

MINUTES OF HARRISONBURG PLANNING COMMISSION

May 10, 2023

The Harrisonburg Planning Commission held its regular meeting on Wednesday, May 10, 2023, at 6:00 p.m. in the City Council Chambers, 409 South Main Street.

Members present: Brent Finnegan, Chair; Adriel Byrd, Vice Chair; Vice Mayor Laura Dent; Dr. Donna Armstrong; Richard Baugh; Absent: Valerie Washington and one vacancy.

Also present: Thanh Dang, Assistant Director of Community Development; Adam Fletcher, Director of Community Development; Wesley Russ, Assistant City Attorney; Meg Rupkey, Planner; and Anastasia Auguste, Administrative Specialist/Secretary.

Chair Finnegan called the meeting to order and said that there was a quorum with five members present.

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

Vice Chair Byrd nominated Anastasia Auguste.

Commissioner Armstrong seconded the motion.

All members voted in favor of appointing Anastasia Auguste as Secretary.

Chair Finnegan asked if there were any nominations for the position of Board of Zoning Appeals (BZA) representative for the remainder of 2023.

Commissioner Baugh nominated Vice Chair Byrd.

Vice Mayor Dent seconded the motion.

All members voted in favor of appointing Vice Chair Byrd as BZA representative.

Ms. Dang noted a correction on the bottom of page 3 of the March 8, 2023, minutes regarding the roll call vote for the motion to approve the special use permit request from Way Way Back LLC to allow business and professional offices at 909 and 919 Virginia Avenue. The total number of votes was incorrect with Commissioner Baugh abstaining from the vote.

Vice Chair Byrd moved to approve the re-adoption of the portion of the minutes with corrections.

Commissioner Baugh seconded the motion.

All members voted in favor of approving the re-adoption of the portion of the March 8th, 2023 minutes.

Chair Finnegan asked if there were any corrections, comments or a motion regarding the April 12, 2023, Planning Commission minutes.

Ms. Dang noted corrections on page 11 paragraphs 5 and 6 for the motion to approve a request from Friendship Properties Partners for water and sanitary sewer service for a property located at Friendship Drive in Rockingham County. Commissioner Baugh and Vice Chair Byrd had their titles swapped.

Commissioner Baugh moved to approve the minutes presented with corrections.

Vice Chair Byrd seconded the motion.

Three members voted in favor of approving the April 12th Planning Commission minutes with corrections with Chair Finnegan and Vice Mayor Dent abstaining.

New Business – Public Hearings

Consider a request from Sahara III LC for a special use permit request to allow multiple-family dwellings and/or mixed use buildings at 1846 Evelyn Byrd Avenue

Chair Finnegan read the request and asked staff to review.

Ms. Rupkey said the applicant is requesting a special use permit (SUP) to allow multiple-family dwellings and/or mixed use buildings in the B-2 district. The +/- 23,352 square foot property is addressed as 1846 Evelyn Byrd Avenue and is located on the northern side of the street between Reservoir Street and Burgess Road. If the SUP request is approved, the applicant intends to develop up to 20 multiple-family dwelling units.

As required by Section 10-3-93 (d) of the Zoning Ordinance (ZO), the applicant has submitted a development plan. 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 the multi-family and/or mixed use project that was 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.
2. The general number of stories within proposed buildings and structures.
3. The general location of parking areas.
4. The general location of pedestrian connections.

Additionally, the applicant has proposed the following conditions, which are described on the development plan as “Owner/Developer Self Imposed Conditions” (written verbatim):

1. The property shall not contain dwelling units that have more than three (3) bedrooms.
2. The site shall contain no more than 1.45 parking spaces per dwelling unit.
3. One-Bedroom dwelling units shall make up at least 10% of the total number of units.
4. One dwelling unit will be constructed to be fully handicap accessible, Type A.
5. 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 shall be constructed to HDPT’s specifications.
6. Maximum of 20 dwelling units to be constructed, up to five stories above grade, excluding the basement.

Regarding minimum off-street parking requirements, the ZO allows one off-street parking space per unit in the B-2 district. The applicant, however, plans to provide more than the minimum, but no more than 1.45 parking spaces per dwelling unit as noted within Condition #2. Given that the ZO provides for the flexibility to provide as little as one space per unit, staff encouraged the applicant to consider reducing the maximum permitted parking ratio to less than 1.45 spaces per unit.

As noted in Condition #4, the development would have at least one handicap unit built to Type A standards. The Building Code defines Type A units as: “[a] dwelling unit or sleeping unit designed and constructed for accessibility in accordance with [Virginia Construction Code] and the provisions for Type A units in ICC A117.1.” The mentioned ICC A117.1 refers to the Accessible and Usable Buildings and Facilities standard of the International Code Council (ICC). Type A units are fully accessible and are built with the necessary accommodations such as, but not limited to, the appropriate turning radiuses, lower shelving, and grab bars.

Land Use

The Comprehensive Plan designates this site as Commercial and states that:

“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.”

With regard to the Comprehensive Plan, Traditional Neighborhood Development (TND) principles are encouraged to be included in all developments throughout the City. 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.

In February 2022, the property addressed as 381 University Boulevard, located across Evelyn Byrd Avenue from the subject site, was granted a SUP to allow multifamily in B-2 for up to 274 units with a parking garage. The property is also designated as commercial in the Comprehensive Plan.

Transportation and Traffic

Although the Design and Construction Manual (DCSM) allows for two entrances to serve the site, staff recommended providing only one entrance to reduce points of conflict and to put space between entrances along Evelyn Byrd Avenue to further reduce the potential for vehicular crashes. The applicant believes that due to the property's size and topographic features on the property that the most favorable layout for their site would be to have parking on both sides of their building with separate entrances.

With regard to public transportation, residents of the proposed multiple-family development would be well served by public transit as Route 1 serves Evelyn Byrd Avenue. As noted in Condition #5, the developer would provide a bus pull off, a concrete pad for a bus shelter, and an easement to serve the site.

