we can through this format.

Chair Finnegan called for a 5 minute recess.

The next two items on the agenda have been requested by the same applicant. The items will be heard separately because Zoning Ordinance amendments, such as this, have an impact City wide, not just on the property requesting the special use permit.

4.e. Request from Armada Hoffer Properties to amend the Zoning Ordinance to allow multiple-family dwellings and/or mixed use buildings by special use permit in the B-2, General Business District.

Chair Finnegan read the request and asked staff to review.

Ms. Dang said that Article Q of the Zoning Ordinance (ZO) sets forth the B-2, General Business District regulations. The purpose of the B-2 district is described as:

“This district is intended to provide a sufficient space in appropriate locations for a wide variety of retail shopping, commercial, automotive, and miscellaneous recreational and service activities generally serving the city, a wide area of the region, and the traveling public, and generally located along major thoroughfares or near development centers where a general mixture of commercial and service activity now exists or is planned, but which uses are not characterized by extensive warehousing, frequent heavy trucking activity, or the nuisance factors of dust, or odor and noise associated with manufacturing.”

The B-2 district does not currently allow residential uses by right or by special use permit.

The applicant is requesting two, separate but simultaneous requests, which include 1) to amend the ZO within the B-2, General Business District Section 10-3-91 by adding multiple-family dwellings and mixed use buildings as an allowable use through approval of a special use permit (SUP), and 2) applying for the SUP to allow multiple-family dwellings on a parcel zoned B-2. The specifics of the requested SUP are addressed in a separate staff report.

In addition to amending the ZO to add a new SUP in Section 10-3-91 of the B-2 district regulations, amendments are also proposed to Section 10-3-92 to add area and dimensional regulations for multiple-family dwellings and mixed use buildings, to Section 10-3-93 to add other regulations for multiple-family dwellings and mixed use buildings, and to 10-3-25 to create off-street parking requirements for multiple-family dwellings in the B-2 District. The proposed amendments are attached herein.

As previously stated, the B-2 district does not allow residential uses by right or by SUP. If the ZO amendments are approved as proposed, B-2 property owners would be able to apply for a SUP to allow for multiple-family dwellings and mixed use buildings. Additionally, occupancy would be restricted within each dwelling unit to a family or not more than four (4) persons. The proposed occupancy restriction is the same as both R-3 districts as well as the R-4, R-5, and B-1 districts.

The applicant proposes adding a new subsection to 10-3-93 which would state:

“For multi-family dwellings and mixed use buildings, the development plan submitted with the special use permit shall govern development on the site and shall be used as a basis for subdivision and engineered comprehensive site plan approval.”

This subsection would require that a development plan be submitted with the SUP application and that elements shown on the development plan “shall be used as a basis for subdivision and engineered comprehensive site plan approval.” This regulatory language is similar to master development plans required for the R-6, R-7, and MX-U districts, which are all master plan-controlled districts, where details of the development plan are somewhat locked in to ensure that what is proposed and evaluated at the time of rezoning is what is developed. If approved as presented, if significant deviations are desired by the property owner in the future, then the property owner must amend the development plan by going through the SUP process again.

Section 10-3-92 of the ZO provides the area and dimensional regulations for the B-2 district. In the current ZO, all uses in the B-2 district have the same minimum front yard, side yard, and rear yard setbacks, and are allowed a maximum height of 75-feet. As many are aware, the Zoning and Subdivision Ordinances Update Project is currently underway, where the ordinances are being comprehensively reviewed and rewritten. In Summer 2021, Module 1 (part one of three) of the draft ordinances was released for public comment. Module 1 included District Development Standards, which describe area and dimensional requirements for each proposed new zoning

district, and Use Standards which describe what uses are allowed by right and by special exception (currently known as a special use permit) in each zoning district. The proposed Auto Urban Commercial (AUC) district most closely resembles the existing B-2 district. As drafted, the AUC district would allow, by special exception, townhouses, apartments, and mixed use building uses. The applicant has chosen to propose the same minimum lot area of 1,120 square feet per dwelling, minimum front yard setback of 20-feet, and maximum height of 75-feet as was presented in draft Module 1. Staff discussed with the applicant that further discussion is needed for proposed side and rear yard setbacks, and therefore the applicant has proposed to keep side and rear yard setbacks the same for all uses as they exist today in the Zoning Ordinance, which requires:

“Ten (10) feet, except on the side of a lot abutting a residential district, then thirty (30) feet; provided that for any structure greater than thirty-five (35) feet in height which abuts a residential district, then one (1) additional foot of setback is required for each foot above thirty-five (35) feet.”

Staff believes that there are some locations where residential uses on B-2 zoned property could be beneficial for the City and recommends approval of the proposed ZO amendments. The proposed ability to develop multiple-family buildings and mixed use buildings in the B-2 district by SUP would allow staff, Planning Commission, and City Council to evaluate and determine if a specific development proposal is appropriate for the proposed location and if the SUP is granted, potential impacts can be addressed through conditions imposed by City Council.

In additional support, the 2018 Comprehensive Plan encourages to the greatest extent possible that all developments throughout the City include traditional neighborhood development (TND) principals. Creating a SUP to allow for multi-family units within the B-2 district would, among other TND principles, allow residents to work, shop, and carry out many of life’s other activities within the neighborhood and allow residents to walk, ride a bicycle, or take transit for many trips between home, work, shopping, and school. Furthermore, the City of Harrisonburg Comprehensive Housing Assessment and Market Study, within recommendation #9, encourages the incorporation of new and updated provisions in the ZO that will facilitate the implementation of the recommendations made in the study. Among other suggestions, recommendation #9 encourages to “[c]onduct zoning map and/or zoning text amendments to increase housing stock, housing type and housing density.” Since B-2 properties are located in each Market Type in the City, this amendment should create the opportunity to assist the community in increasing housing stock and options for people who want to live in the City.

Staff recommends approval of the proposed ZO amendments.

Chair Finnegan asked if there were any questions for staff.

Chair Finnegan said that this request is interesting. I heard rumors about this a year ago. I have questions about this as it relates to parking requirements for places like the Valley Mall, which is

also B-2. Every time I drive by the mall, I see all that parking lot and it seems like a misuse of space. Are there other places that you have identified? Have you identified where else this could apply?

Ms. Dang said that appropriateness of multiple-family dwellings in the B-2 district would depend on the location as well as what a particular applicant is proposing to do and how they lay the site out. There are a lot of factors that we would want to evaluate before saying that a particular location is appropriate.

Commissioner Byrd said that Section 10-3-91 line 17, does the “and/or” grant the ability to request a solely residential building within B-2 instead of requesting a residential zoning designation?

Ms. Dang said yes, that is correct. They could request to build an entirely multi-family building.

Commissioner Byrd said that saves them from having to request a change to a residential district

Mr. Fletcher said that there are many other stipulations within the ZO that control different building heights, setback requirements, other uses that come into play when you rezone things to different zoning categories. If you create a residential district in the middle of a commercial district, that has impacts on the commercial properties because it increases their setbacks and other things. This is creating the ability to possibly do infill development, which is what we are going to be talking about in the next agenda item. It creates new opportunities for increasing housing stock and creating opportunities for people to live in the City if people want to live in the City.

Councilmember Dent said I believe I heard Ms. Dang say that this proposed ZO amendment most closely resembles one of the new Module 1 zoning districts [from the draft Zoning and Subdivision Ordinance rewrite project]. What is it called?

Ms. Dang said it is called Auto-Urban Commercial.

Councilmember Dent asked what that would look like. Are we trending towards it with this amendment?

Ms. Dang asked for clarification.

Councilmember Dent said in this amendment to the existing ZO, are we more or less replicating what it will be in the future with the Auto-Urban Commercial?

Ms. Dang said just this component of it, the multi-family and mixed-use. There are other changes that we are proposing about what uses would be allowed and not allowed, side yard setbacks and rear yard setbacks, that still need to be worked through. I would say that with regard to the ability to have residential uses here, the draft Module 1 proposed for consideration mixed-use and

multi-family buildings in the Auto-Urban Commercial district. There was another residential use within that draft for townhomes to be considered, but that was not included here, not because it is not good, but it is still to be vetted, and that was not what the applicant was requesting for this ZO this evening.

Councilmember Dent said I just wanted to verify that this was the direction we were aiming for anyway, to have more mixed-use and multi-family residences to be allowed in business districts. We are patching up the existing ordinance as we are working towards a much more streamlined and inclusive one.

Ms. Dang said my only hesitation to say that is that it has not been fully vetted by the Ordinance Advisory Committee yet. We do recognize that in a way this is coming from work that has already been started, but it has not been fully vetted by all of those involved in the project.

Commissioner Armstrong asked what is the height maximum in the B-2 district now?

Ms. Dang said that it is 75 feet.

Commissioner Armstrong said then there is no change on that.

