

MINUTES OF HARRISONBURG PLANNING COMMISSION

March 13, 2024

The Harrisonburg Planning Commission held its regular meeting on Wednesday, March 13, 2024, at 6:00 p.m. in the City Council Chambers, 409 South Main Street.

Members present: Brent Finnegan, Chair; Adriel Byrd, Vice Chair; Richard Baugh; and Valerie Washington. Vice Mayor Laura Dent and Heja Alsindi were absent. There is one vacancy.

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

Chair Finnegan called the meeting to order.

Chair Finnegan thanked Commissioner Armstrong who has resigned from her position on the Planning Commission. He thanked Commissioner Armstrong for her years of service to the City. Chair Finnegan moved onto the next item to consider the February 14, 2024 Planning Commission minutes.

Ms. Dang said Chair Finnegan would like to recuse himself from voting on the minutes because he was not here last time. With only 3 members, I am not sure if they can proceed to vote with the minutes or if we can defer it to next month.

Mr. Fletcher said it is fine to defer it until next month.

Commissioner Baugh said I think you can because once you establish quorum unless anybody questions it, you are okay. I also see the wisdom of...you got a couple of people who are not here.

New Business – Public Hearings

Consider a request from Christian Genaro Rios Ochoa and Yazmin Sanchez Lopez for a special use permit to allow a convenience store at 206 and 210 Charles Street

Chair Finnegan read the request and asked staff to review.

Ms. Rupkey said in July 2014, City Council approved a special use permit (SUP) to operate a church in the M-1 district at 206 Charles Street (tax map parcel 41-B-2). The SUP for religious uses had a single condition that included for any off-street parking (existing or in the future) on the subject property shall comply with Section 10-3-25 (5) of the Zoning Ordinance. While staff were reviewing that site for the religious use SUP request, staff became aware that a convenience store was operating at 210 Charles Street without an approved special use permit. In August 2015, City Council approved a SUP to allow the operation of convenience stores at 210 Charles Street (tax map parcel 41-B-1). The SUP included no conditions. The two SUPs were each associated with individual parcels and not the entire three parcel site.

The applicant is requesting a special use permit (SUP) per Section 10-3-97 (2) of the Zoning Ordinance to allow for a convenience store in the M-1, General Industrial District. The +/- 24,525-square foot property is addressed as 206 and 210 Charles Street and is identified as tax map parcels 41-B-0, 1, and 2. The applicant currently operates El Chaparro convenience store located at 210 Charles Street (tax map parcel 41-B-1), which is a portion of the three parcel site that they own. The applicant would like to relocate the existing convenience store to the adjacent parcel currently addressed as 206 Charles Street (tax map parcel 41-B-2), where the religious use previously existed. If approved, along with relocating the existing business, they would demolish the existing 210 Charles Street building to provide parking for the new location. The proposed use would require 28 parking spaces.

The submitted conceptual plan illustrates the planned new parking lot, which also includes removing the existing parking stalls in front of 206 Charles Street that requires the driver of parked vehicles back into the public street to maneuver out of the parking space. The submitted plan is not conditioned as part of the application and is only a representation of how they might accommodate parking for the use. At this time, the applicant is not planning to vacate the internal property lines as they want to keep the three individual parcels.

Land Use

The Comprehensive Plan designates this site as Industrial and states:

These areas are composed of land and structures used for light and general manufacturing, wholesaling, warehousing, high-technology, research and development, and related activities. They include the major existing and future employment areas of the City.

While the subject properties are designated Industrial by the Comprehensive Plan, the majority of the properties that have public street frontage along Charles Street, including the abutting property to the east and properties across the street, are designated Commercial. Given the plans for more Commercial uses along Charles Street and the relatively small size of the subject properties, staff does not have concerns with the deviation from the Land Use Guide for this specific scenario.

Transportation and Traffic

A traffic impact analysis (TIA) was not required for the SUP request. The applicant has been made aware that when there are deliveries to the site, delivery vehicles would not be permitted to use the public street right-of-way to maneuver on and off the site.

Public Water and Sanitary Sewer

Staff has no concerns regarding water and sanitary sewer service availability for the proposed development. The property is currently serviced by a septic system. For the new use to receive a Certificate of Occupancy, the applicant will be required to provide a new connection to public water and sewer with the Department of Public Utilities.

Recommendation

The uses along Charles Street are a mix of retail, non-conforming dwellings, warehousing, automotive repair, and moderate to minor industrial uses. Staff believes a convenience store at

this location would be compatible with the existing uses along Charles Street. Staff recommends approving the request.

Chair Finnegan asked if there were any questions for staff.

Chair Finnegan continued so, we are getting rid of those parking spots in front facing Charles [Street] so that there are not cars backing in and out?

Ms. Rupkey said that is their plan, correct. It is not a condition of it, but it is there.

Chair Finnegan said it is not a condition to remove those parking spots from the front?

Ms. Rupkey said correct.

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.

Ms. Dang said if I understood the question you were asking about the parking in the front, I believe we did not suggest a condition for it is because it is a redevelopment of the property and that would prohibit the ability to back out into the public street. When staff reviews the Engineered Comprehensive Site Plan, it would be prohibited at that time.

Chair Finnegan said it is just the landscaping is not proffered but those current spaces backing out would be [inaudible].

Ms. Dang said that is correct.

Gil Colman, owner of Colman Engineering and applicant's representative, came forward to speak to the request. He said thank you for hearing this. This is one of the items that came in when I was on Planning Commission. I mention that at that point we are looking at neighborhood stores so that neighbors can serve their adjacent neighbors. This store is very much that. It is a small, little, mini market that serves all of the community around there and it does the job. The church that was meeting in that building next door, I think one of the reasons why they moved, and I asked that question to the property owner, was there was not enough parking. The neighbors are not very happy with people parking somewhere else. The parking, as you know, is not sufficient and it does not meet current parking requirements. Initially we were looking at maybe demolishing the church building and then, for different reasons, we decided to demolish the current building to move this towards the church building. Which, we have planned when the church building was going to be demolished to have two entrances, one coming in and one going out. That was okay, but that was not ideal. Changing that to just the one side, to the church side, makes it a lot more straightforward. It is just one entrance in and out. Even though we do not have to go through a full [Engineered] Comprehensive Site Plan process, we are working Public Works and they already have established that they will not allow any parking backing into the street. That is certainly something that we are trying to eliminate right now. It is unsafe to begin with and this will provide a lot more safety for the property. Another point I wanted to make is that staff mentioned the one parcel has a special use permit but not the other two and it was

limited to that one parcel. Now we are asking for the three parcels to have the special use permit designation so that the whole site meets staff requirements. With that, do you have any questions for me?

Chair Finnegan said what is the required number of parking spots based on square footage of the new store?

Mr. Colman said we need 28 parking spaces, we are providing 30. That is just to give some flexibility there because they wanted to make sure it has sufficient parking and we did not want to go all the way to the back. At least meeting the requirement gives a little bit of flexibility.

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

Chair Finnegan continued we were just talking on the site tour yesterday about neighborhood grocery stores, they have sort of gone extinct. I think in a lot of ways these smaller grocery stores that we are seeing pop up are kind of taking the place of that because Jefferson Street is all walkable from there. I would definitely be in favor of that.

Vice Chair Byrd said I see no issue with adding a special use permit to this tract of land. It unifies the whole site, makes it easier to make the adjustments necessary for construction of what the property owner wants to do instead of keeping it restricted and leaving the building set to hope for something else to fill in. I would be in favor of it. I would like to make a motion to approve the special use permit as submitted by the applicant.

Commissioner Baugh seconded the motion.

Mr. Fletcher said if the Commission feels that they would like to add the condition about the backing out parking, I believe Mr. Colman is correct that they may not actually hit that threshold for an Engineered Comprehensive Site Plan. I know that they are trying to remove those parking spaces. I know that there is this unsafe situation but if you wanted to add that as a condition, I think you would probably be within your right to basically say that those parking spaces must be removed so that vehicles cannot maneuver in that space and basically eliminate that parking. If you are also interested in it to be appropriately landscaped, I think it is sufficient if you want to do that. A motion has already been made so it is entirely up to you.