Public Water and Sanitary Sewer

Staff has minimal concerns with the requested special use with regard to water and sewer. The applicant will be required to perform a downstream sewer capacity analysis through a Preliminary Engineering Report (PER) prior to engineered comprehensive site plan submittal. The PER will address both water and sewer capacity at the site.

Housing Study

The City's Comprehensive Housing Assessment and Market Study places the subject site within Market Type A. Among other things, this Market Type is characterized by high population growth. The study notes that Market Type A has "above median overall access to amenities such as public transit within walking distance, full-service grocery stores, and multiple parks and recreation facilities." The study also notes that "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."

When considering the need for providing more housing in the City, providing multi-family units at this location can be a positive result for this area of the City and for those individuals who want to reside in the City.

Public Schools

The student generation attributed to the proposed 20 residential units is estimated to be two students. Based on the School Board's current adopted attendance boundaries, Spotswood Elementary School, Skyline Middle School, and Harrisonburg High School would serve the students residing in this development. Harrisonburg City Public Schools (HCPS) staff noted that schools are over capacity in many of the schools.

Recommendation

Although staff would prefer one entrance onto Evelyn Byrd Avenue, given the size of the parcel, the DCSM permits a two-entrance design. While staff encouraged the applicant to consider different site layouts so that only one entrance was needed to serve the site, staff understands that the applicant prefers to have two entrances serving the two sides of the building due to the size

and topographic features of the site. Staff recommends approval of the SUP with the conditions submitted by the applicant.

Chair Finnegan asked if there were any questions for staff.

Vice Mayor Dent asked the staff to clarify what exactly they meant about lessening the submitted 1.45 parking spaces suggested by the applicant.

Ms. Rupkey stated that the Zoning Ordinance allows for the minimum to be the one parking space per unit. The one space is a minimum and they can have up to that 1.45 parking space per unit with their conditions.

Chair Finnegan asked if the Planning Commission had any more questions for staff. Hearing none he opened the public hearing.

Nathan Blackwell, agent for the applicant, came forward regarding the request. We are excited for this project. I am here to answer any questions that you have. I think the one question about the hatched-out areas on the parking, if we went with less parking that would show where we would remove those parking spaces.

Chair Finnegan asked if Mr. Blackwell had considered parking expansion.

Mr. Blackwell said they considered it. If we do 20 units, most people drive and a lot of the time you will have two vehicles. So, we want to be aware of that. Do the least amount of parking that we can and still feel comfortable with parking. What we submit for the special use permit is what we have to build, so we put some options on here to reduce parking and show what could be.

Chair Finnegan asked I do not know if you are able to speak at all on financing behind these. Is there pressure from the financing side of things to provide a certain amount of parking? Like in cities where they've done away with parking minimums for example. Often times, the banks have their own requirements to make things marketable.

Mr. Blackwell said I have not really thought about it too much, but I know that if you have got an apartment building and it does not have adequate parking, it can get complicated pretty quickly. The reason for having off-street parking is to encourage people to park in their own area so it does not spill out onto the public roads. I would imagine that is taken into consideration, but that has not come up on this project.

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

Mr. Fletcher offered some context. The conditions say that the site should not contain more than, it is not a minimum right? It is the opposite; it is the maximum. This kind of evolved over time as we discussed with the applicant for this project because there were originally 16 units and there were 29 parking spaces and we thought that was an exorbitant amount of parking for 16 units.

Then the idea of increasing the number of units came to be and we continued to encourage less parking, but in this particular case, because it is such a small scale, the 1.45 number will cap it based upon the number of units that are provided. They cannot have more than 1.45 based on the number of units. If they do not put in 20 units and put in 16 units, rather, you would do the calculations and it would reduce the number of parking spaces. We kind of took reverse regulatory way to think about it in this case.

Chair Finnegan said I will say you know when we think about these requests that come forth to this body, I feel as though there are places in the city and this part of town that do not have many ways to get around other than a car. On one hand, I do not love the idea of making a place that is more car centric even more car centric, but on the other hand it is a good use for housing on this land.

Vice Chair Byrd said concerning domestic residences in commercial areas, we are still trying to see if this will actually happen. So, I am in favor of this as I have no reason to be against it.

Vice Chair Byrd motioned for the approval of the SUP submitted by the applicant.

Commissioner Baugh seconded the motion.

Vice Mayor Dent said this is an interesting trend. Across the street is the Regal Theatre parking lot where we wanted to put the housing in the parking lot as a better use of land. So, this could become a quasi-residential pocket within the commercial zone with the caveat of people getting around. That would mean more cars and not very much pedestrian or bike infrastructure.

Chair Finnegan said there is technically pedestrian infrastructure. There are sidewalks there. They are not pleasant sidewalks to walk on with cars zooming past inches from your body.

Commissioner Baugh said when you start asking about things like lender requirements you would be involved with that long enough and what lenders cared about 30 years ago may not have been what they cared about 15 years ago and may not be what it is now, but at this point lenders are not really a check on this. They are basically looking at it to see if it has the appropriate government approval. I am not even aware if a lender has even gotten into that level of analysis of trying to determine the adequate parking. They have their things on their checklist at least at this point in history and that is not on it.

Chair Finnegan said one last thought is that I hope there is some thoughts to the connectivity to adjacent properties.

Mr. Blackwell said the existing sidewalk on Evelyn Byrd Avenue is 4 feet wide. Our section is 5 feet. We are doing a bus stop and working with the City on that. I am sure there will be some walking paths connecting to other areas to the north, but working with that landowner to coordinate that is not as easy as possible. We are very excited about this. The City is taking Evelyn Bird Avenue down to two lanes and putting bike paths in, so our bus stop is thought through with that in mind. I think this will be a good walkable area as it moves forward.

Chair Finnegan called for a roll call vote.