Commissioner Baugh said I think that it is premature to say that this is entirely in affirmation of things that we have decided. I think I am seeing it more of, if this a direction you like, then you may be wanting to support. It is not that these decisions have been made. This is part, if you support something like this, of trying to support and create things that have set more of these decisions getting made now in terms of our recommendation to City Council, not so much that we are doing is consistent with things that have already been decided.

Chair Finnegan said when you showed that map of where these zones currently exist in the B-2, is the motor mile part of that?

Ms. Dang said yes, it is.

Chair Finnegan said something to keep in mind for us here is, yes, we are voting on this, and it is related to the next request, but the new high school is being built off of South Main Street where the motor mile is. It is something to keep in mind that there are car dealerships with a lot of empty parking lots over there and more opportunity for possible residential uses there.

Commissioner Whitten said everybody likes the word “hybrid” these days. I see this as a “hybrid.” We take the B-2 and we show some flexibility, particularly because this particular piece of property lends itself to that. It seems like a very good use for the property. We have taken the B-2 and are making it a hybrid. I would be very cautious about saying that this means something in terms of the new ZO. We are way too early, even though it has been a lot of time, thanks to the pandemic, to make any sweeping statements about that.

Commissioner Armstrong said I do not know when it is appropriate to interject this, but I will jump in. I have been reading a United Nations report that is a strategic plan for climate change for urban planners. It is dated 2014. They definitely support mixed-use planning, but they point out that most urban planning is focused on access to jobs, housing, goods and services which is what we see in this application here. Mixed-use planning typically is not including or specifying local access to neighborhood parks and green spaces. This means that parks and recreation are accessed often, as observed in this UN report, by private vehicles. This adds to the greenhouse gas emissions that we have been trying to work with in EPSAC [Environmental Performance Standards Advisory Committee] with the greenhouse gas inventory. We see this for the Purcell Park neighborhood. There are lots of vehicles coming through the neighborhood driving to the park. One thing that I want to put in there is that people are envisioning a transition from impermeable surfaces like parking lots to housing which are impermeable surfaces. The Comprehensive Plan states that the availability and distribution of mini-parks is deficient. The plan calls for the creation of a network of pocket parks and green spaces. We need to deliberately include in the mixed-use planning idea walkability to local neighborhood parks and green spaces. That currently does not exist. It is just not playing out. Related to the need for a system of neighborhood parks is what the UN report calls “risk inequity.” One of the questions I have is, as we promote and higher density development, do we increase the risk of flooding for other properties, particularly those on the west part of town that border on Blacks Run creek and for all lower elevation properties? I think that what has to happen is we need to push forward this City-wide plan for a system of mini-parks and green spaces that will cope with heavier rainfalls and as we do higher density planning, the increased stormwater runoff that is going to from those spaces. The UN report supports mixed use and so do I. I want to put in place here the idea that, along with this, it has to be accompanied by local green spaces. These City access parks that everybody drives to are not walkable. You cannot get to them by walking. Very few people can. I want to put on the table that what needs to track along with this is a deliberate plan to create a City-wide network and system of mini-parks and neighborhood parks. I want to see that in the list of what we are multi-use planning for.

Commissioner Whitten said this particular location, maybe not for everybody but for most people, you can walk easily to the JMU Arboretum from this location. You would not need to get in your car.

Commissioner Armstrong said there are a lot of people that would.

Commissioner Whitten said it is the same with the Dream Come True playground. To me, it would be walkable. I am not sure if you are suggesting that these mini-parks are going to somehow manage the flooding because I am not sure of that. The stormwater is part of any plan. I agree with you in spirit, but I am not quite sure.

Commissioner Armstrong said in the last few months, Richmond had a five-inch rainfall within hours. The public report was that it overwhelmed the stormwater system because the stormwater

system was not designed that level of rainfall. We are seeing that all over the country.

Chair Finnegan said I agree with Commissioner Armstrong. I fully support pocket-parks and green spaces. I am concerned about flooding. The issue at hand here, for this ZO amendment, are you suggesting further changes to the ZO amendment about pocket-parks?

Commissioner Armstrong said I do not know the answer to that. I find that this is so off the radar screen that I do not know how to introduce it and I do not know how to propose it. I am putting it on the table. I think it is important. We are going to see unimaginable levels of rainfall in the future. That is a given now. We are seeing it all over the country.

Chair Finnegan said fully I agree with you. I am saying that this is about a ZO amendment, so we are going a little off track on this, unless we are trying to add something in here about pocket-parks. I suggest that we take that under advisement and figure out where else we can use those ideas. I am fully in support of them, but we need to stay focused on this item.

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

Nathan Miller, applicant's representative, called to speak to the request. I am local counsel to Armada Hoffler. I have here with me online a number of staff members of Armada Hoffler to answer questions. I will introduce Jennifer Harris who will make comments about the rezoning portion of the project and Mr. Donaghvan Brown.

Jennifer Harris, Vice President of Development for Armada Hoffler Properties, spoke in support of the request. I am happy to be here tonight. I look forward to the discussion. We have the whole team on the call tonight, with the architect, engineer, and traffic engineer to answer any questions or concerns that the Commission or the callers have.

Donaghvan Brown, Assistant Manager of Multi-Family Operations for Armada Hoffler Properties, spoke in support of the request. It is a pleasure to meet everyone. Thank you for having us.

Chair Finnegan asked if there were any questions for the applicant's representative. Hearing none, he asked if there was anyone on the phone wishing to speak to the request. Hearing none, he closed the public hearing and opened the matter for discussion.

Chair Finnegan said that the City grows older and we continue to change the uses in the City. At one point the parking lot next to Jack Brown's was a movie theater, now it is a parking lot. There are many empty parking lots on the east side of town. I think this is a good adaptation and use of space to open up this option for residential uses in the B-2 district.

Commissioner Whitten made a motion to recommend approval of the ZO request.

Commissioner Byrd seconded the motion.

Chair Finnegan called for a roll call vote.

Commissioner Armstrong Aye, with reservations.

Commissioner Baugh Aye, with general support for the points made by Commissioner Armstrong, but that is part of a larger discussion and has a much broader application for all housing rather than just this.

Commissioner Byrd Aye

Councilmember Dent Aye

Commissioner Orndoff Aye

Commissioner Whitten Aye

Chair Finnegan Aye

The motion to recommend approval of the ZO request passed (7-0). The recommendation will move forward to City Council on February 8, 2022.

This PH-Zoning Ordinance was recommended to full council.to the City Council due back on 2/8/2022

Yes: 7 - Finnegan, Orndoff, Byrd, Whitten, Baugh, Armstrong and Dent

No: 0

4.f. Consider a request from A/H Harrisonburg Regal LLC with representatives Armada Hoffer for a special use permit to allow multiple-family and/or mixed-use buildings at 381 University Boulevard

Chair Finnegan read the request and asked staff to review.

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

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

Site: Movie theater, zoned B-2

North: Undeveloped land and commercial uses, zoned B-2

East: Commercial uses zoned, B-2

South: Commercial uses zoned, B-2

West: Commercial uses zoned, B-2

The site is a +/- 9.5-acre through lot with frontage along University Boulevard and Evelyn Byrd Avenue. Currently, the Regal Harrisonburg movie theater operates on the site. If the special use

permit (SUP) request is approved, the applicant intends to develop 274-multiple-family dwelling units with a parking garage on a portion of the site while also maintaining the Regal Harrisonburg structure. Note that this SUP is requested simultaneously with a Zoning Ordinance (ZO) amendment request that, if approved, would create the ability for property owners within the B-2 district to apply for a SUP to allow for multiple-family dwellings and/or mixed use buildings. This report presumes that the ZO amendments are approved as submitted by the applicant.

As would be required by Section 10-3-93 (d), the applicant has submitted a development plan with the SUP. Proposed Section 10-3-93 (d) states that “[f]or multiple-family dwellings and mixed use buildings, the development plan submitted with the special use permit shall govern development on the site and shall be used as a basis for subdivision and engineered comprehensive site plan approval.” If the SUP is approved, then details of the development plan would be used to ensure that what is proposed and evaluated during the SUP review is what is developed. If significant deviations are desired by the property owner in the future, then the property owner must amend the development plan by going through the SUP process again.

Features of the development plan submitted with the SUP that would be used as the basis for engineered comprehensive site plan approval include, but are not limited to:

1. The general location of buildings and structures as illustrated.
2. The general number of stories within proposed buildings and structures. Although the buildings and structure heights are not described on the development, the applicant is aware that the maximum height allowed in the B-2 district is 75 feet.
3. The type and general number of dwelling units within each structure and on the site. The applicant is planning to construct 274-multiple-family dwelling units.
4. The ratio of off-street parking spaces required for the multiple-family dwellings, which would be one off-street parking space per dwelling unit per the development plan submitted for the Planning Commission (PC) agenda packet. However, since the PC agenda packet was published, the applicant informed staff that they desire to update the development plan to require a minimum of 1.3 off-street parking spaces per dwelling unit. The proposed ZO amendment in Section 10-3-25 would require a minimum of one off-street parking space for each dwelling unit or as may be more or less restrictive as conditioned by the SUP. So long as the minimum required parking spaces is provided per the ZO or a condition of the SUP, the site would be in compliance with the regulations.
5. Details such as the note on the development plan that states: “A continuous ingress and egress easement for use by bicyclists and pedestrians from the entrance on Evelyn Byrd Avenue to the entrance on University Boulevard. This easement leaves open the ability to reconfigure the location of the path if the theater portion redevelops, but ensures that there’s still a way for bicyclists and pedestrians to travel through the property.”