Vice Chair Byrd said in discussing, I will just let the minutes reflect that landscaping would be nice, having those spots removed would be nice. I will leave that up to City Council to decide on how they feel about that. I see no reason to add those things at this time.

Commissioner Baugh said I can be talked into it but as the person that seconded the motion [inaudible]

Chair Finnegan said it seems like the plans are to remove those spaces. It is not proffered; it is not a condition. I would be happy to support the motion that was made.

Chair Finnegan called for a roll call vote.

Commissioner Baugh	Aye
Vice Chair Byrd	Aye
Commissioner Washington	Aye
Chair Finnegan	Aye

The motion to recommend approval of the special use permit request passed (4-0). The recommendation will move forward to City Council on April 9, 2024.

Consider a request from Joshua K. Defnall, Sarah T. Defnall, Jimmy E. Defnall, and Lynne W. Defnall for a special use permit to allow a short-term rental at as 1088 and 1094 College Avenue

Chair Finnegan read the request and asked staff to review.

Ms. Rupkey said the applicant is requesting a special use permit (SUP) per Section 10-3-40 (8) of the Zoning Ordinance (ZO) to allow for a short-term rental (STR) in the R-2, Residential District. The +/- 13,316-square foot property is addressed as 1088 and 1094 College Avenue and is identified as tax map parcel 48-D-2. The request is to have three accommodation spaces within the accessory structure (addressed as 1094 College Avenue) and to have no more than six people at the STR at one time.

The applicant's letter states that in the future they would like to have the option to utilize 1094 College Avenue as a long-term rental unit. Currently, while the property's size would allow a duplex structure (two units within one principal building), the R-2 district does not allow two single-family detached dwellings on the same lot. The applicant hopes the forthcoming updated ZO in some way will allow the accessory building to be converted to a principal dwelling. (NOTE: The applicant's letter incorrectly states that the setback for an accessory structure is 10-feet, however, accessory structures are permitted to be five feet from side and rear property lines).

While the applicant has explained their operation plans for the STR, the SUP is not restricted to only the current applicant/operator. All SUPs transfer to future property owners; thus, if the applicant sells the property, any future property owner could operate a STR so long as they meet the requirements of the ZO and any conditions placed on the SUP. How the STR could be operated by any future property owner should be considered and evaluated as part of this request.

As defined in the ZO, a STR is "[t]he provision of a dwelling unit, a guest room or accommodation space within the dwelling unit, or any accessory building that is suitable or intended for transient occupancy for dwelling, sleeping, or lodging purposes and is offered in exchange for a charge for the occupancy." STRs are further regulated by Article DD of the Zoning Ordinance. Among other things, a STR differs from the by right homestay use by allowing operators to exceed 90 lodging nights per year, in allowing more than four guests at one time, and in having the ability to use an accessory building as a transient lodging structure.

The ZO requires one off-street parking space for the existing single family detached dwelling. If the STR is approved as requested, the site must have three more off-street parking spaces—one

for each approved accommodation space. Unless City Council allows for a reduction in off-street parking spaces as a condition of the SUP, the site must ultimately accommodate four off-street parking spaces—one for the dwelling and three for the STR.

Land Use

The Comprehensive Plan designates this site as Neighborhood Residential and states:

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.

Transportation and Traffic

A traffic impact analysis (TIA) was not required for the SUP request.

Public Water and Sanitary Sewer

Staff has no concerns regarding water and sanitary sewer service availability for the proposed use.

Housing Study

The City's Comprehensive Housing Assessment and Market Study (Housing 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."

The accessory structure in which the STR use is proposed cannot be used as a dwelling under current zoning laws, and therefore, the proposed STR use would not be removing a dwelling unit from the housing market.

Recommendation

The City has approved many STR SUP applications throughout the City and after review of this request, staff believes this request shares similar characteristics to other applications that have already received approval, and thus staff recommends approval of the request, but only with the following conditions:

1. All STR accommodations shall be within the detached structure described in the application.
2. There shall be no more than three STR guest rooms or accommodation spaces.
3. The number of STR guests at one time shall be limited to six.
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 driveway 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.

Chair Finnegan said I just want to make sure that I am understanding staff's recommendation correctly, this line "the R-2 district does not allow two single family detached dwellings on the same lot", if R-2 did allow, would staff recommend against? Maybe I can ask my question in a different way. It says the R-2 district does not allow two single family detached dwellings on the same lot, if R-2 did allow that would staff's recommendation be any different?

Ms. Dang said let me rephrase and perhaps ask another way. If there was a property with two dwelling units on the property, whether it is a duplex or some other zoning district that would allow two detached structures and we recommend approval or not, I would say probably not.

Mr. Fletcher said evidence that history shows that we have not supported those, however, every special use permit is site specific, it is very circumstantial based upon the details of the site. What Ms. Dang is saying is that evidence shows history that we have not traditionally supported those.

Vice Chair Byrd said I thought our thinking was if there were two separate dwelling units, then we wanted those to be housed by residents.

Chair Finnegan said they are saying R-2 does not allow two separate dwelling units.

Mr. Fletcher said two separate structures as dwelling units.

Chair Finnegan said I guess my question is more of a hypothetical, if R-2 were changed to allow that maybe this could be...

Vice Chair Byrd said I remember someone appeared before us who had two dwelling units and they wanted a short-term rental and we were against it because the idea that we are trying to encourage was that dwelling units are resided in by residents. You having extra space to accommodate guests, that is for short-term rental use.

Chair Finnegan said I understand, what I am talking about is if the rules change in the future, two dwelling units are allowed on R-2, this could be a dwelling unit.

Vice Chair Byrd said I still hold to the same position that it [inaudible].

Chair Finnegan said it is not a dwelling unit and cannot be under 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.

Josh Defnall, applicant, came forward to speak to the request. He said it is interesting that you bring that up because there was a lot of conversation around that. Three years ago when we purchased the property we were trying to explore different avenues of what we could do with it. I would very much like to have a long-term tenant in the back but I was told that I could not put a full kitchen only a kitchenette and that I was pretty much limited to short-term rental options due to current zoning regulations. A lot of that had to do with setback requirements from 1088 [College Avenue], the building in the back. We did pay for a survey and we were able to find those property markers and the building is within one foot of the property line at one corner. We have built those out for two-hour fire walls. In the future I do hope that at some point we can put long term housing in the back, but as of right now it seems that we are pretty much limited to a short-term rental situation. That is what we have applied for as far as staff recommendations. I think my letter pretty much aligns with six people, we have plenty of off-street parking. I think so many folks were out yesterday you can kind of see that in the back. Any questions?

Chair Finnegan said sorry if that startled you. We do walk around people's property, wherever there is a sign.

Chair Finnegan asked if there were any 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.

Vice Chair Byrd said I like people to take advantage of any existing space that they have. If they do not have a large enough family to fit in it and they have this extra space, I see no issue with having short-term rental. Visiting the site, I feel it could accommodate a guest and their vehicles, if necessary, without being a nuisance to the neighborhood. I would be in favor of approval and will make a motion to approve the special use permit request with suggested conditions from staff.

Commissioner Baugh seconded the motion.

Chair Finnegan said I would add that I agree with the applicant. It would be nice if this could be a dwelling unit for a person year-round. As we all know, there is a housing shortage and it is currently not allowed. It feels like the next best use for this. I would be in support of this.

Chair Finnegan called for a roll call vote.

Commissioner Baugh	Aye
Vice Chair Byrd	Aye
Commissioner Washington	Aye
Chair Finnegan	Aye

The motion to recommend approval of the special use permit request passed (4-0). The recommendation will move forward to City Council on April 9, 2024.

Consider a request from Matthew J. Swartzentruber & Maria A. Swartzentruber for a special use permit to allow a short-term rental at 1048 and 1048A College Avenue

Chair Finnegan read the request and asked staff to review.

Ms. Rupkey said as part of the review for the special use permit request, staff discovered some unusual circumstances associated with the existing structure. The circumstances are important to understand because it impacts staff's recommendation to table the request.

In 2001, an application for a building permit was submitted to construct a new structure. The building permit describes the structure as a two-story dwelling, built on a full basement, where the basement was intended to have a two-bedroom, two-bathroom apartment. The structure was completed and received two certificates of occupancy, one for each dwelling unit, in 2002. In 2001, the property was zoned R-2, which is its current zoning. For all intents and purposes, it appears the residential use permissions in 2001 were the same as they are today, which due to the property's size continues to allow for a duplex (one structure with two units). Typically, this means that each unit is a separate unit, and someone cannot internally pass from one unit to the other.