Commissioner Armstrong	Aye
Commissioner Baugh	Aye
Vice Chair Byrd	Aye
Vice Mayor Dent	Aye
Chair Finnegan	Aye

The motion to recommend approval of the request passed (5-0). The recommendation will move forward to City Council on June 13th, 2023

Consider a request from Bird Dog Properties LLC to rezone 564 East Gay Street

Ms. Rupkey stated that the applicant is requesting to rezone a +/- 5,547-square foot parcel from R-2, Residential District to R-8, Small Lot Residential District. In the applicant’s letter they explain that they want to rezone the property to R-8 to subdivide the lot into two parcels and build a single-family detached dwelling on the future, undeveloped parcel.

Land Use

The Comprehensive Plan designates this parcel as Neighborhood Residential and states that:

“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 R-8 district is intended for medium- to high-density residential development including, single-family detached and duplex dwellings, and, in special circumstances, by special use permit townhouse units. Staff believes the flexibility offered by the R-8 district’s minimum area and dimensional requirements can at times work well within areas designated as Neighborhood Residential.

Transportation and Traffic

Referencing the driveway on Hill Street, during the review staff noted that the driveway entrance for the corner parcel should be located on the half of the parcel frontage that is more distant from the intersection. Staff hoped this detail would have been proffered, and while the applicant has shown on the conceptual site layout a driveway entrance along Hill Street on the half of the property furthest from the East Gay Street and Hill Street intersection, the applicant did not proffer the entrance location. (Note: Public Works staff continue to evaluate and draft new access management standards to better regulate entrance locations.)

Staff also discussed future sidewalk along the Hill Street and East Gay Street property frontages. Due to the location of the Newtown Cemetery, staff believes it would be difficult to construct new sidewalks along this block of Hill Street. Along East Gay Street, there is sufficient public right-of-

way currently available behind the street curb for future construction of sidewalk by the City or others.

Public Water and Sanitary Sewer

Staff has no concerns with the requested rezoning regarding water and sewer matters. Water service size will be reviewed during building design.

Housing Study

Staff believes that the requested rezoning to R-8 supports efforts to increase the availability of housing that is affordable for low- and moderate-income households.

Public Schools

The student generation attributed to the proposed single family dwelling is estimated to be two students. Based on the School Board's current adopted attendance boundaries, Spotswood Elementary, Skyline Middle School, and Harrisonburg High School would serve the students residing in this development. Harrisonburg City Public Schools (HCPS) staff noted in their review comments that schools are over capacity in many of the schools.

Recommendation

Staff believes, that given the configuration and size of the existing parcel, and the R-8 district's minimum area and dimensional requirements, this request does not have any major adverse effects on the surrounding properties and is consistent with the Comprehensive Plan's Land Use Guide. Staff recommends approval of the rezoning as submitted by the applicant.

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

Jim Herr, a representative of the applicant, came forward regarding the request. I appreciate your consideration to rezone this property at 564 East Gay Street for another small single-family home.

Chair Finnegan asked Mr. Herr if he would like to add to the presentation.

Mr. Herr said I think we have spent time upfront asking questions and with recognizing concerns from the City. I think it is a great opportunity to add one more single-family home to the City of Harrisonburg.

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

Gil Colman, representative of the applicant, spoke on the request. This is a great opportunity. We have been looking for many years, working and doing infill, and it actually fits pretty well there. It is a nice opportunity to do that. I think it was nice of Mr. Herr to say hey we can actually create two lots here, two properties. The truth is it is not injurious to the neighborhood. The idea is to build a house that is going to be pretty much the same size as the house that is there, compared to building a huge house that is not going to fit there. We will talk a little bit about the driveway. I do not know if there is going to be much change there. Right now, the way it was recommended

is pretty much where it is going to fit best. Aside from that, there are two spaces there. I wanted to comment on parking simply because it is something that we deal with all the time. One of the issues that I see with parking is really with commercial parking, the requirements are so high and that is where we have the sea of asphalt.

For residential, you have the issue of okay people are going to need a place to park otherwise they are going to park somewhere else or along the street or somewhere else and then until the City provides adequate transport services that people are going to actually use and the shared use path or sidewalks people use it would be difficult for that to change. Any questions for us on this item?

Chair Finnegan added the fact that when you look at auto collisions in the city, this neighborhood, I know that Public Works has installed some traffic calming around the area, but I do not know if you can speak to safety concerns about backing a car out of a driveway onto Hill Street. There have been a lot of crashes there frequently.

Mr. Colman said that is something that is always difficult when they have a neighborhood like that. People have nowhere to back into the street. If you have a deep lot creating a turnaround it is a more impervious area and more expensive also, I think it boils down to being good neighbors. I mean if we all live in the city, typically, we would look out if somebody was coming. Aside from that, it is the City and Public Works that need to consider what they may need to do there. To that point in our neighborhood they have installed traffic calming devices and hopefully those are working. I see people fly through them without thinking that somebody could be coming the other way in this case. I do not know what approach could be taken here.

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

Vice Mayor Dent asked a question to staff about the R-8 zoning. Asking if that district identification was more for the lot size and setbacks not for a more density sort of speak.

Mr. Fletcher said that it is both as a fact. Allowing R-8 increases the density. Changing it to R-8, it allows them to put this in there. In fact, this is the perfect scenario; if you do calculations, you are barely meeting the minimum on both lots. I am excited about this because it means we have a nice example, if it gets approved, of what can happen with rezonings in these areas.

Vice Chair Byrd said as a person who tends to not take the main arteries to get from one place to another, driving through residential areas I am aware of what I am doing but the people behind me or the people in front of me, some of them see a clear empty road to haul through other people's neighborhoods. Sometimes, it is not that neighborhoods neighbors but other people in the city using their neighborhood as a quick artery to get somewhere else.

Mr. Colman said that is true and I will say even in this situation, something that the City has done in other places is create those bike lanes narrowing the streets. That tends to encourage people to slow down. Even with that, it is not guaranteed.