6. Construction of sidewalks and crosswalks within the site.
7. Installation of “sharrow” lane markings on the private road between Evelyn Byrd Avenue and University Boulevard. This is to ensure awareness of the use of the private road by people biking.
8. Removal of an existing site access (entrance) along Evelyn Byrd Avenue.

As required by Section 10-3-118 of the Zoning Ordinance, since the proposed multiple-family dwellings meet the threshold for the City to be able to review a traffic impact analysis (TIA), staff requested for traffic to be evaluated. The TIA evaluated the traffic impacts of a proposed 274-unit multiple-family residential development and parking garage and analyzed traffic operations at seven study intersections during the AM and PM peak hours. The TIA study concluded that “[b]ased on findings of the analysis, it was determined that the proposed project does not result in significant nor adverse impacts on the surrounding roadway network. Therefore, mitigation measures including geometric and capacity improvements are not recommended.”

Although the applicant did not illustrate on the development plan construction of sidewalks along the frontage of University Boulevard and a short section of Evelyn Byrd Avenue frontage, the applicant is aware that sidewalk construction and dedication of right-of-way or public sidewalk easement will be required when the site is further developed.

Staff encouraged the applicant to consider adding tree plantings on private property along University Boulevard into the development plan. The applicant responded that they are willing to consider the incorporation of trees as the design develops, but that they cannot commit to tree plantings at this time. The applicant noted the existing steep grade along University Boulevard and stated that they would prioritize construction of sidewalks along University Boulevard if both sidewalks and trees are not feasible.

With regard to public transit, Route 1 serves Evelyn Byrd Avenue and residents of the proposed multiple-family development would be well served by public transportation. Staff recommends the following condition be added to the approval of the SUP:

- The property owner shall construct and dedicate necessary right-of-way or provide an easement for a bus pull off and concrete pad for a bus shelter along Evelyn Byrd Avenue.

The location of the bus pull off would be determined during the engineered comprehensive site plan phase of the project in coordination with the Departments of Public Transportation and Public Works. The City has offered to provide a bus shelter.

Since the PC agenda packet was published, the applicant has offered the following additional self-imposed conditions.

- The property shall not contain dwelling units that have more than three (3) bedrooms.
- The one-bedroom dwelling units on the Property shall make up at least 10% of the total dwelling units on the property. The three-bedroom dwelling units on the property shall make up no more than 40% of the total dwelling units on the property.

The City's Comprehensive Housing Assessment and Market Study (Housing Study), which was completed in January 2021 identified a shortage of rental housing units that are affordable to the lowest and highest income renter households (0-30% and above 80% AMI) and found that "[t]here is significant mismatch with many higher income households residing in more affordable units and lower income households residing in more costly units." Among renters, the study noted several key findings of the housing mismatch, which included:

- "There are significantly more households than units in the 0-30% AMI tier. This tier includes most student households (including dependent and independent students), persons needing supportive housing, elderly households, and other household types that are non-student, non-elderly households.
- The vast majority of rental units are naturally occurring affordable housing, meaning that the unit is affordable to a household earning up to 80% AMI without public subsidy; 81% of all rental units are affordable to households with incomes up to 80% AMI.
- Because there are many more households with incomes above 80% AMI but few available for this income tier, these higher income households occupy rental units that cost less, therefore increasing competition among lower income households for the affordable units.
- The vacancy rate is low; CHAS [Comprehensive Housing Affordability Strategy] data identified that only 2% of rental units were vacant."

The Housing Study explained that when the rental vacancy rate is low at 2% (or 3.5% per American Community Survey data), it indicates "a very tight market with an inadequate inventory. This creates high levels of competition within the market as renters compete for scarce units and where the lowest income households have the fewest options."

Another component of the Housing Study places the subject site within Market Type A and notes that "priorities and policies that are appropriate to market Type A areas include an emphasis on increasing density through zoning changes, infill development and housing rehabilitation to maintain the quality of housing." Staff believes that the proposal utilizes a component of the recommendation by creating an opportunity for infill development.

With regard to the Comprehensive Plan, Traditional Neighborhood Development (TND) principles are encouraged to be included in all developments throughout the City. While the subject site on its own would not incorporate all the ideals and characteristics of TND, adding multi-family dwelling units at this location would incorporate some of those characteristics such as: having a neighborhood that allows residents to work, shop, and carry out many of life's other

activities; and allowing residents to walk, ride a bicycle, or take transit for many trips between home, work, shopping, and school.

From a design and site layout perspective, staff likes the applicant's proposal to mass buildings and structures close to the private drive aisle and to Evelyn Byrd Avenue. The four-story garage structure is also an efficient use of space for vehicular parking. Staff believes that the design will create an environment that is more accessible, interesting, and safer for pedestrians, bicyclists, and motorists. Furthermore, adding more residential units to the market will benefit the community's need for more housing and for people who want to live in the City.

Staff recommends approval of the SUP request with the following conditions:

- The property shall not contain dwelling units that have more than three (3) bedrooms.
- A minimum of 1.3 parking spaces per dwelling unit shall be provided.
- The one-bedroom dwelling units on the Property shall make up at least 10% of the total dwelling units on the property. The three-bedroom dwelling units on the property shall make up no more than 40% of the total dwelling units on the property.
- The property owner shall construct and dedicate necessary right-of-way or provide an easement for a bus pull off and concrete pad for a bus shelter along Evelyn Byrd Avenue.

Chair Finnegan asked if there were any questions for staff.

Chair Finnegan asked, are we calling one apartment with three bedrooms a unit? It is not bedrooms?

Ms. Dang said yes. A dwelling unit is not per bedroom. A dwelling unit is a household.

Mr. Fletcher added it is one contained unit with kitchen facilities. It is one unit with three bedrooms.

Chair Finnegan asked to see the presentation slide with the traffic flow past the theater. It looks like that is the de facto road that is running through the middle. That is shared with the Regal theater, so someone going to the theater might drive out onto Evelyn Byrd Avenue or vice versa.

Ms. Dang said that is right. It is a private travel lane that would go through there.

Chair Finnegan said so it is not cutting off the traffic here. Were there any concerns about too much traffic when the movie lets out and there are a bunch of people walking on what looks like a crosswalk there or any other traffic concerns related to the movie theater?

Ms. Dang asked are you talking about the interior traffic flow on the site?

Chair Finnegan said if a movie lets out, a bunch of people are driving out onto Evelyn Byrd

Avenue, there is a lot of foot traffic from the parking deck. Is that a concern?

Ms. Dang said I would ask the applicant to answer that.

Commissioner Whitten said I wonder about schools. Will kids go to elementary at Smithland Elementary and middle school at Skyline Middle School?

Ms. Dang said I do not know. I would have to look it up and see what the boundaries are.

Commissioner Whitten asked does the school administration, whoever oversees this for them, have they looked at this plan.

Ms. Dang said we send these review packets every month to the administrative staff at the schools.

Commissioner Whitten asked do we have any numbers generated for anticipated enrollment for schools from this development.

Ms. Dang said I do not.

Commissioner Whitten said that is one nice thing at Rockingham County when they are looking at something like this. They do have those numbers. They are mindful of how full the schools are. I think that would be helpful.

Chair Finnegan said I believe that would be correct, even if they eventually redraw lines with the new high school. I would imagine this is closest to Smithland Elementary.

Mr. Fletcher said I am looking at the map now to confirm. What I am seeing is that it is Stone Spring Elementary School and Skyline Middle School. That is currently on their website. The boundary is East Market Street.

Commissioner Whitten said I think Stone Spring Elementary is pretty full. I go there a lot.

Ms. Dang said we did receive public comments, in writing, prior to this meeting. We have received one public comment during this meeting. While I was presenting the previous one, there was a second public comment submitted. I will share it with you. It was from Kristy McComb who says, "This is not good for Harrisonburg or the surrounding businesses and neighborhoods. University Boulevard cannot handle the current traffic and has not been taken into consideration." There was a third public comment that I had anticipated from somebody who was also concerned about traffic, but I have not received that email yet, or they may have forgotten the attachment.

Commissioner Whitten said I do not think I saw the first one you referred to. Could you tell us about that one?