Oddly, and incorrectly, the certificate of occupancy that was issued for the building classified each unit, from the Building Code perspective, in the R-2 use group. Each unit should have been classified in the R-5 use group. (NOTE: The "R" classification is unrelated to the "R" designation of the Zoning Ordinance.) The different "R" use groups in the Building Code require different types of construction. The R-2 use group is associated with multi-family buildings (also known as apartment buildings), whereas single family homes and duplexes (also known as two-family dwellings) are associated with the R-5 use group. What adds another layer of confusion to this situation is that this structure has a doorway that allows individuals to pass from one unit to the other. In other words, the spaces are not physically separated as individual units.

At this time, staff can only speculate that either 1) the structure was built with the doorway between the two spaces (or units) and previous City staff incorrectly classified the structure as a duplex, or 2) the structure was built as two separate units without a doorway connecting the two units and then a previous property owner—without applying for building permits—constructed a doorway to connect the two spaces. In either situation, City staff incorrectly classified the use group as R-2.

Given this situation, there remains questions as to whether the structure is a single family detached home with two kitchens or a duplex.

The applicant is requesting a special use permit (SUP) per Section 10-3-40 (8) of the Zoning Ordinance (ZO) to allow for a short-term rental (STR) in the R-2, Residential District. The +/- 15,306-square foot property is addressed as 1048 and 1048A College Avenue and is identified as tax map parcel 48-D-6. The space in which they hope to become a STR is already being used as a by right homestay use.

In the applicant's letter they state that they would like to operate a STR within the basement apartment of their home. In the letter the basement apartment is described as having two bedrooms, two full bathrooms, a full kitchen, and a living room. Although not called out in the letter, in the

link that the applicant has provided to their Airbnb listing there are three accommodation spaces – the two bedrooms and a pull-out sofa in the living room.

As defined in the ZO, a STR is “[t]he provision of a dwelling unit, a guest room or accommodation space within the dwelling unit, or any accessory building that is suitable or intended for transient occupancy for dwelling, sleeping, or lodging purposes and is offered in exchange for a charge for the occupancy.” STRs are further regulated by Article DD of the Zoning Ordinance. Among other things, a STR differs from the by right homestay use by allowing operators to exceed 90 lodging nights per year, in allowing more than four guests at one time, and in having the ability to use an accessory building as a transient lodging structure.

The ZO would require one or two off-street parking spaces for the existing residential structure depending on whether it is determined to be a single-family detached dwelling or duplex. Unless City Council allows for a reduction in the number of off-street parking spaces, the site must contain three additional off-street parking spaces for the STR. Staff requires more time to investigate whether the structure is a single family detached dwelling or duplex in order to make a determination on the total required number of off-street parking spaces.

Land Use

The Comprehensive Plan designates this site as Neighborhood Residential and states:

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.

Transportation and Traffic

A traffic impact analysis (TIA) was not required for the SUP request.

Public Water and Sanitary Sewer

Staff has no concerns with the requested SUP regarding water and sewer matters.

Housing Study

The City’s Comprehensive Housing Assessment and Market Study (Housing 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.”

Recommendation

Given the question as to whether the structure is a single family detached home or a duplex, staff recommends tabling the request to allow staff to further investigate and make a determination on

the nature of the structure. Staff's recommendation on whether to approve or deny, as well as, recommendations for SUP conditions for the STR will differ depending on whether the structure is a single family detached home or a duplex.

If Planning Commission desires to move the request forward to City Council with a recommendation to either approve or deny, without tabling the request to allow staff to further investigate, staff requests the opportunity to share recommended conditions at the Planning Commission meeting should the request be approved by City Council.

Chair Finnegan said just so we understand what the recommendation for tabling is, there is just missing information that is still outstanding in terms of doing research on what was done to the house and when and was it legal.

Ms. Rupkey said it is a determination of what the use of the building is. In 2001 it was classified in the building code with a different use category that is not what it would have been then or now. There is some information that we are trying to figure out what happened at that point and work with the applicant to get the right use code that they want to have for their property. If it is considered a single-family home, that is how they have been using it.

Mr. Fletcher said let me see if I can state something similar but in a different way. In 2001, the property was zoned R-2, just like it is today. The building permit had detailed that they were going to build a single-family home with an apartment in the basement. Apartment in the basement was to have two bedrooms and two bathrooms. The building was issued two certificates of occupancy. They were given a building code use group designation of R-2, that is incorrect. For whatever reason it was given an R-2 designation. This gets confusing because we are talking about zoning and building codes. It was an R-2 use group and it should have been R-5. It should have been R-5 because R-2 is typically associated with multi-family buildings and this is not a multi-family [building]. For all intents and purposes, it was intended or as staff probably would have viewed it then as a duplex, two units. Some people refer to these often times in Park View, they say I have a basement apartment or an apartment in the attic or something like that but it is really a duplex because they are two independent units. The question is, did the building get constructed with a doorway in between the units or did the doorway get renovated at a later time after the building was issued certificates of occupancy? The building should have been issued a certificate of occupancy as a R-5 in the R-2 zoning district. There are too many questions about what that space is and the space use group determination is important to staff because it will impact our recommendation as to whether or not we believe this should be approved or not.

Vice Chair Byrd said there is a door?

Mr. Fletcher said there is a door between the units. Typically, a legal duplex under our standards today is that there is no door. You cannot go in one unit and get into the other unit. It is completely separate, fire wall separated. When there is a door and we know it should not have been a door even under the current building code regulations which basically for that kind of unit are the same that they are today. We were like, wait a minute, did staff make an error in the past, which we do not know; or did a previous owner, not the current owner because they bought it this way, without

building permits open up the space? That is what we do not know. By opening up the space, you have now created this situation where it is a single-family home with two kitchen spaces.

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.

Matthew Swartzentruber, the applicant, came forward to speak to this request. He said we bought this house a little over two years ago. We are the third owners. We bought it because our family has expanded, we had a third child. We currently have a seven year-old, a four year-old, and a two year-old. When we bought it, there were long term renters in the basement, an older couple that went to our church. We enjoyed having them and we kept them as long as they were willing to stay with us. They eventually needed to retire to Virginia Mennonite Retirement Community (VMRC) and move to the retirement community. At which point, we were faced with the dilemma of what to use the space for. For various reasons we felt it better for our family currently to use it for short term rental, do an Airbnb kind of situation. Not our long-term plan but right now with little kids and family visiting and with some health complications with my wife's parents, we see it being necessary to have it open in the future. The flexibility of Airbnb suits our needs better currently, which is why we are going this route versus finding other tenants, which we hope to eventually do sometime in the future. To address your questions, we are the third owners. The Peifers owned before us and then Glen Stoltzfus owned it originally and he was the one that kind of did that whole process. I reached out to him to ask that question and he indicated that yes, it was originally built with the pass-through door. It has always been existing since its construction. It is an insulated concrete form and so a renovation of that nature would be rather difficult as well. He indicated that it was always the plan and always the original build.

Chair Finnegan asked if there were any 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.

Vice Chair Byrd said that is an interesting situation. It sounds as it is currently constructed, the structure, is one residence. Which could fit with what I just said earlier about being in favor of short-term rental. There is this odd question that is trying to give staff some time to correct whatever happened a long time ago if they ever wanted to figure out what the structure is. I would be in favor of the short-term rental but I have no problem with tabling it as well. I am not committed to either position.

Chair Finnegan said this is the same as the last request, is the duplex use an illegal use?

Mr. Fletcher said let's break it down to the basics. The site is large enough to contain a duplex, it has more than 11,000 square feet of lot area, so you can have a duplex. A duplex is two separate units that are separated infrastructurally, fire wall separation, they can have a duplex. It created this very unusual and confusing situation when we saw that the certificates of occupancy for the units were R-2, they should have been in R-5 and then there was this doorway in between and none of it was making sense to us. The path that I think we are headed to is if you table the request, we have been in communication with our building officials that we would probably reach out to the property owner and look to have the existing space have a new certificate of occupancy given to

it. In that particular case, if a new certificate of occupancy is issued, there becomes a situation where it is no longer a duplex. Then it sort of falls in line with some of our other evaluations of short-term rentals because it is all in the same structure and it is all in the same unit. In our space we talked about the reality of the situation that no one would have known the situation existed had they not come to the City to ask for the special permission, right? There has probably always been two separate family units in those spaces and has been operating as a duplex for as long as it has been constructed. By this coming to light and with certificates of occupancy being issued, they do lose that opportunity for it to be a duplex with the construction taking place. Which is an unfortunate situation as well.