Nathan Blackwell said on Hill Street, it used to be a through street, the City put stop signs. And the other roads that have a through lane there is a stop sign right in front of this so cars are coming up to the intersection from the cemetery and they have to stop.

Chair Finnegan asked if there were any questions for this request. Hearing none he closed the public hearing.

Commissioner Armstrong said I am glad to see an addition of a single family detached dwelling. We need those. We have been seeing an awfully large number of multifamily dwellings and it seems like a good fit in that neighborhood for what you are doing.

Vice Chair Byrd agreed with Commissioner Armstrong

Chair Finnegan said he likes infill development like this. I agree with staff's recommendation.

Vice Chair Byrd made a motion to approve the rezoning request.

Vice Mayor Dent seconded the motion.

Chair Finnegan called for a roll call vote.

Commissioner Armstrong	Aye
Commissioner Baugh	Aye
Vice Chair Byrd	Aye
Vice Mayor Dent	Aye
Chair Finnegan	Aye

The motion to recommend approval of the request passed (5-0). The recommendation will move forward to City Council on June 13, 2023.

New Business – Other Items

Consider a request from the KEYS Academy and Cantrell Avenue Properties LLC for approval of minimum off-street parking spaces to be provided for a private day school.

Ms. Dang said, as described in the applicant's letter, KEYS Academy proposes to lease a building addressed as 847 Martin Luther King, Jr. Way to use as KEYS Academy-Harrisonburg, a private day school, and to house and run the secondary alternative education program for Harrisonburg City Public Schools (HCPS). In order to move the project forward, review and approval by Planning Commission for the proposed number of minimum off-street parking spaces is required per Section 10-3-25 (12) of the Zoning Ordinance (ZO). Section 10-3-23 (12) requires the following:

Elementary schools, junior or senior high schools, or equivalent facilities: Proposed off-street parking spaces shall be programmed by the applicable school authorities as necessary

to meet state standards for use and consideration of site locations, then submitted to the planning commission for comprehensive site plan review.

This process includes for KEYS Academy to determine the amount of parking they believe is adequate for their site based on division and state agency recommendations. Within the attached letter, KEYS Academy describes that KEYS Academy-Harrisonburg would serve up to 32 students, the secondary alternative education center (KEYS-AEC) would serve up to 20 students, and both the KEYS Academy and KEYS-AEC would employ 22 shared staff. The letter goes on to describe that the schools would need 22 off-street parking spaces for staff and 8-12 off-street parking spaces for visitors, for no more than 35 off-street parking spaces for the schools' use.

A document titled Guidelines for School Facilities in Virginia's Public Schools (2021) prepared by the Virginia Department of Education (DOE), among other things, states:

Adequate parking for staff and an additional 10 percent to 20 percent parking space [sic] for visitors should be provided. Student parking to accommodate one-third of the student enrollment should be provided.

Based on the Guidelines document, the site should have 22 spaces for staff, 18 spaces for one-third of the student enrollment, and 4 parking spaces for visitors if 10 percent is used, which is a total of 44 off-street parking spaces. Given the KEYS Academy's experience in operating similar schools in Culpepper, Charlottesville, Stuarts Draft, and Ruther Glen, staff is comfortable accepting the proposal with establishing a minimum requirement of 35 off-street parking spaces for the KEYS Academy-Harrisonburg and KEYS-AEC.

Using aerial photos, staff counted 142 off-street parking spaces on the property. Based on current uses on the property, the buildings addressed as 861 and 871 Martin Luther King Jr. Way require 106 off-street parking spaces, leaving 36 off-street parking spaces available for 847 Martin Luther King Jr. Way, where KEYS Academy proposes to locate. (Note: The 106 off-street parking spaces required for 861 and 871 Martin Luther King Jr. Way was calculated using square footage listed in information available from the City Real Estate Office and a 2001 engineered comprehensive site plan. Further confirmation about the uses on the site will be needed during the building permitting/change of use permit process.)

KEYS Academy continues to coordinate with City departments on the location and access for the proposed fence and proposed routing for public school buses through the site.

Recommendation

Staff has no concerns with the proposed number of minimum off-street parking spaces and recommends approval.

Chair Finnegan asked if there were any questions for staff. Hearing none, he invited the applicant to speak to the request.

Robyn Puryear, Vice President of Education Services for KEYS Academy Schools, came forward regarding this request. Just for context, I know you saw 52 students and 22 staff and that might

have raised some eyebrows. We are a school that serves special needs students with high intensity needs. The majority of the KEYS academy part of the building will be servicing Harrisonburg City schools and Rockingham County schools. We've been in talks with Harrisonburg City school officials and Rockingham County for years now trying to find the right building at the right price with enough space off the road where we can feel safe doing this school. Then Harrisonburg City has asked us also, because of some of their needs and crowding, to also house an alternative education center for grades 6 to 12. So, that is why you see the high staff number with a relatively small amount of students. So, if you all have any questions, I would be happy to answer them.

Chair Finnegan asked if there were sidewalks in the area.

Ms. Dang said there are not.

Chair Finnegan said the area is not pedestrian friendly, if you are going to have kids there. I don't know if you can speak to safety precautions that might be in place that this school would use to try and keep folks from going into traffic.

Ms. Puryear said yes, a fence. Our fences make good neighbors and now it is for safety. It would be a six-foot-tall fence. It would go around the front of the building and it goes along the right-hand side door of the building. It is not ideal as far as the location; we would have loved to have something that is not on such a busy road, but there are plenty of private schools in Virginia that operate on similar roads. It is just not ideal, but we have been working with the County and City for 3 years trying to find the ideal space and with the cost of leases and some of the other competitors for larger spaces being JMU and Sentara, it has been hard to find the right location. This is the best of all of the locations available in Harrisonburg. At this point we are trying hard to put something in place for the City schools, but it is our concern as well.

Chair Finnegan asked if there were questions for the applicant. Hearing none, he asked for comments and motions regarding the request.