Ms. Dang said that one was from Jeff Forbes. He first asked about the building and the number of dwelling units. Keep in mind that this was before the applicant's self-imposed conditions about the dwelling units being limited to three bedrooms, as well as the maximum/minimum ratios of certain bedroom configurations. He said "there will be a mix of one to possibly four bedroom units in this project since one bedroom units economically will not work." He is concerned about the number of parking spaces that were required. Again, that was before the applicant set the condition of 1.3 parking spaces per dwelling. He described that in the other zoning districts we require anywhere between 1.5 to 3.5 parking spaces per unit, depending on the number of bedrooms. The other concern is related to traffic and the TIA. He questioned how many beds were used in the study and if it was only 274, that would be substantially less than what would be the potential for this project because 274 represents the number of dwelling units, not the number of bedrooms.

Commissioner Armstrong said I also question the TIA because they are assuming the peak times are a.m. and p.m. as if it is commuter traffic. Those are not the peak times if it is predominantly students, that would be the current class schedule. Along Port Republic Road and particularly where the university comes into Port Republic Road, it is bumper to bumper as far as you can see out Port Republic Road, depending on class schedule not on a.m. or p.m. peak hours. It seems to me that they are not really measuring actual peak traffic in this region. I also think this is a big burden to be putting onto University Boulevard in both directions, also out Port Republic Road.

Commissioner Byrd said is that road Port Republic Road? No, that is Reservoir Street. Reservoir Street is the road you are concerned about.

Chair Finnegan said Reservoir Street is the one that connects in with both of those roads.

Commissioner Byrd said Port Republic Road is very far away. Reservoir Street does meet the exact same statements that you said for Port Republic Road. It is still bumper to bumper for different portions of the day relative to students moving from that side of the University property. I was just pointing out that Reservoir Street is a much closer street to the traffic issue that you are discussing as opposed to Port Republic Road that is further away physically.

Commissioner Armstrong said that depends on the direction in which students need to travel.

Chair Finnegan said he is saying that where this is located, both of these roads intersect with Reservoir Street, both Evelyn Byrd Avenue and University Boulevard.

Commissioner Armstrong said I understand that. The other end of University Boulevard, which I do not know where all the traffic is coming down there during those peak student hours, but it is coming down University Boulevard emptying onto Port Republic Road. This could also worsen that condition.

Chair Finnegan asked if there were any more questions for staff. Hearing none, he opened the

public hearing and invited the applicant or applicant's representative to speak to their request.

Jennifer Harris said we do have our traffic engineer on the phone and he can address any concerns with the reports. We would be happy to work with staff if there are different hours that should be looked at to see what the effect would be. We are happy to run additional different timeframes to see what the impact would be at the various intersections. The nighttime-daytime is typical to run for apartments, not knowing what our mix of residents will be. It is not our intention for this to be student housing, but until we get out there, we do not know who are intended target will be when it shows up.

Chair Finnegan asked is the intention to lease per bedroom or to lease per unit.

Ms. Harris said the intention is to lease per unit.

Chair Finnegan said can you speak to the movies letting out, all of the other businesses along University Boulevard, people cutting through? Right now, that is a cut through to avoid traffic on Reservoir Street for a block. They have speedbumps there. Are there going to be speedbumps near the crosswalks? How is that through-traffic from Evelyn Byrd Avenue, that cross-traffic, going to be addressed?

Ms. Harris said we are happy to work with our engineers and staff to discuss recommendations. We are happy to add or create the crosswalks, speedbumps where recommended or deemed appropriate. We understand that it is a cut-through, although it has been brought up as a very critical connectivity point for the community and definitely for Regal. That cross-connection is important to them to have two ways to empty out the theater.

Donaghvan Brown said there are currently four speedbumps in that location, and they are very closely located to the crosswalk.

Chair Finnegan said I do not know that another TIA will be done if you check the box that you need to check legally. Certainly, market analysis has been done. You must have some sense of what these units will cost and what sort of individuals or families will be living there. Is there a target market here?

Ms. Harris said we did complete a market study. We do have a current mix that we are looking at. It is a mix of studios, one and two bedrooms and a small portion of three bedrooms, and then some townhome units to line the garage. Those are slated to be two-bedrooms.

Mr. Brown said that most of the demand for our property would be targeting folks in the higher income bracket within Harrisonburg. We are not necessarily going to attract students, unless that student comes from a wealthier background. We cannot control that. From a student housing price perspective, they will be priced out of that area for our particular development. We do not intend for them to occupy a large portion of our development.

Chair Finnegan said there is concern from neighboring property owners about parking. There is not enough parking. If you have estimates for the public record and for the Planning Commission, how much does one parking spot cost. The most recent estimate I heard is somewhere between \$20,000 and \$25,000 per parking space in Harrisonburg. How does that impact the price of the units?

Ms. Harris said we are contemplating a precast garage which is more economical than a cast-in-place. Right now, we are seeing costs around the \$20,000 per space. The figure you quoted is in the ballpark. I wish I could say that it would stay that way, when we actually go to bid this in six months. Across the board, construction pricing is up 20 percent in the last year, so it is hard to tell where pricing is going to go in the next six months.

Councilmember Dent said the garage is a great idea. It is more dense and less use of surface. There is also a listing of 312 surface parking. Where is that? Is that combined with existing parking?

Ms. Harris said yes, that is in front of the Regal. Mostly that would be used by the theater. The residents would park in structured parking across from the units.

Councilmember Dent said there is a courtyard on the design plan that I find interesting. Is it green space or patio?

Ms. Harris said it is more patio. Mr. Tormeno, what is your vision on the courtyard?

Patrick Tormeno, architect with B&B Architecture, said the internal courtyard is likely to be an amenity space for the residents. I think pool deck, grilling stations, lounge furniture, gaming, stuff like that. There is a secondary courtyard that is open to Regal that will be more of a public courtyard. That design is still in flux. It is likely to be a mix of semi-private to public usage. Maybe a small dog run for residents. We are still in the planning stages.

Chair Finnegan said I believe that we have Mr. Boyd on the line who is the traffic engineer. Is that correct?

Mark Boyd, engineer with Kimley Horn, said Omar Kanaan is the traffic engineer. I am on the civil side.

Commissioner Armstrong said you say in the application that staff encouraged you to consider adding tree plantings, and your response is that you will not commit to this at this time. What I see from this application is not a single tree being planted. Is that correct?

Mr. Brown said that is not correct.

Ms. Harris said I am not sure why we would respond that way. Mr. Boyd can respond more on this from the civil engineering layout. I am sure that there is a minimum tree requirement even with the B-2 district. There are trees up and down Evelyn Byrd Avenue. I am sure that we will have trees located on the cross-street, along the bike path and the sidewalks, to create a more inviting environment.

Mr. Boyd said that we will have a landscape plan as part of the site development process. You are correct that we do not show anything on the current development plan with the SUP, but that does not mean that we will not include landscaping to meet City requirements with the site plan process.

Ms. Dang said the comment that Commissioner Armstrong is referring to is along University Boulevard specifically. Since that is an existing parking lot, it is non-conforming to our parking lot landscaping requirements. If I recall correctly, I believe Mr. Brown was on the call with me and Alex Olson talking about Armada Hoffer's interest in putting trees but that you did not want to commit because there also needs to be room for the sidewalk to go there, too. There is a relatively small strip of flat area where the sidewalk would go, then the slope drops off significantly. My recollection was that your team was concerned about submitting something that might not be feasible.

Mr. Brown said if you go out there and look at the steepness of that location, if you want to commit to a sidewalk, which we intend to do, we need to prioritize that. If we do add a series of trees in that location, it would probably require a retaining wall and additional structures that may not be feasible for that height location.

Mr. Boyd said the sidewalk along University Boulevard, today, stops where the Buffalo Wild Wings retail development is next door. If we continue that same section with the three foot grass strip and the five foot sidewalk, the edge of that sidewalk would be on a very steep slope if you try to put it in today. As Mr. Brown was alluding to, to add street trees to that section, we would have to push back that slope and likely add a retaining wall to the property just to put in street trees and a sidewalk. I do not want to speak for Armada Hoffer, but it is not something that we are saying no to, it is that we are still studying how that can be put on the design plan.

Chair Finnegan asked if there were any questions for the applicant's representative. Hearing none, he asked if there was anyone on the phone wishing to speak to the request.

Kristina McComb, 362 Blue Stone Hills Drive, called in regarding the request. Thank you for this opportunity. First, any and all potential easements that could be retroactive should not be allowed and should be planned for and approved now before any further plans are put into place. I am a little concerned about the question and the response about which school this residential area would impact. Finally, I do not think that the traffic study is thorough enough and does not take into consideration the additional traffic burden it will put on not only Evelyn Byrd Avenue, Reservoir Street, and University Boulevard, but other leading roads out of these areas. I believe

the traffic study is not thorough enough and is incomplete. What about any additional modifications of existing exits and egresses east of this proposed property? There are a lot of cut-throughs. This is a wonderful cut-through to go from Evelyn Byrd Avenue to University Boulevard and you are only going to make it worse. I do not see any mention of a sediment and erosion control plan which is concerning because this property is on a slope. I do not feel that all questions have been answered well enough to progress this plan forward, so I am asking that the Commissioners vote no until additional homework and additional information is provided to the citizens of Harrisonburg. These changes are in addition to the discussion about changing four lanes down to two. With that change, does the traffic change, does the traffic study include that level of detail, because you are siphoning traffic and impeding traffic flow? At any time, the traffic on Reservoir Street is terrible. The traffic on University Boulevard is terrible. It is not managed. There are not proper traffic lights and traffic patterns. And what about fire and rescue support? There are a lot of proposals to build high-density living areas along Evelyn Byrd Avenue and along Lucy Drive. You have taken into consideration the pressure that it is going to put on our fire and rescue, and we do not have enough. Vote no.