Chair Finnegan said it becomes also a building code issue, which is not what this body does. We just do zoning not building. Thank you, that is helpful. If it cannot be used as a dwelling unit, I would support. If it can be used as a dwelling unit, then I...As a 365 day a year dwelling unit, I personally would not support this.

Commissioner Baugh said I think it illustrates the point that additional clarity would be helpful. In that case I will go ahead and move that we accept staff's recommendation to table this one.

Vice Chair Byrd seconded the motion.

Chair Finnegan called for a roll call vote.

Commissioner Baugh	Aye
Vice Chair Byrd	Aye
Commissioner Washington	Aye
Chair Finnegan	Aye

The motion to recommend approval of the special use permit request was tabled (4-0). The recommendation will return to the Planning Commission on April 10, 2024.

Consider a request from Wampler Martin Properties for a special use permit to allow personal service establishments at 220 Reservoir Street

Chair Finnegan read the request and asked staff to review.

Ms. Rupkey said the applicant is requesting a special use permit (SUP) per Section 10-3-48.4 (5) of the Zoning Ordinance (ZO) to allow a personal service establishment, specifically a tattoo shop, in the R-3, Medium Density Residential District. The +/- 22,377-square foot property is addressed as 220 Reservoir Street and is identified as tax map parcel 27-S-74.

The applicant is under contract to purchase the property pending the SUP approval. If the SUP is approved the applicant plans to relocate Alley Cat Tattoo (currently located at 990 Reservoir Street) to this location. According to the applicant's letter they have been leasing their current location for the last 23 years and would like to move to a location that they own. They currently operate seven days a week from 12pm to 8pm Monday through Saturday and 12pm to 7pm on Sunday.

A personal service establishment requires 23 parking spaces based on the calculation of 1 space for every 200 square feet of gross floor area. The property currently has 18 delineated parking spaces in the front of the existing building and appears to have the space in the rear of the building to delineate the additional five spaces that are required.

Land Use

The Comprehensive Plan designates this site as Medium Density Residential and states:

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.

Staff believes a personal service establishment should not have any more impact on the surrounding area as other by-right nonresidential uses allowed in the R-3 District. By right, the R-3 district allows for hospitals, medical offices, professional offices, churches, schools, day cares, governmental uses, and charitable and benevolent institutions. The site has been used as a medical office for the last 32 years as Wampler and Associates Rehabilitation.

Transportation and Traffic

The Determination of Need for a Traffic Impact Analysis (TIA) form (“TIA determination form”) for the proposed SUP is attached. The TIA determination form indicated that the project would not generate 100 or more new peak hour trips, which is the threshold for staff to require a TIA.

Public Water and Sanitary Sewer

Staff has no concerns with the requested rezoning regarding water and sewer matters.

Recommendation

Staff has no concerns with the operation of a personal service establishment at this property and recommends approval of the SUP request with no conditions.

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

Nick Swartz, owner of Alley Cat Tattoo and applicant’s representative, came forward to speak to the request. He said I have operated Alley Cat Tattoo for 23 years about a quarter mile down the street. We need more space and better parking. We want to own our building as opposed to renting, which we have for so many years. Mr. Wampler owns the building now and we would just like to come up the street a little bit.

Chair Finnegan said I am assuming this is going to be better than...I have definitely seen some people running across from the CVS and I am like “I hope they make it.”

Mr. Swartz said I was telling my brother when we got here, I have had four people tell me in the past couple of months that they do not come here because the parking lot gives them anxiety. It is very tight where we are right now. This is going to be much more spacious as you can see in the

pictures above. It is bigger, we have grown over the years as well. We have more artists than we ever had and the business is strong.

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

Vice Chair Byrd said the building looks like a building for a personal services establishment. I just found that interesting that is what this gets classified as.

Chair Finnegan said it does look like a doctor's office.

Vice Chair Byrd said I would be in favor of approving the special use permit. Therefore, I make a motion to approve the special use permit.

Commissioner Washington seconded.

Chair Finnegan called for a roll call vote.

Commissioner Baugh	Aye
Vice Chair Byrd	Aye
Commissioner Washington	Aye
Chair Finnegan	Aye

The motion to recommend approval of the special use permit request passed (4-0). The recommendation will move forward to City Council on April 9, 2024.

Consider a request from Bismark LLC for a rezoning to amend proffers at 325 and 335 North Liberty Street

Chair Finnegan read the request and asked staff to review.

Ms. Dang said in 2018, City Council approved Bismark LLC's request to rezone the subject site, along with several other parcels to the north and east, from M-1, General Industrial District to B-1C, Central Business District Conditional. That rezoning ultimately made way for the operations of Sage Bird Ciderworks, Magpie, The Perch, Chestnut Ridge Coffee Roasters, Liberty Mercantile, Rootstock Wine & Bar Provisions, and for the construction of townhomes, and proffered parking lots. Specifically for the parcel on which Sage Bird Ciderworks operates, the applicant proffered that at minimum of seven parking spaces shall be provided and reserved for the uses located on that property. A copy of the existing 2018-approved proffers and the associated exhibit from the rezoning is attached herein.

In 2019, City Council approved Bismark LLC's request for a special use permit (SUP) to allow manufacturing, processing, and assembly operations on the subject parcel to allow for Sage Bird Ciderworks. Per the requirements of the SUP, no more than 15 employees can work on a single

shift and all storage and activities associated with the manufacturing use must be conducted within the building.

The applicant is requesting to amend proffers on a +/- 11,979-square foot parcel zoned B-1C, Central Business District Conditional. The parcel is addressed as 325 and 335 North Liberty Street. The purpose of the rezoning is to remove the regulating proffers associated with parking. The particular parking proffer associated with the subject property is detailed in the following statement (written verbatim):

At minimum, 7 parking space [*sic*] shall be located in the area currently identified as tax map parcels 35-L-2, 3, 4. Such parking spaces shall be reserved for the sole use of supplying off-street parking spaces for any and all uses that are located on the property labeled "Professional Offices."

The impetus for the rezoning began when Sage Bird was informed that the food truck that they operate from their property could not be parked within any of the required (in this case proffered) off-street parking spaces because food trucks and other mobile businesses cannot occupy required off-street parking spaces. Had this particular parking proffer not been included in the 2018 rezoning, the food truck could be parked in any of the off-street parking spaces because the B-1 district does not require any off-street parking. If the proffer is removed as requested, off-street parking spaces will not be required for this parcel and the parking area can be repurposed for other uses. However, the applicant has described in their letter that when they are not using the parking lot for the food truck or community events, they plan to maintain it for customer and employee parking.

Proffers

The applicant has offered the following proffers (written verbatim):

- (1) Retail stores, personal service establishments, restaurants, food and drug stores.
- (2) Governmental, business and professional offices and financial institutions.
- (3) Hotels, motels and buildings used for dwelling unit(s), CBD, as defined under section 10-3-24. Dwelling unit(s), CBD, may be occupied by a family or not more than four (4) persons, except that such occupancy may be superseded by building regulations.
- (4) Theaters, community rooms, museums and galleries and other places of assembly for the purpose of entertainment or education. In addition, customary recreational and leisure-time activities which are compatible with surrounding uses are permitted.
- (5) Religious, educational, charitable and benevolent institutional uses which do not provide housing facilities.
- (6) General service or repair shops, when not employing more than fifteen (15) persons on the premises in a single shift (not including persons whose principal duties are off the premises) and providing that all storage and activities are conducted within a building. Examples: Cleaning and laundry establishments, printing and tailoring shops, appliance repairs, upholstery and furniture repairs.
- (7) Accessory buildings and uses customarily incidental to any permitted uses.
- (8) Small cell facilities, concealed wireless telecommunications facilities, industrial microcells, distributed antenna systems, and macrocells. Telecommunications towers are

permitted only by special use permit. Wireless telecommunications facilities are further regulated by Article CC.