Vice Chair Byrd said they are trying to use the facility's existing parking and most of that parking is relative to the street. I think in practicality if they are concerned about their children and they drop them off, they will use the back parking instead of the front parking.

Vice Chair Byrd motioned to approve the request.

Commissioner Armstrong seconded the motion.

Chair Finnegan called for a roll call vote.

Commissioner Armstrong	Aye
Commissioner Baugh	Aye
Vice Chair Byrd	Aye
Vice Mayor Dent	Aye
Chair Finnegan	Aye

The motion to recommend approval of the request passed (5-0).

Unfinished Business

Consider a request from Friendship Properties Partners for water and sanitary sewer service for a property located at Friendship Drive in Rockingham County (County tax map parcels 94-(A)-L88 & L88B)

Chair Finnegan read the request and asked staff to review.

Ms. Rupkey said on April 12, 2023, the Planning Commission considered the subject request and tabled the request because there was a need for more information. Mike Collins is here today to discuss those questions.

Mike Collins, Director of Public Utilities, spoke on the request. I am here to answer your questions.

Chair Finnegan asked if there were any questions.

Mr. Collins said when we send recommendations up here our recommendation has no influence on what type of business, what traffic, anything like that, but we cannot serve County people in the County unless we have the approval. They go through the process and Rockingham County sends a request of things for us to consider. Obviously, there were a lot of things to consider and one of them was utilities. It starts with utilities. When we send recommendations it is completely utilities based. No influence from anything else, but I guess that gets taken if you want to interject traffic or whatever element it is. It happens after it leaves Public Utilities. When we send a utilities recommendation up, do you understand what we are doing? Can I help you understand what we're doing? Where did you get hung up last time?

Commissioner Armstrong said that one of the hang ups is this is a commercial property and not a residential property. We have had those. Those are easy to approve. To hook into from the County to the City. One of the hang ups is this is an 11-acre commercial property, so that is quite a bit more. Process water and wastewater management both having to be provided.

Mr. Collins said first of all, residential or non-residential are totally irrelevant to me when I send it to you. It may be important to you but that has no part in my recommendations. Let me help you understand as Public Utilities manager, we have to develop a strategy on our infrastructure. It is not something we do day to day. Generally, it takes a long-term thing to build a utility. In 1997 we made a major decision. We had many Council meetings deciding what direction this utility was going to go. Our plan is for 15 million gallons a day water supply, that was the goal, and the infrastructure was put in place as early as 1990. Now, in that model for the 15 million gallons of infrastructure for water, there has been quite a planning agenda, Adam can share with you later, but we took the Land Use Guide, that I think you folks had a lot to do with and figured out what our city would need to be. You just don't build infrastructure to that level, there are increments that you build when you build large enough. Let's just say you are building 177 apartments, this is just an example, you can only build 150 apartments or 200 apartments. Well, the 150 apartments are not going to cut it. So, you build the 200. What do you do with the other ones? You do not

leave them vacant. No business would do that. We are a business. So, what we determine is what we have to allocate.

Right now, we have about 880,000 gallons reserved in our master plan that we currently serve in the County today. We have three definitions of customers. We serve City customers; those are people who live in the City that we bill directly. There are rural customers, those are people who live outside the City limits that we bill directly. Then we also service Rockingham County, which we wholesale to them, and they sell it to their customers as if they were producing it. Our model takes care of Rockingham County as well as us. The reason we do Rockingham County is because we knew there are a lot of things we were dependent upon them for over the years that we probably give and take for a lot of reasons. The business model we have reserved 1 million gallons the County to use. We serve about 880,000 gallons already to our rural customers and what we get out of that is some control of who we serve, but also it is more like a profit sale, where we take the profits put it back into the City and make City rates cheaper. Look around the state. Look at our rates. The reason why we are kind of where we are, there are a lot of reasons, but that is a big reason. Now, what we have left is about 370,000 gallons a day to place on the open market for rural customers. This development here is 6,500 gallons. That is a very minuscule part of it. When we look at the utilities we look, and we make a recommendation to you. We look at several things. We look at if it meets our strategic plan that has to do with where we are going with ultimate water treatment capacity and ultimate water supply. That is the big picture strategy. We also have to look at sewer treatment capacity and interceptor capacity. That is also in the long-range plan. The one thing we look at on case by case is the very local area. We have looked at all this and the one thing here is that this commitment, this is so small. This is an agreement that our former manager, Steven Stewart, with the authorization of City Council and Bill O'Brien, the previous manager of Rockingham County, agreed to and put in writing that we would do this. What it comes down to is what we, Public Utilities, would do if it did not meet our strategic master plan. We would throw up a flag and try to hold it back even though the agreement was signed and see where it goes. There is no red flag here. When you are talking about an infrastructure we have designed 20 years ago to market 370,000 gallons in the future in the County and this is 6,500 gallons. This is really small in context of our master plan and in agreement where two bodies back in 1996 shook hands.

Commissioner Armstrong asked when you say marketing the water and I understand the rates are different; does that rate difference apply to this?

Mr. Collins replied yes. There was a very large development that came through and we looked at it. It has not made it here [to Planning Commission] yet. We articulated in that review all of these issues and we have one little problem going on. Remember I said there were three different types of customers and in our agreement with Rockingham County it says that we try to bring the rates in the county back to the City? We are working to amend the agreement with Rockingham County. We used a model of comments for a recommendation that you all have not seen yet. We tried to be very thorough with Planning Commission with our recommendations, we just did not want to send up a recommendation and not give you anything. We wanted to show the depth we went to. One of the problems I had with the very large development was the County was very interested in having us take that development in as a rural customer and at the time I said yeah, but we need to undo this agreement. We want the rate differential to benefit our City customers. And this is kind

of a carry-over comment and I would like to retract that comment. It is being taken care of; Mr. Russ is very involved with this.

Commissioner Armstrong asked you have been talking about the amount of gallons per day, what about the infrastructure that needs to be constructed?