John Knauf, 120 Diamond Court, called regarding the request. I want to add to this idea of planning. There were questions that were asked about who their market was. They indicated that they would figure that out when they got here. There was not a specific answer given to the rent rates. They said they will be higher than what the university student can afford, but I doubt that is really true. Students afford a lot nowadays. If they are going to do by the bed, they will just split the cost. There is a lot of information that they do not seem to have thoroughly answered or thoroughly thought about before asking for this variance. I would encourage you to ask for more information and vote no at this point in time.

Chair Finnegan asked if the applicant wanted to respond.

Omar Kanaan, traffic engineer, said the lane reduction study was accounted for in the TIA we prepared, at the request of the City. There was an additional scenario analyzed with the lane reduction included.

Mr. Boyd said as part of the site plan process, we will be required by the City to prepare erosion control and stormwater design plans to mitigate the improvements proposed on the site. It is not shown on the development plan currently, but there will be a separate process for preparing those plans and they will be vetted by the City through their standard process. We will address any concerns that they have at that time.

Commissioner Whitten said there was a mention of the courtyard space without any mention of a playground, play space or play equipment for children. Are you not expecting to have children in this development?

Ms. Harris said right now we are not expecting to have children. That is why the semi-private/public space is open for further design as we move forward, and we start our

pre-leasing. We will get a feel for who our tenants are going to be and what their needs are going to be. At that time, we can modify our amenity spaces to make sure that we are catering and supporting who our tenant base is. It is not typical for our communities to have a playground.

Commissioner Finnegan asked what do you anticipate a three-bedroom apartment to rent for in this space?

Mr. Brown said our current underwriting, and this is subject to change as the market is a fluctuating thing, it is currently at \$2,400 per month. We also have a townhome unit which has two bedrooms. That is at \$2,600 per month. For additional context, the last date of our market study, there is a property in Harrisonburg called the Urban Exchange. Their two-bedrooms are \$1,300 per month. Our two-bedroom is \$1,700 per month. So when I say “pricing students out of the market,” I visited that property to see what they actually had there. They were mostly students. Our underwriting reflects that we are not appealing to the student market. We are more comparable to The Reserve [at Stone Port] which is eight miles from the campus. We are closer and we are more comparable to their pricing. They have a more robust amenity package, including a car wash, more things that appeal to a higher class style of living. Since we are using location as our competitive advantage, we can still meet a higher price point and be less attractive to students.

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

Commissioner Whitten asked does staff think that meets a need for housing that we have in the City?

Ms. Dang said that it provides additional housing units. If you recall, in the Housing Study there was discussion of how people in the higher income level are pricing out people in lower income levels because there are not enough variety of units available. This could help.

Commissioner Whitten said I do remember that. I wonder if there is that much demand.

Chair Finnegan said does anyone remember the percentages for higher end and lower end? I cannot remember what the higher end was. I also do not know how that breaks down into rentals versus homes. I imagine people would be looking to...

Mr. Fletcher asked could you be more specific to the percentages question?

Chair Finnegan said that in the Housing Study there was a need for high-end housing in Harrisonburg. They were talking about affordable housing, the missing middle and higher-end housing. I do not know if any of that speaks to this market or is there a need for this?

Mr. Fletcher said the housing study spoke of the mismatch which Ms. Dang was referring to

where it shows the graph. What it represents is that there are more people that fit the category than there are number of units that are available to them. When you are looking at the graph, you can clearly see that there are more people in the 0-30% AMI category than there are units affordable to them and the same scenario happens at the far end of the AMI category where it is 81% and above of AMI where there more people who fit the demographic than there are units available to them.

Chair Finnegan said to my recollectio

This PH-Special Use Permit was recommended to full council.to the City Council due back on 2/8/2022

Yes: 6 - Finnegan, Orndoff, Byrd, Whitten, Baugh and Dent

No: 1 - Armstrong

4.g. Consider a request from Bluestone Land Company, Inc. with representatives Woda Cooper Development, Inc. to amend the Comprehensive Plan’s Land Use Guide map for a +/- 4.7-acre property on Lucy Drive

Chair Finnegan read the request and asked staff to review.

During the staff presentation, technical difficulties interrupted the meeting preventing the presentation from being heard by the public. After nine minutes, sound was restored. Ms. Dang restarted the presentation.

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

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

- Site: Undeveloped site, zoned R-3
- North: Across Lucy Drive, professional offices, retail uses, and Fire Station 3, zoned B-2
- East: Professional offices, zoned R-3
- South: Townhomes, zoned R-3
- West: Undeveloped site, zoned R-3

In 2018, another developer, Madison Lucy Realty LLC, requested to rezone the subject site and an adjacent parcel (totaling 5.7 +/- acres) addressed as 290, 294, and 298 Lucy Drive, from R-3, Medium Density Residential to R-5C, High Density Residential District Conditional, and for

two special use permits to allow multi-family dwellings of more than 12 units per building and to allow retail stores, convenience shops, personal service establishments, business and professional offices, and restaurants (excluding drive-through facilities). Staff recommended approval of all three requests. Planning Commission recommended (6-0) denial of all three requests, and on October 1, 2018, City Council (5-0) denied all three requests. More information about these requests can be found at <https://harrisonburg-va.legistar.com/Calendar.aspx>.

The applicant, Woda Cooper Companies (who is currently under contract to purchase the property), has submitted three separate applications. The first is to amend the Comprehensive Plan's Land Use Guide map for the 4.7 +/- acre property. The second is to rezone the same parcel and acreage from R-3, Medium Density Residential District to R-5C, High Density Residential District Conditional. The third is for a special use permit (SUP) per Section 10-3-55.4 (1) to allow multi-family dwellings of more than 12 units per building in the R-5, High Density Residential District. If all three requests are approved, the applicant plans to construct three-story multiple-family (apartment) buildings containing a total of 111 dwelling units on the site.

Comprehensive Plan Amendment

As noted earlier, the applicant is requesting a Comprehensive Plan amendment to change the designation of the property from Limited Commercial (see the designation description within the Background section above) to Mixed Use. The Comprehensive Plan describes the proposed Mixed Use Land Use Guide designation as follows:

“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.”

With regard to the adjacent properties’ Land Use Guide designations, properties to the south are planned for Medium Density Residential, Limited Commercial (as described earlier) to the east and west, and Commercial to the north, across Lucy Drive. The Comprehensive Plan describes the Medium Density Residential designation as:

“These areas have been developed or are planned for development of a variety of housing types such as single-family detached, single-family attached (duplexes and townhomes), and in special circumstances, multi-family dwellings (apartments). Depending on the specific site characteristics, densities in these areas should be around 15 dwelling units per acre. Non-residential uses may also be appropriate.”

The Commercial designation is then described as:

“Commercial uses include retail, office, professional service functions, restaurants, and lodging uses. Commercial areas should offer connecting streets, biking and walking facilities, and public transit services. Interparcel access and connections are essential to maintaining traffic safety and flow along arterials. Parking should be located to the sides or rear of buildings.”

While a use and site designed for Limited Commercial operations could function at this location, the same uses planned for within that designation could also function on property designated as Mixed Use. Furthermore, changing the designation to Mixed Use also promotes the idea to encourage residential development and staff believes that a mixed use building or multiple-family development at this site with higher density could be beneficial for those that want to reside in the City. From north to south, within a quarter-mile radius of the subject site, if the Comprehensive Plan Land Use Guide map amendment is approved, this area would transition from Commercial, to Mixed Use, to Medium Density Residential, to Low Density Residential made up of townhomes and duplexes, to lesser density of single family detached homes. (See attached Quarter--Mile Buffer Maps.) Staff supports the Land Use Guide amendment change from Limited Commercial to Mixed Use.

- 4.h. Consider a request from Bluestone Land Company, Inc. with representatives Woda Cooper Development, Inc. to rezone a +/- 4.7-acre property on Lucy Drive
- 4.i. Consider a request from Bluestone Land Company, Inc. with representatives Woda Cooper Development, Inc. for a special use permit to allow multi-family dwellings of more than twelve units per building on Lucy Drive

Rezoning and Special Use Permit

Before getting into the specifics of the rezoning and SUP requests, it is important to understand the uses and densities permitted by right on the subject site. The subject property is zoned, R-3, Medium Density Residential District. The R-3 district is intended for medium density residential

development and other uses intended to respect the residential character, which are aesthetically compatible with the district by means of architectural expression, landscaping, and restrained traffic flow. The R-3 district allows medical and professional offices by right as well as other non-residential uses. The R-3 district's by right residential uses include single-family detached dwellings, duplex dwellings, and attached townhouses of no more than eight units in a row within one structure. Among other SUPs, multiple-family dwellings of up to 12 units per building and personal service establishments may be requested.