(9) Public libraries.

(10) Public uses.

(11) Research and development activities which do not cause any more smoke, dust, odor, noise, vibration or danger of explosion other than uses permitted in this district and which involve no more than 15 percent of the gross floor area in the assembling or processing of products. Any assembling or processing shall only involve products developed on the premises. All services and storage shall be conducted within the principal structure which is to be completely enclosed.

(12) Home occupations.

(13) Radio and television stations and studios or recording studios. All antennas and satellites and associated equipment shall be screened.

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

For the subject parcel, the main changes from the 2018 proffer statement are that they have removed all proffers associated with parking requirements. Furthermore, all of the other properties that were part of the 2018 rezoning will continue to be regulated by the original proffers.

Land Use

The Comprehensive Plan designates this site as Mixed Use and states:

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

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

Recommendation

This area has undergone significant change since the 2018 rezoning with redevelopment of private property and with the City's reconfiguration of North Liberty Street to add on-street parking spaces. Although the applicant does not anticipate eliminating the existing seven off-street parking spaces at this time, if the parking spaces were removed and the existing curb cuts were reconstructed with standard street curbing, it appears that about four additional on-street, parallel parking spaces could be provided.

Recommendation

Staff recommends approval of the proffer amendment.

Chair Finnegan asked do we know the purpose of the original proffer? I was here in 2018, I remember when this whole area got rezoned.

Ms. Dang said I apologize I forgot to mention that I included in front of your seats an exhibit that I failed to include in your packet. This was the exhibit that was presented with the 2018 rezoning. At the time, they did not know what all of these spaces were going to be. Magpie was not conceptualized yet, or maybe it was I cannot recall, but I do not believe these areas were. As you can see, this property here was claimed as professional offices. I think commonly perhaps at this time and prior times it was kind of this question of do we require parking? What is the need and what do we do? At the time, the applicant who was not Sage Bird, the property owner had proffered that they would provide parking because they could provide seven parking spaces. I imagine that is what occurred.

Mr. Fletcher said if I can add to that too, this was in 2018 and a lot has happened since 2018. We have done a downtown parking study, we have completed the Downtown Master Plan, we have lived through the entire sequence of all of the Comprehensive Plan update because the Comprehensive Plan was updated in 2018. We started working on the Zoning and Subdivision Ordinance rewrite project and we are looking at best practices that are a bit more in line with what national recommendations are for the American Planning Association, which is like reduction of parking spaces and all those sorts of things. This was sort of the last of the old school thinking. When somebody wants to expand the downtown B-1 district, one of our very first questions used to be "we do not have plans right now to expand parking, what are you going to do about parking?" because we knew that people would want to park nearby. That is why I think they probably just heard that question and said well, we are just going to keep what is there, we are going to provide the seven parking spaces. There was a second proffer associated with parking which is this parking lot you see in your image, they proffered that as well. The proffers that the gentleman has submitted for the property here this evening just kind of eliminated all of that parking proffer detail and there are just the use regulations.

Ms. Dang said it is only affecting the Sage Bird property. The proffers for the townhome parking in that area as well as to the north, page right, what is labeled as apartments which is where Liberty Mercantile is, those proffers for those parking spaces remain the same until the property owner wants to come in and amend those proffers.

Vice Chair Byrd said this picture reminds me of what the street used to look like. I had forgotten how much changed.

Chair Finnegan said I have to admit, I had doubts when this came through in 2018. I was like good luck. It definitely looks better than what I had imagined.

Commissioner Baugh said I maybe had fewer doubts. My recollection is essentially the same as Mr. Fletcher's mixed in with...to the extent they had thought through at that point okay, it will probably be a professional office building. In which case, regularly the parking there is appropriate. I am not sure now that we would be quite at the point where we would say "hey, do you think about getting rid of some of that parking."

Chair Finnegan said the other thing that I remember came up in 2018 were the three parking spots at Urgie's and that was controversial for its time. Those parking spots are gone now. There are people eating food where there used to be three cars parked.

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.

Zach Carlson, owner of Sage Bird and applicant's representative, came forward to speak to the request. He said thanks staff for explaining what we are trying to do. We own that food truck and in the evenings there is not as much food in that area and the point of that is to provide a better experience for our customers. Parking is obviously something that is beneficial, so we are not looking to willy nilly get rid of that. We do use the parking lot for cultural events and to kind of provide as good of an opportunity as possible for our customers. We appreciate your consideration.

Chair Finnegan said I saw a pretty sharp angle from where the curb cut is to where that spot on the far right is.

Mr. Carlson said it is honestly hard to reach if any vehicle of any size is parked before that.

Chair Finnegan said I would not want to be the one driving the truck back.

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

Vice Chair Byrd said I mean this picture of what it looked like in 2018 just took my brain back to driving past this road and how much has changed. Based on where I live and where downtown is, I tend to have to cut through this road. There is way more street parking then it was back then. I would not see a problem with removing that proffer. It has been observed how the business that operates that parking lot anyway. I do not see all of the spaces disappearing in a short period of time anyways. I would be in favor of this request.

Commissioner Baugh said I agree. I think the bottom line is that if all of these parking spots went away I do not think we would have any heartburn. And they happen to have a good reason for it

that makes sense. There may be other areas where I might not be quite there but...I am familiar with that area...

Chair Finnegan said I will just add as a footnote, there is plenty of bike parking in that area. I ride my bike past there every day, not hard to find parking if you are on a bike.

Mr. Fletcher said Thanh, did you talk at the tour about even if they close it off and if they curbed it?

Ms. Dang said I do not know that I did but if they were to close off [the entrance] and do something with that parking lot and got rid of it and curbed it, I think we were calculating four on street parking spaces could be added.

Mr. Fletcher said close the curb cut, close all of the parking and then you will pick up four on street parking spaces.

Ms. Dang said that is a hypothetical.

Chair Finnegan said if you park there now, you will be blocking the curb cut.

Vice Chair Byrd said therefore we would only lose three.

Commissioner Baugh said in an area where at peak parking times it is really a pretty marginal extra distance I am going to have to walk.

Chair Finnegan said that is just your opinion. You should hear the opinions of some of the people walk...

Commissioner Baugh said exactly, that is my opinion. It is a fairly marginal additional walk.

Vice Chair Byrd said my friends have negative opinions because they park over in the County's parking lot and they have to walk and they do not like that. I make a motion to recommend approval of the rezoning request.

Commissioner Baugh seconded the motion.

Chair Finnegan called for a roll call vote.

Commissioner Baugh	Aye
Vice Chair Byrd	Aye
Commissioner Washington	Aye
Chair Finnegan	Aye

The motion to recommend approval of the rezoning request passed (4-0). The recommendation will move forward to City Council on April 9, 2024.

Commissioner Washington said it says here that it is a rezoning request but it also says proffer amendment.

Ms. Dang said that is correct. The proffers are being amended by way of the rezoning request.

Mr. Fletcher said it is one in the same. As explained in the Zoning Ordinance when you want to amend the proffers, you have to go through a rezoning process.

Consider a request from S&K Contracting to add a new subsection to Section 10-3-96 of the M-1, General Industrial District to allow mercantile establishments that supply parts and equipment for over the road tractors, their trailers, and heavy equipment

Chair Finnegan read the request and asked staff to review.

Ms. Dang said presently, retail and mercantile uses are prohibited in the M-1, General Industrial District, except when the retail use is accessory to and in support of goods that are produced and/or assembled within the M-1 district or if a special use permit is approved for convenience stores. A copy of the M-1 district's uses permitted by right and uses permitted by special use permit sections are attached herein.

The applicant is requesting to add a new by right use to the M-1, General Industrial District by adding subsection (21) to Section 10-3-96 as shown below:

(21) Mercantile establishments that supply parts and equipment for over the road tractors, their trailers, and heavy equipment.

The proposed ZO amendment would allow the sale of parts and equipment for over the road tractors, their trailers, and heavy equipment within the same zoning district, and which is the only zoning district, where the repair of over the road tractors, their trailers, and heavy equipment is allowed.