Mr. Collins replied that when we developed our long-term model, we say that 15 million gallons has, 880,000 gallons currently to the rural and we are going to market 370,000 gallons... You know what we are doing? We are taking available capacity. We are not building stuff so that can happen. We are using capacity that is there and we are taking advantage of it. Anything new that they have to do, they are going to deal with it and convey it to us. We will not incur any cost as a result of this.

Chair Finnegan asked a follow up question about conveyance. It does not matter if it is this request or any request. They say, here the infrastructure is yours now and then in 30, 40, 50 years when it needs to be replaced, we are on the hook for that right?

Mr. Collins replied yes. We are a very mature utility. What that means is that this began in 1898 and the useful life of pipes is about 100 years. We are basically rebuilding the City again like they built it, but the rates that we charge have to cover this. I gave a presentation to City Council on a long-term financial model to make sure we do not kick the can down the road because then it becomes difficult. This probably will not come due for about 100 years, but their rates even being higher helps keep our rates down and then the differential in the rate goes back into helping our infrastructure. I would not call it on the hook. I mean you know I do not think it is on the hook when you are a utility. That is something you have to be ready for when you build stuff, you have to take care of it. I think we have a really good plan. That is not a reason to take this utility in.

Chair Finnegan commented on an article he read that pertained to the scope of the request. The only concern that I have is a 100-year flood. Think about these events that are supposed to happen every 100 years. Things are less reliable. What happens when it floods, and untreated sewage goes into the waterway? I don't know if you can speak to that concern of flood. Is there a contingency plan?

Mr. Collins responded that is kind of independent of this development. There is a given amount of inflow and infiltration (I&I). That is a fight that every utility is working on, including us, so there is a given amount of it that you have to plan for. There is an industry target that we build to, which is the 10-year storm. Let me give you a stormwater analogy: there is a ditch going into a culvert...they are going to design that storm pipe for a 10-year storm. You know what happens with a 50-year storm or Noah's flood for that matter? It will go up... That is why you will see all the drain systems not carrying it. To go up to the next level is another level of investment. What we do is we are designing it to the 10-year storm. The water is not storm-water, it is the amount of I&I that gets in our system during a 10-year storm if we are designing for ultimate build out plus the I&I for a 10-year storm. When we have 50-year storms, then you are going to have a problem. For us to elevate to another level it is another economic level in the multimillions of dollars. We are an industry, that is how we handle that. We work really hard to reduce the effects of the storm on us. Our budget this year was about \$600,000 or \$700,000 in capital outlay. Our guys are out

there lining the inside of pipes so that perhaps we can even handle more than a 10-year storm. It is always a constant battle. I mean if we are going to have Noah's floods every year, we are not going to be able to handle that. But the level is a 10-year storm and I think that is pretty robust. I would love to go to 25 or 50 year. We do have an expectation. What that is kind of saying is that as long as we do not have a 10-year storm, we are building more sewers so that no one should have loss of service up to that level. The 10-year storm level of service is what we are shooting for.

Commissioner Armstrong asked related to the climate change issue, at what level of rainfall intensity has to happen in order to affect the biological activity of those open processing pools? Because those are open pools, and they are biologically active and that is important. My sense is that biological activity becomes to dilute when we get these intense rainfalls.

Mr. Collins responded that all of those facilities down there are designed for a hydraulic max. That facility right now is at a 22 million gallons a day average and I think their max hydraulic load is 60 million gallons. What happens to it is that it flows through the basins too fast. What happens is that biological activity will try to settle it out and they will try to put it back, but if it gets past that they have got such level of treatment that they actually catch it in fielders and stuff like that down the line. The probability of something coming out of the back end of that plant is not too good, but making things difficult and costly, it can. Right now, their max is 60 million gallons. I do not think they have come anywhere near 60 million, but they are not at full capacity they are at about 50 or 60 percent capacity. They think they will be at full capacity in 2040 and they will expand again and then they expand to 28 million gallons. After that they are done.

Chair Finnegan asked if there were any more questions for Mr. Collins.

Vice Mayor Dent asked we keep seeing these cases that are right on the County line and you have explained really well how we have the capacity to sell the water over the line. Where does it come from if we do not give it to them? Is there County water and sewer that comes from the other direction and where does it meet?

Mr. Collins said the County would not let us serve them if they could serve it. We are reciprocal, we want to serve our customers. We listen to our customers. They just do not have the ability. We are basically built out and there are very few areas in our City that do not have service. They are different. Our capital money, really your water bill is about 50 percent operations, 50 percent capital. Our 50 percent capital goes towards replenishing the assets we already have. Theirs goes to trying to get somewhere new. Now you can kick that can down the road, but you cannot kick this one. Covid slowed everything down, but you know what it did not slow down? The deterioration of those pipes out there. Once we build it, we have to replace it to keep the same level of service.

Mr. Fletcher interjected and said there will also be places where they would not be able to afford to extend the waterline from the City into the County either. Then in that case, you are looking at septic and well. Then there are probably limitations on what the well will be able to support from the development perspective.

Mr. Collins responded that as a general rule, things to the north of us are probably the least attractive from a utility standpoint. Now, do not take this as gospel, it is case by case, but something developing to the north has to travel through the City. It is a whole lot less than something just below the City. We look at the treatment plant capacity, interceptor capacity, and our local infrastructure inside. That is on the sewer side. On the water side, it is water supply, water treatment plant, and the local infrastructure. When we say to you, we are good with this, we have looked at all 6 of them and checked them off. It is not that you do not trust us, but what do you want to know for future applications?

Chair Finnegan asked is that why the Urban Development Area in the County is to the east? Like where the hospital is, downhill from the City?

Mr. Collins corrected and said it is to the east of the City. They have expanded their service out there. They own everything out there.

Chair Finnegan clarified that they do not have City service.

Mr. Collins said they need help in places, but no. When the hospital went out there, they took all of that development and stuff out with it and they built infrastructure.

Chair Finnegan asked if it is on the City line?