If this site were to be developed with the current R-3 zoning, the property could construct a combination of the following by right as lot dimension, setback, and off-street parking requirements allow:

- Residential uses:
 - By-right: 34 single-family detached units, 25 duplexes (50 units), or 102 townhouse units, or any workable combination. (Note: Given all current regulations, including but not limited to, subdivision regulations, off-street parking and landscaping regulations, and stormwater management regulations, as well as needed utilities, it can be difficult to actually achieve the maximum density that is allowed.)
- Non-residential uses:
 - Churches and other places of worship;
 - Governmental uses such as community centers, parks, and playgrounds;
 - College and university buildings;
 - Hospitals, convalescent or nursing homes, funeral homes, medical offices, and professional offices;
 - Charitable or benevolent institutions;
 - Child day care centers;
 - Private clubs; and/or
 - Public uses.

With approval of a SUP to allow for multi-family units, the site could contain 68 units.

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

1. No parking lot (including travel lanes and drive aisles) shall be located between any building and Lucy Drive. A bus pull-off lane shall be exempt from this requirement.
2. The Property shall not contain residential units that have greater than three (3) bedrooms.
3. The one-bedroom dwelling units on the Property shall make up at least 10% of the total dwelling units on the Property. The three-bedroom dwelling units on the Property shall make up no more than 30% of the total dwelling units on the Property.
4. The Property shall contain a playground for use by residents. The playground shall be a minimum of 600 square feet and shall include a slide, a swing, and climbing features.

5. A sidewalk shall be constructed along Lucy Drive for the length of the Property. Additionally, the property owner will dedicate right-of-way or a public sidewalk easement to be located a minimum of 0.5-ft behind the sidewalk.
6. A minimum of 16 deciduous trees or a minimum 26 small/ornamental deciduous trees shall be planted and maintained between the sidewalk and the building(s). At the time of planting, tree sizes shall meet the minimum size requirements defined in the Zoning Ordinance.
7. No building shall exceed three (3) stories in height.
8. The existing vegetation (trees and shrubbery) parallel to and within 23 feet of the southern property line shall be maintained to provide a vegetative buffer between adjacent residential uses and uses on the subject site. If any vegetation needs to be removed for construction of the property, it shall be replaced with an equivalent planting. Trees that are replaced must be at least 6 feet in height at the time of planting.
9. Dwelling units may be occupied by single family or no more than three (3) unrelated persons. Exceptions may be made in instances when complying with this occupancy standard would result in violation of Title 42 of the U.S. Code, Chapter 45 - Fair Housing.
10. A minimum of 1.5 parking spaces per dwelling unit shall be provided.
11. Dwelling units shall not be occupied by households that are made up of only full-time students.
12. The development shall be served by only one entrance. This entrance shall align with either Pro Pointe Lane or the entrance serving tax map parcel 77-K-6.
13. A bus pull-off, concrete pad, and easement for a bus shelter shall be provided at a location acceptable to Harrisonburg Department of Public Transportation (HDPT). The bus pull-off and concrete pad shall be constructed to HDPT's specifications.
14. Exterior lighting of the site shall be designed so that light is not directed off the site and the light source is shielded from direct offsite viewing. Light fixtures in parking areas shall not exceed fifteen (15) feet in height.

Note that the submitted conceptual layouts are not proffered.

Proffer #1 is intended to promote pedestrian friendly design by placing the buildings close to the street and prohibiting parking between the multiple-family buildings and Lucy Drive. Concentrating

people and places along the public street creates an environment that is more accessible, interesting, and safer for pedestrians, which are designs and environments that staff promotes. The applicant has also proffered to construct new sidewalks and to dedicate right-of-way or a public sidewalk easement along the frontage of Lucy Drive during development (Proffer #5) and to add street trees between the sidewalk and buildings (Proffer #6), which will enhance the pedestrian environment.

Staff is very appreciative that the proposed development would consist of one, two, and three-bedroom units. Proffer #2 restricts the property to dwelling units with no more than three bedrooms. Proffer #3 establishes a minimum number of one-bedroom dwelling units at 10 percent of the total number of dwelling units on the property while also setting a maximum number of three-bedroom dwelling units at no more than 30 percent of the total number of dwelling units.

Proffer #4 requires a playground on the property that shall be a minimum of 600 square feet in size and that would include a slide, swing, and climbing features.

Within the current R-3, Medium Density Residential District, uses may be three stories, where the maximum height is 35-feet for single-family dwellings and duplexes, and 40-feet for townhouses, multi-family buildings, and other uses. The requested R-5 district's maximum by-right height is 52 feet with the ability to have four stories for multi-family structures and mixed-use buildings. While not proffering a specific height, the applicant has proffered that no building shall exceed three stories (Proffer #7).

In Proffer #8, the applicant has detailed that existing vegetation (trees and shrubbery) parallel and within 23 feet of the southern property line shall be maintained during construction and that if any vegetation is removed for construction of the property, then it shall be replaced with an equivalent planting and that trees replaced must be at least 6-feet in height at the time of planting. It should be understood that the applicant only intends to replace vegetation removed during construction and that the proffer does not require vegetation to be maintained in perpetuity. Staff has discussed with the applicant that in order to enforce this proffer that staff will require the engineered comprehensive site plan to illustrate where all trees and shrubbery exist within 23 feet of the entire length of the southern property line so that when construction is completed, zoning staff will use the engineered comprehensive site plan to verify that trees and shrubbery have been maintained and/or replaced. Additionally, it should be acknowledged that it appears the majority of vegetation between the proposed buildings on the subject site and the townhome buildings along Emerald Drive are located on the townhome properties and would not be disturbed by construction or are outside the 23-foot-wide area. Any vegetation outside of the 23-foot area could be removed during construction without being replaced. (See Exhibit B in attachments.)

Additionally, since publication of the Planning Commission agenda packet, staff is recommending a new condition between the subject site and townhome buildings along Emerald Drive:

When developed, the site shall include either a six foot (6') tall opaque fence or a minimum 10-foot landscaping buffer with trees or other plants installed and maintained

with the intent to form a dense screen. The installed vegetation shall be 6-feet in height at the time of planting, installed at a minimum of 5-feet on center, and located along the southern boundary of the property.

The R-5 district allows by right dwellings to be occupied by a family or not more than four unrelated persons, which is the same occupancy allowed within the current R-3 district. Proffer #9 reduces the allowable occupancy of dwelling units to either a family or not more than three unrelated persons.

Minimum off-street parking requirements of Section 10-3-25 (7) allows for reduced parking when occupancy is restricted. Although the applicant could have been allowed the flexibility of providing only one parking space per unit or less, they proffered that they would provide a minimum of 1.5 parking spaces per unit (Proffer #10). If the proposed 111 dwelling units are constructed, then 167 off-street parking spaces would be required. In the conceptual site layout, the applicant has shown a scenario in how they might organize off-street parking spaces. The applicant understands that parking requirements, among other details, would be reviewed during the engineered comprehensive site plan phase of development to ensure that all regulations are met.

Proffer #11 is intended to address community concerns that the multiple-family dwellings would become off-campus housing for college students. While college-aged students could live here, Proffer #11 would prohibit dwellings from being occupied by households made up of only full-time students.

The Design and Construction Standards Manual (DCSM) would allow this property to have more than one entrance as the number of entrances allowed is based on the length of the property frontage. With Proffer #12, the applicant has proffered that the development shall be served by only one entrance and that the entrance shall align with either Pro Pointe Lane or the entrance serving tax map parcel 77-K-6 (currently BioLife) to limit the number of potential vehicular conflict points.

Proffer #13 would require the developer to provide an easement and to construct a concrete pad for a bus shelter. The Harrisonburg Department of Public Transportation (HDPT) would provide the bus shelter and would approve the shelter and concrete pad's final location during engineered comprehensive site plan review.

To address concerns regarding lighting impacts on neighboring properties, Proffer #14 requires exterior lighting of the site to be designed so that light is not directed off the site and the light source is shielded from direct offsite viewing. Additionally, light fixtures in parking areas shall not exceed 15 feet in height.

As demonstrated in the Determination of Need for a Traffic Impact Analysis (TIA) (attached), the development is estimated to generate 51 additional trips in the PM peak hour and does not meet

the 100-trip peak-hour threshold that gives City staff the ability to require a TIA. When a development reaches or exceeds 100 trips in the peak hour, this threshold is what typically causes concern for traffic safety and delays and would require the need for a TIA study. Thus, a TIA study was not performed.