Recommendation

Staff does not have concerns with allowing such a use as it provides for efficiency and convenience and is compatible with other by right uses. Staff recommends approval of this request.

Chair Finnegan asked if there were any questions for staff.

Vice Chair Byrd said this would be similar to number 9 [referring to Zoning Ordinance Section 10-3-96 (9)], the mercantile establishment of an office, facilities, and accessories. We are just adding more mercantile uses?

Mr. Fletcher said it is very specific. It is narrowly tailored to mercantile that only sells parts and equipment that are associated with trucks, trailers and all of that kind of stuff.

Vice Chair Byrd said I was only bringing it up as it is not foreign to this list of uses.

Mr. Fletcher said I am not sure that I follow.

Chair Finnegan said we are adding the use. I do not understand the question.

Mr. Fletcher said is it a comment or a question?

Commissioner Baugh said it strikes him as not massively dissimilar from something that is already there. Is that what you are saying?

Mr. Fletcher said mercantile uses are not allowed at all in M-1.

Ms. Dang said except as an accessory use in number 9.

Mr. Fletcher said except only when it is associated with a manufactured processing use. A product that they make on site, they can sell on site.

Ms. Dang said it can have a small accessory and small retail component. This is a principal use being proposed. This is the retail mercantile use is the use.

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.

Jon Ernest, applicant's representative with Monteverde Engineering & Design Studio, came forward to speak to the request. He said just to quickly take a step back and make things a little simpler, we look at it from a comprehensive planning and zoning standpoint. We do not see that it makes sense for all truck uses be restricted to a single district while only to, at the same time, prohibit the sale of all truck related parts, if that makes sense. In other districts, in other zonings and the Comprehensive Plan, there are allowances for essentially those support uses to those plots. Essentially, we are just translating that language into the M-1 industrial district. Which, I do not think the intent when this was originally accepted, this code, to leave it out. I think it was just a gray area that you really do not come across. I am here today to answer any questions if you have any. Otherwise, I look forward to the discussion.

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

Vice Chair Byrd said I have said all I have needed to say about this. I had to understand why we are considered adding this language. Therefore, I see no issue with this language being there.

Chair Finnegan said I do not have any concerns about this.

Vice Chair Byrd said I will make a motion to recommend the approval of the ordinance amendment.

Commissioner Washington seconded the motion.

Chair Finnegan called for a roll call vote.

Commissioner Baugh	Aye
Vice Chair Byrd	Aye
Commissioner Washington	Aye
Chair Finnegan	Aye

The motion to recommend approval of the ordinance amendment request passed (4-0). The recommendation will move forward to City Council on April 9, 2024.

Consider, per City Code Section 10-1-6, whether the proposed Fire Station #5 public facility site at 450 Mt. Clinton Pike is in substantial accord with the Comprehensive Plan

Chair Finnegan read the request and asked staff to review.

Ms. Dang said the City of Harrisonburg is under contract to purchase 450 Mount Clinton Pike, which is an undeveloped +/- 15.23-acre property, with plans to construct a new fire station to improve service and reduce response times within the community.

City Code Section 10-1-6 stipulates that “if a public facility subject to Section 15.2-2232 of the Code of Virginia is not already shown on the comprehensive plan, the planning commission shall determine whether the location, character and extent of such public facility is in substantial accord with the comprehensive plan as provided by Section 15.2-2232 of the Code of Virginia and the terms and conditions set forth therein, and may be amended from time to time.”

The Code of Virginia Section 15.2-2232 states, among other things, that when a locality has adopted a comprehensive plan, “it shall control the general or approximate location, character and extent of each feature shown on the plan.” Public buildings or public structures, among others, are listed by the Code as features that unless are already shown on the plan “shall not be constructed, established, or authorized, unless and until the general location or approximate location, character, and extent thereof has been submitted and approved by the commission as being substantially in accord with the adopted comprehensive plan or part thereof.” A copy of Section 15.2-2232 is attached.

In 2022, City Council voted to invest American Rescue Plan Act (ARPA) funds into the creation of Fire Station #5, and in November 2023, City Council approved the purchase of 450 Mount Clinton Pike for Fire Station #5. The City is expected close on the property soon. Information about this project is available on the City website at: <https://www.harrisonburgva.gov/hfd-station-5>.

The Comprehensive Plan designates this site as Industrial and states:

These areas are composed of land and structures used for light and general manufacturing, wholesaling, warehousing, high-technology, research and development, and related activities. They include the major existing and future employment areas of the City.

The property is zoned M-1, General Industrial District and conforms with the Comprehensive Plan's Industrial designation. The M-1 district allows "public uses" by right and a City fire station is classified as a public use and thus is allowed by right.

The City has been planning to provide a fifth fire station for quite some time and it has been included in the Capital Improvement Program for a number of years. Within the Comprehensive Plan, Chapter 13 – Community Infrastructure, Services, Safety and Health, the need for a fifth fire station to be located within the Park View area of the City to assist in reducing response times (see page 13-15). Specifically, the new fire station works towards achieving Comprehensive Plan Objective 15.2, which is:

To provide a well prepared first response force that is capable of response and mitigation as an all hazards organization.

Recommendation

Staff finds the proposed fire station's general location, character, and extent thereof is in substantial accord with the Comprehensive Plan and recommends the Commission communicate the same findings to City Council.

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

Chair Finnegan said this plan here with the new street, do we know what is planned for that new street?

Ms. Dang said that is just a conceptual street to serve the site. In fact, we have had some...does the Comprehensive Plan show a connection?

Mr. Fletcher said the Comprehensive Plan, the Master Street Improvement Plan shows a connection from Mount Clinton Pike to Acorn Drive but it is not specifically over this parcel. It is actually to the east of this property. Basically, what we are trying to demonstrate in the Street Improvement Plan is we would like to have a connection in that general area. If you were actually to go and find the location on the map where that line is, you are kind of going through parcels that are developed at this point. This street is laid out in a way, conceptually, that could provide continuation either north to northeast or north to northwest to continue up to Acorn Drive. As most of us probably know if you were to go a straight line where the street is, you would eventually go to an old quarry site. If you were to connect the street you would have to go around the quarry. In

fact, that was discussed with our engineer that laid this out that it is doable to make that radius turn.

Chair Finnegan said we are talking about what it is in substantial accord with the Comprehensive Plan, I would tend to say that it is given all of the things that have changed up Mount Clinton Pike, this is getting built out.

Vice Chair Byrd said as a resident of Mount Clinton Pike and given the age of my neighbors, sometimes I have seen rescue staff have to come out. Having a shorter response time, I think my neighbors would greatly appreciate that on our edge of the City. I live on the edge of the City, I step out my door and step in the grass and I am in the County. My little corner would greatly appreciate this. From what I have read of the Comprehensive Plan, I would not see how this would be not substantially in accord. I would also agree that it would be substantially in accord. Therefore, I will make a motion that the proposed fire station is in substantial accord with the Comprehensive Plan.

Commissioner Baugh seconded the motion.

Commissioner Baugh said I like the concept of it. I think it is fine. As I am sitting here looking at this, I realized what I think rubs me the wrong way about this and it goes back to something that was one of those little things in the first year of law school that was not made a big deal and yet I carry it with me to this day. It was just a simple concept which is you can have a document or contract or whatever and you can put the strongest language you can think of in there that says what people have to do or not do but if it does not actually get explained very well what the consequences are of people not doing it, it is kind of like what do you have? I think that is how I have always felt about this because on top of everything else, even if we were to find that it was not in substantial compliance with the plan. For example, I think there is just probably enough general statements in there about we like public safety. As you say, it is a known section of town. There have sort of been promises of this being up there, it is going to be an enhancement for that. That is consistent with things in the plan. Council does not have to go along with it anyway and all they really would have to articulate is that they think it is in the public interest. I sort of see it as if the local governing body was trying to do something crazy in the middle of a toxic waste dump and was not telling anyone about it. It has always kind of hard to figure out where we are going with this. I think we should say based on the public safety concerns that Mr. Byrd has stated.

Mr. Fletcher said Ms. Dang are you looking for them to also acknowledge that it is working towards objective 15.2 in the...do you think that needs to be included in the findings document?