Mr. Collins said yes. There are places where it gets difficult on the fringes for them to serve and we can because we are right there so there are some areas where we will serve.

Chair Finnegan said this might seem like a wide range of conversation that may not seem germane to this request. In my mind they are. I want to understand the system we are saying yes or no to.

Mr. Collins said that when I send a recommendation, I do not know how detailed you want to go. Maybe this conversation gets too detailed for some of you. Those are six criteria. We did not want to confuse you when we sent it up. I am willing to tell you why we do what we do. That can be very transparent to the extent you want to. Let me know how you all want the information in the future. I know that I can get in the weeds.

Vice Chair Byrd commented that we tend to ask all of these questions because in other cases, a lot of the citizens will come to us and complain about flooding. So, that was generated on a number of these other actions.

Mr. Collins said we look at that. We are not going to let that happen so long as up to a 10-year flood.

Mr. Fletcher clarified that the 100-year flood is the term used to describe, by FEMA, a 1 percent chance of flood in any given year.

Ms. Dang clarified and said it is not a 1 percent. It is not a 1 in 100 years. It is a 1 percent chance in a year.

Mr. Fletcher asked at what size does a sewage pipe become an interceptor?

David Gray, Engineer for the Department of Public Utilities, spoke on this request with Mr. Collins. I think the Virginia Department of Environmental Quality defines those terms for laterals, mains, and submains. Interceptors, I think, are when 3 or more mains come into one pipe. You have got laterals, that are from houses and connections, they come into submains. Submains collect into mains, mains into interceptors. Generally, a 12-inch size is the smallest for interceptors.

Mr. Fletcher clarified that I just wanted to have that conversation because you know that terminology and often it is not used here.

Mr. Gray said in our world, the way we consider interceptors is what is owned by HRRSA. It is more commonly our delineation but not entirely. We have some lines that we consider interceptors that are ours so sometimes it is interchangeable.

Chair Finnegan asked what HRRSA stands for?

Mr. Gray clarified that HRRSA stands for the Harrisonburg-Rockingham Regional Sewer Authority.

Chair Finnegan asked if anyone had any more questions for Mr. Collins. Hearing none, he then asked if this would require him to open the public hearing.

Ms. Dang said this does not go to a public hearing. The applicant is here.

Mr. Collins said we will continue to send you stuff and let us know what we need to make it clearer for you all.

Chair Finnegan invited the applicant to speak.

Gil Colman, of Colman Engineering and the applicant's representative, stepped forward with thoughts on this request. One thing that I want to point out is you mentioned the City of Richmond and Lynchburg, they both have a combined sewer system which combines stormwater and sewer, therefore, the large floods will impact them. They also have what is called a sewer overflow, which are big vaults to collect some of that stormwater and kind of route that in a way so that it is not as impactful. But we do not have that here; our system is not a combined stormwater and sewer. So, we are not going to be impacted by floods like that. In our case, hopefully that never happens.

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

Chair Finnegan reread the request.

Commissioner Armstrong asked what about the planning aspect of this, that is Rockingham County? Our only interface on this planning aspect is the utilities.

Mr. Fletcher said we ask ourselves these questions too. The question we begin with is the proposed development that we are connecting to our utilities in conformance with surrounding properties? And yes this is similar to our industrial classification. We, at times, when we think it is appropriate, and we did in this case, will connect with Economic Development on whether this will cause concern about competition with things that are in the fringe of the City? If I recall correctly, they did not have concern. What you just asked is really the root of why we are here. Is connecting our public utility to this property in the County from a land use prospective, not an economic, not from the sewer or water capacity, but does it make sense from a planning perspective?

Ms. Dang added that there is also the evaluation from a traffic and transportation opportunity. In this case, Public Works did not have concerns. There have been other larger developments that we have had discussions where we have told the property owner and the County that there are traffic concerns and that staff is not sure we would recommend the Public Utility applications until you address these other concerns related to transportation.

Chair Finnegan recalled connections for various reasons in residential and business areas and I seem to vaguely recall Chair Henry Way voting against one for a similar reason. He did not like where that was. It was a split decision.

Commissioner Baugh said that we had concerns that the County part of the development was not compatible with what we wanted to see in the City. I think I voted against it. There was some concern there and the County was not engaging as much.

Chair Finnegan asked Mr. Russ, is that agreement for this site a legally binding agreement that the City has to provide water?

Mr. Russ said probably not. There are letters back and forth. It is not horribly specific about anything, but it is a little bit more of a moral obligation agreement that we have from time to time. It seems to be similar to when we sign a contract for 5 years, we know that really it is for 1 year and we are hoping that City Council will approve a budget that would give us money that would pay for how many ever years.

Mr. Fletcher said to clarify the agreement Mr. Collins is talking about is the City and County agreement and then there is a separate agreement associated with this area and these parcels.

Chair Finnegan said yes that is the one I am talking about. We take votes on things, and I want to know sometimes are we even voting on something that we have any real say in or is this really legally obligated?

Commissioner Armstrong said it leads to the question of precedent too because that is your moral obligation. I think we have some moral obligation to abide by precedent. If we have done it this time, we should continue to do it. To what extent is that acting here does get called into play when we get subsequent project proposals. Like Commissioner Baugh said in our last meeting, there is a sea of commercial property up there. To what extent is this creating any sort of precedent?

Chair Finnegan said if we vote on a case-by-case basis, I don't feel locked into voting saying yes to this one and saying yes to the next one because they are all different

Vice Mayor Dent asked where is the line? If we approve this one, do we have to approve the one next door? Do we stop at the next one and let the County do what it has to do? That is just what makes me nervous about it. It seems to be a proliferation of the County tapping into our utilities.

Mr. Collins approached the stand and said with Friendship Industries is one of those you set precedence there. Not sure how many more of these properties are there. We have already served Friendship Industries under this agreement there might be more coming. I will have to go back and check how much has been served already.