While the applicant has not proffered a maximum density, they have described in their letter that they plan to construct 111 multiple-family dwelling units. If the request to rezone the subject property to R-5 is approved, then the maximum number of multiple-family dwelling units allowed would be 114, which equates to a density of 24 dwelling units per acre. If the Land Use Guide map amendment request is approved, the density would align with the description of planned density in the Mixed Use areas outside of the downtown as the Comprehensive Plan states that [r]esidential density in Mixed Use areas outside of downtown should be around 24 dwelling units per acre.” The proposed 111 multiple-family dwelling units equates to a density of 23.5 dwelling units per acre.

From a design and site layout perspective, staff likes the applicant’s proposal to mass buildings close to the public street with off-street parking relegated behind buildings and to create multi-family structures with more than 12-dwelling units. As previously stated, staff believes that massing buildings close to the public street with parking behind the buildings creates an environment that is more accessible, interesting, and safer for pedestrians. Therefore, staff supports the SUP request to allow multi-family dwellings of more than 12 units per building.

While the subject site on its own does not incorporate all of the ideals and characteristics of Traditional Neighborhood Development (TND), the overall neighborhood together would incorporate some of those characteristics such as: having a neighborhood that allows residents to work, shop, and carry out many of life’s other activities; allowing residents to walk, ride a bicycle, or take transit for many trips between home, work, shopping, and school; and having a variety of housing types provided at a range of densities with heterogenous mixes of residences. Staff believes that the proposed rezoning and SUP allow for this project to blend well within the existing neighborhood and serve as a transition between Commercial and Medium Density Residential areas. Furthermore, generally adding more one-, two-, and three-bedroom residential units to the market will benefit the community’s need for more housing and for people who want to live in the City.

An additional component of this project is that the developer, as they describe in their letter, “intend to pursue Section 42 tax credits with general occupancy/family target population. The units would be targeted to households that meet the requirements for 30% AMI (area median income) up to 70% AMI. Simms Pointe would utilize income averaging, so the units will have an average AMI of no more than 60%. No market-rate units or student housing units will be included.” The Section 42 tax credit program is also commonly referred to as Low Income Housing Tax Credit program (LIHTC). The applicant also states that “[i]n applying for Section 42 tax credits, there are minimum design and amenity features that applicants include in order to produce a competitive development. As it currently stands, Simms Pointe will have a *[sic]* exterior walls consisting of

50% brick and 50% fiber cement board. There will be a community room of at least 750 square feet. There will also be a playground for children. The development will choose from a select few green building certifications including EarthCraft Gold, LEED green-building certification, or Enterprise Green Communities. There will be a full-time property manager and a fulltime maintenance technician on-site.” While staff supports the applicant’s intent to pursue Section 42 tax credits, it must be acknowledged that the pursuit of tax credits, the average AMI for units, the appearance of exterior walls, and the green building certifications are not proffered. Should the rezoning and SUP get approved, but pursuit of Section 42 tax credits is unsuccessful, another developer could develop the site for multiple-family dwellings or any use allowed by right in the R-5 district so long as they comply with the Zoning Ordinance and the approved proffers.

If the developer is successful in acquiring Section 42 tax credits, the development could assist with the community’s endeavor to provide more affordable housing in the City. The City’s Comprehensive Housing Assessment and Market Study (Housing Study), which was completed in January 2021 identified a shortage of rental housing units that are affordable to the lowest and highest income renter households (0-30% and above 80% AMI) and found that “[t]here is significant mismatch with many higher income households residing in more affordable units and lower income households residing in more costly units.” Among renters, the study noted several key findings of the housing mismatch, which included:

- “There are significantly more households than units in the 0-30% AMI tier. This tier includes most student households (including dependent and independent students), persons needing supportive housing, elderly households, and other household types that are non-student, non-elderly households.
- The vast majority of rental units are naturally occurring affordable housing, meaning that the unit is affordable to a household earning up to 80% AMI without public subsidy; 81% of all rental units are affordable to households with incomes up to 80% AMI.
- Because there are many more households with incomes above 80% AMI but few available for this income tier, these higher income households occupy rental units that cost less, therefore increasing competition among lower income households for the affordable units.
- The vacancy rate is low; CHAS [Comprehensive Housing Affordability Strategy] data identified that only 2% of rental units were vacant.”

The housing study explained that when the rental vacancy rate is low at 2% (or 3.5% per American Community Survey data), it indicates “a very tight market with an inadequate inventory. This creates high levels of competition within the market as renters compete for scarce units and where the lowest income households have the fewest options.”

The housing study also identified that “[t]here are only 230 studio and one-bedroom units affordable to 0-30% AMI households, which is a critical unit type needed to meet the needs of households consisting of 1-2 persons and single persons needing supportive housing.” The proposed development could contribute to help to address the need for more one-bedroom

units in the City. Nonetheless, even if there are more two-bedroom and three-bedroom units rather than one-bedroom units, overall, this project could help the community with the current housing situation because it would add more units to the market and in this case be affordable for certain households.

Another component of the Housing Study places the subject site within Market Type A and notes that “priorities and policies that are appropriate to market Type A areas include an emphasis on increasing density through zoning changes, infill development and housing rehabilitation to maintain the quality of housing.” Staff believes that the proposal utilizes the recommendation by increasing density with the zoning change.

Staff recommends approval of the requests for the Comprehensive Plan Land Use Guide map amendment, rezoning, and SUP with suggested condition.

Chair Finnegan asked if there were any questions for staff.

Chair Finnegan said I spoke with someone at the HRHA board to ask why the applicant did not proffer the LIHTC Section 42 tax credits. I was informed that HRHA has not formally approved the bond because they are waiting on this process to continue the application with the bond.

Councilmember Dent asked how can proffer 11 “[d]welling units shall not be occupied by households that are made up of only full-time students” be regulated?

Ms. Dang said that from a zoning perspective it would be difficult to enforce, just like other occupancy regulations. We would look to the applicant to screen for students when they receive applications. I would suggest asking the applicant that question.

Mr. Fletcher said that LIHTC criteria do not allow tax credits for a student housing complex.

Chair Finnegan asked if it is legal to say “no students”? I assume they are not a protected class. Is that something that can be enforced by the law?

Mr. Russ said they are not a protected class. No Virginia communities have gone the route of attempting to control student housing. In New England there are a few cities and towns that have done that without issue. It could be a headache from an enforcement perspective, but without any legal issue. It should be legal and appropriate for us to accept it as a proffer if you are so inclined. You do not have to accept any proffer.

Chair Finnegan said there are certain communities that are 55 and older or you have to meet certain requirements.

Commissioner Baugh said the simple version is “we” cannot do it. The government cannot pass rules that way and impose it as an ordinance. In the terms of private covenants, you are right, you

are not talking about a protected class. Your analogy to communities that target people in a specific age demographic is a good example. I think that you can do it. I think that what Mr. Russ is referring to is that you get back to that Dillon rule business. You cannot quote chapter and verse that says you can do it in Virginia, so you cannot do it. In New England, not so much.

Commissioner Whitten asked does this go far afield from our Comprehensive Plan? I want to hear from staff.

Mr. Fletcher said the staff report recommended in favor of the Land Use Guide change. We also point out specific things as our reasons for it. Our staff report speaks to that question.

Chair Finnegan said this is a Comprehensive Plan amendment. This is requesting a change to the Comprehensive Plan.

Commissioner Whitten said I am disagreeing with the change.

Commissioner Byrd asked do we review the Comprehensive Plan next year? Is it every five years?

Chair Finnegan said it is every five years, so it would be next year.

Ms. Dang said next November 2023, we would ask the Planning Commission to review and make a decision whether the Comprehensive Plan needs to be updated or amended.

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

Nick Surak, Senior Vice President of Development for the Woda Cooper Companies, spoke in support of the request. My colleagues Parker Zee and Bruce Watts are here as well. The student housing restrictions are a program requirement for LIHTC. It is a programmatic requirement that we cannot rent to full-time students. It comes along with the Federal tax credit. When someone applies, they are asked on their application whether they are a full-time or part-time student. If they are a full-time student, we will verify that with the university. If they are, they cannot be the primary leaseholder. Parents of a full-time student, if they are the primary lease holders, they can have a student as a member of their household. We cannot lease to full-time students as you would in a student housing development.

Since we started this conversation, we have decided on a reduction of the project size, closer to 80 units from the proposed 111. There are a few reasons for this. One of which is based around the LIHTC program. Virginia Housing has fewer resources this year for affordable housing than they would in past years. From a competitiveness and feasibility standpoint, that puts us in a different position as to how ambitious we can be for the development. We are looking at an 80 unit project now, so you can extrapolate from that what it means in terms of trip generation. It also

means a more compact development on this site. One of the primary reasons that we are seeking to rezone is that the existing zone allows more than 80 units as a townhome product, but to do that you would be covering the whole site in pavement and buildings. If we can do a three-story development with two buildings, we can bring it closer to the street and reduce the impact to the neighbors to the south by shrinking the footprint of the site that is developed. We prefer to have controlled access buildings where there is one point of entry for residents or guests. All of our buildings have a keypad or key fob for access. Having two buildings where there is just one entrance in and out is better than having 80 townhomes from a security standpoint. It also offers better access for the residents to the amenities that we will have inside the buildings such as the community room, laundry facilities, exercise facilities. All those can be accessed from within the building. They would not have to go outside to a dedicated building that houses those things. Those are the primary motivations for the rezone, to be able to pursue the building type that we think is most appropriate. I am happy to answer any questions that you may have.