Ms. Dang said I have a copy of the findings and thank you for bringing that up. This is basically verbatim from the staff report. This is your pleasure and it can be amended if you all desire it to be so. The findings would be that yes, you found it in conformance with the Comprehensive Plan, as similarly stated on the screen there, and that additionally the property is zoned M-1 and that it conforms with the Comprehensive Plan's Industrial designation and then so on about the M-1 district allows public uses by right and the City fire station is classified as a public use and also

allowed by right. Basically, the things in the staff report and then so on about the Capital Improvement Program and the Comprehensive Plan's chapter thirteen and the objective, 15.2.

Mr. Fletcher said technically why you believe it is compliant to the Comprehensive Plan.

Ms. Dang said if you would like to omit any reasons from the staff report or if you do not feel they fit or if you would like to add other reasons, we can amend this draft finding statement.

Chair Finnegan said it is designated as Industrial, there was a Shenandoah Valley Organic (SVO), or Farmer Focus, plant just around the corner. There have been a lot of things that have been built in the last ten years there that would need a rapid response from the Fire Department. I do not have any objections. I do believe it is in substantial accord with the Comprehensive Plan.

Vice Chair Byrd said with all of the findings that staff presented to us this evening I felt were in substantial accord for what we look for. Which is why I made the motion in that thinking. I hope that the minutes will recognize that. Do we need to reword the motion at all?

Commissioner Baugh said I think chapter thirteen, which has general references to the Fire Department is probably good enough as well. We have a fire department and we want it to be able to do what it needs to be able to do. It cites a number of things like that. There is just ample support from the Comprehensive Plan.

Commissioner Washington said when you think about it, from an equity standpoint and us living in a City, someone who lives on one side of town should have the same access to emergency services as someone on the other side or who lives directly in the City close to a fire station. Just on equity alone, cutting down on response times is huge for everyone.

Chair Finnegan called for a roll call vote.

Commissioner Baugh	Aye
Vice Chair Byrd	Aye
Commissioner Washington	Aye
Chair Finnegan	Aye

It was found that Fire Station #5 is in substantial accord with the Comprehensive Plan. The findings will be presented to City Council on April 9, 2024.

New Business – Other Items

Consider a request from Daniel R. and Naomi R. Shenk, Harrisonburg Cohousing LLC, and Brenda G. Castello & Ted A. Morris to preliminarily subdivide three parcels addressed as 1816 and 1820 Country Club Road, and 640, 650, 660, 670, 680, 690, 700, 710 and 730 Keezletown Road

Ms. Dang said in January 2024, City Council approved three requests, which included:

- An amendment to the Comprehensive Plan's Land Use Guide map to change +/- 9.3-acres to Medium Density Residential;

- A rezoning of +/- 4.73-acres to R-5C, High Density Residential District Conditional and rezoning of +/- 8.56-acres to R-8C, Small Lot Residential District Conditional; and
- A special use permit to allow attached townhomes of not more than eight units in the R-8 district.

A copy of the approved 2024 rezoning proffers is attached herein.

The applicant is requesting to preliminarily subdivide +/- 16.65-acres of property by dedicating public street right-of-way for two new public streets and by creating one lot for the existing office addressed as 1820 Country Club Road, five multifamily lots (containing a total of 54 units within nine apartment buildings), 57 townhome lots, two lots for a duplex structure, and one single-family detached home lot, which is intended to contain the existing single family home. The illustrated parking lots would provide off-street parking for the multi-family units while parking for the townhomes and the duplex structure is intended to be within attached garages within each unit.

As part of the preliminary subdivision process, the applicant is requesting variances to deviate from requirements of the Subdivision Ordinance (SO).

Note that the proposed subdivision and street names are preliminary. As part of the administrative final platting process, staff will ensure compliance with street naming and addressing standards. (Although the preliminary street names are referenced in this staff report they are not yet approved names.)

Land Use

The Comprehensive Plan designates this site as Medium Density Residential and Mixed Use:

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.

Mixed Use

These areas include 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.

Transportation and Traffic

The Determination of Need for a Traffic Impact Analysis (TIA) form (“TIA determination form”) for the proposed development was completed during the rezoning process and indicated that the project would not generate 100 or more peak hour trips, which is the threshold for staff to require a TIA. Know that during review of the rezoning requests, staff and the applicant worked together to plan for the public street network internal to the development and street stubs to connect to future neighboring developments. The proffered public street rights-of-way and accommodations for bicycle and pedestrian facilities are shown on the preliminary plat. Variances from the Subdivision Ordinance requirements are discussed in the *Subdivision Ordinance Variance Requests* section of this report.

The plat illustrates the applicant’s proffered commitments to construct a shared use path along one side of Public Street 1 (Via Rome), to dedicate land for public street right-of-way, and to dedicate temporary construction easements along both Country Club Road and Keezletown Road for potential street improvements by the City.

Public Water and Sanitary Sewer

As required, all lots would be served by public water and public sanitary sewer. The plat illustrates where water and sanitary sewer lines could be provided so that each new lot would have access to public water and sewer.

Subdivision Ordinance Variance Requests

Section 10-2-42 (c) of the SO requires all parcels to have public street frontage, however the applicant is requesting a variance to that section to allow townhome lot numbers 35-66 to not have public street frontage. This particular variance has been approved multiple times throughout the City for many existing townhome communities and staff has no concerns for this project.

The second variance request is to Section 10-2-43 of the SO, which requires a 10-foot-wide public general utility easement along front lot lines and any lot adjacent to public right-of-way and the same type of easement of at least a 10 feet in width centered on the sides or rear of lot lines. Sheet 3 of the plat illustrates the proposed locations of the necessary public general utility easements and where some of the locations are modified. Public general utility easements are provided for utilities, including water, sanitary sewer, storm sewer, electric, natural gas, television cable, telephone cable, and others deemed a utility by the City. The proposed public general utility

easements would not preclude utility companies from negotiating alternative easements with the property owner(s). The requirements, as specified in Section 10-2-43, are intended to ensure that necessary areas are reserved for the needed utilities in traditional subdivisions. Staff does not have concern with the proposed development deviating from this section of the SO.

The final three requested variances are from Sections 10-2-41 (a), 10-2-61 (a), and 10-2-66 of the SO., which are associated with public street design standards. Specifically, Section 10-2-41 (a) states that “[p]roposed streets shall conform to the standards and specifications outlined in the Design and Construction Standards Manual (DCSM) except those variances to the standards for streets, alleys, blocks, easements, sidewalks, and all such related features may be approved on a case-by-case basis by the city council when” particular objectives are met. Section 10-2-61 (a) states that “[t]he subdivider is required to make all such improvements to streets, including grading, subgrade, surface, and curbs and gutters, in accord with the requirements of the city’s DCSM.” And finally, Section 10-2-66 states “[a]ll utility, street and alley improvements shall be provided in each new subdivision lying wholly or partly within the corporate limits of the city in accordance with standards and specifications of the city.” In particular, the applicant is requesting to deviate from DCSM Appendix F to allow reducing vehicular travel lanes on the public streets from 15 foot-wide lanes to 10 foot-wide lanes, and to reduce the public street right-of-way width from 50-feet to 49.5-feet for Public Street 1 (Via Rome) and to 40-feet for Public Street 2 (Via Milan). Additionally, DCSM Appendix F and Section 3.3.3.1 requires sidewalks to be provided on both sides of all new public streets. The applicant is requesting a variance to not construct sidewalks on the north side of Public Street 1 (Via Rome) adjacent to tax map parcel 72-B-1 and has submitted supporting documentation explaining the reasons for the requested variances.

In this particular case, staff is comfortable granting the variance to not construct the section of sidewalk on the north side of Public Street 1 adjacent to tax map parcel 72-B-1. We appreciate the developers willingness to construct the shared use path, which will not only provide a safe place for people to bike and walk along the street but further initiates the expectation for the shared use path to be extended to the east of the subject site when the adjacent undeveloped property is developed. Staff only supports this variance with the condition that the raised crosswalk (or similar infrastructure) as shown crossing proposed Public Street 1 is provided where the public sidewalk ends on the north side of the street.

Staff supports all of the variances that have been requested with the condition recommended by staff as provided below.