Vice Chair Byrd said that the last meeting conversation was mostly around tabling. I kept most of my thoughts to myself so we could get questions answered. My thoughts on this are that this is an industrial use neighboring our industrial park. I see no issue there. The concern about the amount of water has been addressed, maybe 2 percent will be taken out of the 370 million. I see no issue there. We talked last month about how much of the City's border to the County is left that we have not even seen, to even have to deal with this subject in the first place. We have not had to review anything that was a track away from direct water. I would be in favor of this request.

Vice Mayor Dent said that answered my question. We have not. At this point, we have done neighboring properties right on the county line.

Vice Chair Byrd said I can only speak to what I have seen in my few years here. We were discussing that, and no one was bringing up any properties that would take away from the City's water line.

Chair Finnegan said I would tend to support this request with the caveat that properties with these utility hookups cross not only the City-County line, but cross the line with encouraging suburban sprawl. In a lot of ways, the annexation moratorium could be a blessing or a curse. In a lot of ways, it is a blessing because it encourages us not to sprawl out. I want to be careful that we are not encouraging suburban sprawl into the County. In this specific case I would support the request.

Vice Chair Byrd motioned to approve the request.

Commissioner Baugh seconded the motion.

Chair Finnegan called for a roll call vote.

Commissioner Armstrong	Aye
Commissioner Baugh	Aye
Vice Chair Byrd	Aye
Vice Mayor Dent	Aye
Chair Finnegan	Aye

The motion to recommend approval of the request passed (5-0). The recommendation will move forward to City Council on June 13, 2023.

Public Comment

None.

Report of Secretary & Committees

Rockingham County Planning Commission Liaison Report

Vice Chair Byrd apologized that he forgot to attend the meeting and said he would from now on attend former Commissioner Orndoff's meetings.

Board of Zoning Appeals Report

Ms. Dang mentioned that the next BZA meeting will be on June 5, 2023.

City Council Report

Vice Mayor Dent said that there were two meetings since we last met because we postponed the planning items for the April 11th City Council meeting so we could go over the Capital Improvement Plan and the Budget. On Tuesday April 25th we went through the BISAPACA LLC special use permit at 511 East Market Street. It was approved 5-0. Then a special use permit at 909 and 919 Virginia Avenue were approved 5-0. 3250 South Main Street was approved. The rezoning request for 2720 Dorval Road was approved. 1250 West Market Street was approved. I ended up switching my vote to yes. My reason for voting to approve was that there was some skepticism for viable alternatives that could happen under the B-2 zoning. We do not need yet another dollar store or another vape shop. It ended up being approved 5-0. Last night, May 9th, we had a special use permit request from Mainali & Gil Properties LLC for multiple family dwellings and/or mixed-use buildings at 1180 Virginia Avenue, we approved that. I do not remember that coming through here.

Ms. Dang reminded Vice Mayor Dent that she was not present at the last meeting where that was presented to Planning Commission.

Chair Finnegan added that the comment Vice Mayor Dent made about the vape shops. Adding, Chesterfield did enact zoning restrictions on vape shops, that is something that can be done under Virginia law.

Vice Mayor Dent asked what is the sequence of the zoning rewrite and the Comprehensive Plan?

Chair Finnegan said that there is an argument that it could be the other way around.

Vice Chair Byrd said the Comprehensive Plan is supposed to be every 5 years. If the zoning rewrite has been delayed for some reason, we should still review the Comprehensive Plan.

Mr. Fletcher said the Comprehensive Plan is a decision by Planning Commission every 5 years to review and decide whether it needs to be updated and that would be later this year. Now, when you actually amend it, is debatable.

Vice Mayor Dent said we could amend it, pending the zoning rewrite? What is the argument for the other way around?

Chair Finnegan said it depends on how you look at it but I mean the Comprehensive Plan is required to come up for review or at least should be voted on if it needs a review.

Mr. Fletcher said it is required that it come up for a review or vote on a review.

Ms. Dang said we don't have to work on it immediately, we still have a contract with the Zoning and Subdivision Ordinance rewrite, and I feel obligated to continue to do that work.

Mr. Fletcher said it weighs heavily on us, as we are working on other ordinances that have not been brought to you yet and sort of patching together some things that need to occur now. We are working on sizable ordinances that will be coming to you sometime in the near future. The Zoning Ordinance is basically implementing your Comprehensive Plan.

Chair Finnegan said I was a part of that process in 2018 things have changed in Harrisonburg since that 2018 process. So, are we basing the Zoning Ordinance revisions on outdated stuff.

Vice Mayor Dent said I had not thought of it that way that the Comprehensive Plan is sort of our vision, and the zoning is the implementation of it. We had been talking a lot about our vision shifting dramatically towards more density to allow things like accessory dwelling units and such. I guess my hunch was that would come from the zoning, but it could likewise come from the Comprehensive Plan and work downward through the zoning. That is kind of reassuring to me to know we can start on the Comprehensive Plan whenever we feel like it.

Chair Finnegan said I think all of these things require people power that we do not currently have. So, I will look to staff, if we have this contract that has been put on hold and we have to get going on it again, that is what we need to do.

Other Matters

Review Summary of next month's applications

Ms. Dang said right now in staff review are eight items that could potentially move forward to the June 14, 2023, Planning Commission Meeting. We recommend holding one meeting to consider all items.

Vice Mayor Dent said the number of items seems like a lot to handle in one evening. How do you all make that call? It could be any that could last a long time.

Mr. Fletcher commented that we wouldn't make that decision unless we thought it was a manageable number in one meeting.

Chair Finnegan asked if everyone was okay to hold one meeting next month.

Mr. Fletcher pointed out that of the eight requests, two of the requests are for the same site, therefore, they can be held at the same time.

Vice Chair Byrd said that is why they talk about the agenda of the next meeting at the previous one.

The Commission then discussed having special guests present at future meetings.

The meeting was adjourned at 7:59 p.m.

Brent Finnegan, Chair

Anastasia Auguste, Secretary