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

Chair Finnegan asked if the request was going to change before it gets to City Council and be amended to 80 units? What we are signing off on is this request for 111 units.

Ms. Dang said there is a problem that we need to make the Commissioners aware of. The phone lines in the City are down. We will not be able to receive public comments.

Chair Finnegan said that does not seem acceptable to me. If we cannot have public comment, then I would hope that someone would make a motion to table this so that we can pick this up at a future time.

After some discussion, the Planning Commission and staff agreed to continue the discussion with the applicant. The Planning Commission would then keep the public hearing open, then continue the public hearing until the next time that the Planning Commission is able to meet.

Commissioner Armstrong said would you still have the same distribution of 10%, 60% and 30% with the reduction to 80 units?

Mr. Surak said yes.

Commissioner Armstrong asked what kind of rents would you be expecting for these different unit sizes?

Mr. Surak asked are you asking for the actual dollar figures or the AMI?

Commissioner Armstrong said the actual dollar figures, if you have them.

Mr. Surak said that these developments are offered at multiple income levels. The income is going

to range from 30% to 80% AMI. Within that range, a one-bedroom would be starting at under \$300 per month and it would go to \$800 a month at the highest tier. A two-bedroom would start in the low \$300 and it could range up to about \$950 per month. A three-bedroom would start under \$400 per month and would go to just over \$1000 per month. That is all conditional on which AMI set-aside the lessee falls under.

Chair Finnegan said a lot of apartment developments call themselves affordable. This is actually affordable housing where voucher holders would be able to use public housing vouchers.

Mr. Surak said correct. The set-asides that I mentioned would be part of a recorded, restrictive covenant that would go with the property to ensure that affordability is there for the long term.

Commissioner Whitten said that one of the emails that we received included a comment that the person had visited a complex that is this same development company. It did not give a good impression to this person. It looked very run down. I googled the company to take a look at the reviews they get. The reviews are not good.

Mr. Surak said that the reviews that tenants leave about any company, anonymously, on the internet, tend to be the most disgruntled tenants.

Commissioner Whitten said I understand that, but I saw very few positive reviews and almost all negative and there were a good number of them. That coupled with the comment from this person who took the time to drive over to Stanardsville to look at this development, and I have not done that, it sounded not like a stellar development. It did not sound appealing.

Mr. Surak said I would dispute that. The fact that we have consistently maintained a 95% level occupancy throughout the COVID crisis, and that is our standard, speaks to what it is that we offer and that we do retain tenants.

Chair Finnegan asked if there were any more questions for the applicant's representative.

Mr. Surak asked if this is continued until the next hearing, what would be the schedule from there in terms of the hearing in City Council?

Mr. Fletcher said that final approval would be on March 22, 2022.

Mr. Surak said that would pose a problem in terms of the application for tax credits.

The Planning Commission and staff discussed options to accommodate the deadlines the applicant faces for the tax credit application. Staff will explore options and communicate the results.

Commissioner Whitten made a motion to continue the public hearing until the next Planning Commission meeting.

Commissioner Byrd seconded the motion.

Chair Finnegan called for a roll call vote.

Commissioner Armstrong	Aye
Commissioner Baugh	Aye
Commissioner Byrd	Aye
Councilmember Dent	Aye
Commissioner Orndoff	Aye
Commissioner Whitten	Aye
Chair Finnegan	Aye

The motion to continue the public hearing passed (7-0).

[Note: As described above, the three requests from Bluestone Land Company, Inc. with representatives Woda Cooper Development, Inc. were presented to Planning Commission and the public hearings were opened. However, due to a localized outage with Comcast’s services, members of the public were unable to call into the public comment phone line and Planning Commission tabled the requests until February 9, 2022.]

Continue the public hearing.

5. New Business - Other Items

6. Unfinished Business

7. Public Comment

8. Report of Secretary & Committees

8.a. Proactive Code Enforcement (On Hold)

8.c. Rockingham County Planning Commission Liaison Report

Commissioner Byrd said the Planning Commission elected a Chair, Bill Loomis and Vice Chair, Michael Harvey. They addressed a Forestal District amendment. The Town of Dayton requested to remove portion of a parcel from the Dry River Agricultural and Forestal District to allow them to purchase the land to expand a water treatment facility. It was approved. They reviewed their Capital Improvement Program focusing on Broadway High School and the courthouse. It was approved.

Liaison Assignments:

February 1 Commissioner Whitten

March 1 Commissioner Byrd
 April 5 Chair Finnegan
 May 3 Commissioner Whitten
 June 7 Commissioner Baugh

8.b. Board of Zoning Appeals Report

Commissioner Orndoff said that the January meeting was cancelled due to the weather and rescheduled for February 7, 2022.

8.d. City Council Report

Councilmember Dent said we discussed the STR SUP on Maplehurst Drive. It passed with the 8 person limits as staff and Planning Commission recommended. Commissioner Whitten addressed City Council as a citizen against expanding STRs. The next item was extending the sewer beyond the County line, it passed without issue. We had a philosophical, legal and logistical discussion about alleys that wound up with City Council reversing Planning Commission’s recommendation and approving the request to close the alley. It involved the City Attorney giving the entire 1888 history and who owns and maintained the dirt. They Mayor said that we need a plan for the alleys. There was a creative suggestion that even enclosing the alley directly behind the property, maybe we could reserve the 100 square foot square so that the corner of the alley would still be accessible if we wanted to have a right-of-way in the future. That may potentially be worked out when they do the plats.

9. Other Matters

Capital Improvement Plan Update

Mr. Fletcher said I hope you have been reviewing the CIP projects. The Harrisonburg City Public Schools were able to get me their information and I will be able to insert it into the document. I hope to have the full document ready for you. Do you want it electronically or do you want a hard copy? Continue to review the projects. My hope is that we will be talking about the CIP at the next meeting. If our agenda continues to grow, we may have to push it off to the next one. It can go no later than March, so that it can go to City Council in April.

The commissioners requested hard copies.

Ms. Dang said that in February there are five unique requests. Two of the items are for one site, so there will be four unique presentations. This does not include the continued item.

Commissioner Whitten said I spoke before City Council on my own behalf, but it was not during the hearing for the STR. I waited until Public Comments. I did not want my opinion to affect the public hearing, but I wanted to make my opinion known. I have asked Mr. Russ to give us a legal review of what it means when it means when we give a SUP, and we say that it can be revoked if there is a nuisance. It is not as easy as we lead people to believe. Councilmember Jones did that at great lengths last night, saying that we can make it go away if it does not work out. That is not

as easy a task as that leads you to believe. I will ask Mr. Russ if he would consider writing up what we discussed and sending it as an email so that we all know where we are on that process.

Mr. Russ agreed.

Chair Finnegan requested comments from the schools for some of the larger developments. Any input from the schools would be useful moving forward.

Mr. Fletcher said we cannot require them to comment. We offer them the opportunity to comment every single month. Back when Dr. Ford was here, I can recall times when he had written memos. They receive packets every single month, just like the rest of the team.

Commissioner Baugh said historically the issue with them is things that deviate from the existing planning that then cause higher density. It is not higher density, per se, it is the higher density that we did not get the heads up on. I am not sure that we were sending the packets to the School Board fifteen years ago. I recall that there was a time when the Superintendent sent a memo to the Chair of the Planning Commission. The point was asking us not to make their job harder by approving things that were entirely off the radar.

Mr. Fletcher said they receive the entire packet of information. We used to not give them the entire packet going back 15 to 18 years. They get much more information now.

10. Adjournment

The meeting adjourned at 11:25 p.m.

NOTE TO PUBLIC

In accordance with the Emergency Resolution to effectuate temporary changes in certain deadlines and to modify public meeting and public hearing practices and procedures to address continuity of operations associated with pandemic disaster, adopted on January 11, 2022, the public will not be able to physically attend the Planning Commission meeting.

However, a phone line will be live where residents will be allowed to call in and speak with Planning Commission during the Public Hearings and the Public Comments portion of the meeting. We ask those that wish to speak during the public comment period to not call in until after all the public hearings and public comment on those have been heard. This will avoid anyone calling on any other item from holding up the queue and then being asked to call back at a later time.

The telephone number to call in is: (540) 437-2687

Community members also may provide comment prior to the meeting by emailing:
Thanh.Dang@harrisonburgva.gov.

Community members will be able to watch the meeting live on:

- The City's website, <https://www.harrisonburgva.gov/agendas>
- Public Education Government Channel 3