Housing Study

The City’s Comprehensive Housing Assessment and Market Study (Housing Study) places the subject property within Market Type D, which has “neighborhoods [that] are characterized by the lowest growth of any market type and low housing volume turnover.” The Housing Study also notes that “Market type D has lower market activity as well as lower access to amenities. This could be because the areas are stable residential neighborhoods or because the area is less developed and therefore has fewer sales and fewer amenities. Strategies that would be appropriate in the latter case include concurrent development of the housing and economic opportunities through mixed-use developments to build commerce and housing centers across the City.

Public Schools

The student generation attributed to the proposed 113 new residential units (the existing single family home is not included in this number) is estimated to be 61 students. Based on the School Board's current adopted attendance boundaries, Smithland Elementary School, Skyline Middle School, and Rocktown High School would serve the students residing in this development. Harrisonburg City Public Schools (HCPS) staff noted that schools are over capacity in three of the six elementary schools. Note that the City has been planning for the purchase of land for a 7th elementary school for a number of years as such a project continues to be listed in the City's Capital Improvement Program.

Recommendation

Aside from the variance requests as described herein, the preliminary plat meets all other requirements of the Subdivision Ordinance. Staff supports the variance requests and recommends approval of the preliminary plat with the following condition attached to the variance to not construct sidewalks on both sides of the new public street:

The developer shall install a raised crosswalk (or similar infrastructure as accepted by the Department of Public Works) in the location as generally depicted on the preliminary plat to serve pedestrians and to serve as a traffic calming measure. The design of the accepted infrastructure requires approval by the Department of Public Works.

Chair Finnegan asked if there were any questions for staff.

Vice Chair Byrd said the shared use path crosswalk is in this picture?

Ms. Dang said yes, [referring to an image of the site] the shared use path is on the bottom side of the street and then the crosswalk is just about where that arrow is right there. It would be a raised crosswalk is what has been discussed so far. The condition we have worded in a word to provide flexibility in case there are other ideas that would be acceptable.

Chair Finnegan said I think this came up during the rezoning, the long-term plans for Country Club Road... there are plans to improve Country Club Road with some non-car infrastructure...

Ms. Dang said a shared use path on one side.

Chair Finnegan said do we know whether that shared use path would be on this side of Country Club Road or the Kroger side?

Mr. Fletcher said I do not remember which side it is but we will find out and report back. I know that we are working on some pedestrian infrastructure a little way north of Country Club Road right now which just makes me want to jump to a conclusion, but I am holding myself back.

Chair Finnegan said I [did ask] those questions in the Capital Improvement Plan review about some of the underpass and bridge replacements and stuff. I just want to make sure that we are setting ourselves up for being able to have a way to get around that is not inside of a car.

Mr. Fletcher said in either case at intersections there would be appropriate crosswalks and things like that. I think really what we appreciate in this particular situation is that shared use path really

sets that expectation on this plat to extend then to the east to that very large undeveloped property, which is in one family right now, but eventually it will probably be developed, who knows when, sometime in the future. If it does, this gives precedent to continue that shared use path.

Chair Finnegan said I am a fan of the raised crosswalks. I wish we had more of those.

Mr. Fletcher said which also serves as a traffic calming method.

Chair Finnegan asked if there were any questions for the applicant or applicant's representative or if the applicant would like to add anything to the request. Hearing none, he opened the matter for discussion or motions.

Vice Chair Byrd said these roads look like roads on the shared path. I like how it looks like it will be. I understand the City's concern. Therefore, I would be in favor with...staff made a recommendation, correct?

Mr. Fletcher said to recommend approval with a condition.

Vice Chair Byrd said I would be in favor of that.

Commissioner Washington said I would still like sidewalks on both sides [of the street] but I understand that...I say I understand but then again...I am actually excited to see what this...I am not opposed to it. [To Vice Chair Byrd] I did not know if yours was a motion or just in favor of.

Vice Chair Byrd said I have not made a motion. Therefore, I will make a motion to approve the preliminary plat and variances with the conditions that staff recommend.

Commissioner Washington seconded the motion.

Chair Finnegan called for a roll call vote.

Commissioner Baugh	Aye
Vice Chair Byrd	Aye
Commissioner Washington	Aye
Chair Finnegan	Aye

The motion to recommend approval of the preliminary plat request passed (4-0). The recommendation will move forward to City Council on April 9, 2024.

Unfinished Business

None.

Public Comment

None.

Report of Secretary & Committees

Rockingham County Planning Commission Liaison Report

Vice Chair Byrd said Mauzy, they created an Agricultural and Forestal District by vote of five to zero. Oak Grove, they renewed that Agricultural and Forestal District.

Board of Zoning Appeals Report

None.

City Council Report

Ms. Dang said there was no City Council meeting yesterday evening. The items that you all had last month is going to be presented on the 26th of March.

Other Matters

Review Summary of next month's applications

Ms. Dang said there are six sites.

Chair Finnegan said plus the tabled one.

Ms. Dang said that is correct. Thank you for reminding me.

Ms. Dang said our recommendation would be to have one meeting.

Chair Finnegan said it is not quantity. We could probably get to 12 if they are not controversial. Is there anything coming up next month that you have gotten emails about? I know you cannot anticipate all the time.

Mr. Fletcher said well, we try to. If we see a contentious item and we know, sometimes months in advanced, as people are trying to get on certain agendas. We would tell you if it was possibly contentious.

Vice Chair Byrd said we have been given a heads up about some contentious things before we picked the meeting dates.

Chair Finnegan said what I am saying is sometimes they become contentious at the last minute, you cannot always predict.

Mr. Fletcher said we do not always know.

Chair Finnegan said this is something we can talk about under other matters next month. I do believe that three current members of Planning Commission are on the Zoning Ordinance Advisory Committee. It is myself, Commissioner Baugh, and Vice Mayor Dent. However, Commissioner Washington, Vice Chair Byrd, Commissioner Alsindi and then whoever is selected by City Council to take Commissioner Armstrong's place are not on the Zoning Ordinance Advisory Committee. I would like to have some sort of facilitated meeting, maybe this summer. The purpose of what I am bringing up now is just to start the conversation and maybe we can pick it up next month. I think it would be good to have some sort of facilitated round table discussion, not a regular

meeting where we can talk about big picture issues. We are looking at this request that request this request, yes no deny approve but big picture what are we seeing? What would Planning Commission like to see in this Zoning Ordinance revision? I do not know if other folks have any thoughts on that. That is something that I am willing to do work to help get a facilitator and help make that happen. We can pick that conversation up next month or talk about it now, what are your thoughts on that?

Vice Chair Byrd said I think it is a good idea for us to, at some point, have a meeting for the purpose of discussing those types of items so that it is not impromptu where sometimes I feel that we are talking about some things and some Commissioners do not feel fully prepared to really get into the meat and potatoes of that particular issues because they might not have entered that evening thinking “oh we are going to really be talking about the value of R-8C.” I would be in favor of the idea at some point as long as we know what we are going to meet and discuss ahead of time. If anyone has any ideas, start collecting them in your mind so that we will know what we want to meet about.

Commissioner Washington said absolutely. Even adding more comprehensive historical context of where we are now in zoning versus where we want to be. I do not know as much as you all who have been here forever. I think we need to have those conversations and having more context around that would be great.

Mr. Fletcher said correct me if I am wrong but if you are looking at a summer kind of thing, we may have some modules out and you will have been able to read some of them, which might answer some of your questions. Based upon our current timeline of what we are trying to do.

Chair Finnegan said I would like some kind of discussion before too many things are...before we are looking at a document next February and reacting to it just trying to get some input from the entire Planning Commission on it. Like I said I am happy to work with staff to try and make that happen.

Ms. Dang said please continue this conversation, I am taking notes on the ideas that I am hearing from you all. Chair Finnegan it sounds like you might have some additional ideas that you would like to share with me and I can discuss it with staff and what we can do is bring back a plan of how we can proceed. As Vice Chair Byrd said you know what potential dates are coming up in the future, and I like Mr. Fletcher’s recommendation too. I think we have some options to consider for a work session. It could even be on one of the second meeting dates that we already have on the calendar on hold that we can have that in the future during the spring and summer. Please continue the discussion as you desire to at this moment, but do not hesitate to email or call other ideas that you might have and then we will look into some options.

Adjournment

The meeting was adjourned at 7:42pm.

Brent Finnegan, Chair

Anastasia Auguste, Secretary