



CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

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April 4, 2022

**TO THE MEMBERS OF CITY COUNCIL
CITY OF HARRISONBURG, VIRGINIA**

SUBJECT: *Consider a request from Turkey Properties LLC to rezone a +/- 2.32-acre portion of 797 Chicago Avenue, and*

Consider a request from Turkey Properties LLC for a special use permit to allow multi-family dwellings of more than twelve units per building

**EXTRACT FROM MINUTES OF HARRISONBURG PLANNING COMMISSION
MEETING HELD ON: March 9, 2022**

Chair Finnegan read the request and asked staff to review. He also noted that this would be Ms. Banks last presentation before Planning Commission before her retirement.

Ms. Banks said a portion of the subject site was rezoned from M-1, General Industrial District to B-2C, General Business District Conditional in May 1995. The existing proffers are attached with this application.

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

Downtown is an existing area that exhibits and is planned to continue to contain a mix of land uses. The downtown Mixed Use area often has no maximum residential density, however, development should take into consideration the services and resources that are available (such as off-street parking) and plan accordingly. Residential density in Mixed Use areas outside of

downtown should be around 24 dwelling units per acre, and all types of residential units are permitted: single-family detached, single-family attached (duplexes and townhomes), and multi-family buildings. Large scale developments, which include multi-family buildings are encouraged to include single-family detached and/or attached dwellings.

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

Site: Undeveloped acreage, zoned B-2 and B-2C

North: Commercial retail use, zoned B-2C

East: Commercial retail and business uses, zoned B-2

South: Single-family detached dwellings, zoned R-1

West: Across undeveloped North Dogwood Drive right-of-way, undeveloped parcels, zoned R-1

The applicant is requesting to rezone a +/- 2.32-acre portion of a +/- 2.5-acre parcel from B-2, General Business District and B-2C, General Business District Conditional to R-5C, High Density Residential District Conditional. In conjunction with the rezoning request, the applicant is requesting a special use permit (SUP) per Section 10-3-55.4 (1) of the Zoning Ordinance (ZO) to allow multi-family dwellings of more than 12 units per building in the R-5, High Density Residential District. If both requests are approved, the applicant intends to construct two buildings, each containing more than twelve multi-family dwellings, as illustrated on the attached preliminary conceptual site plan.

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

- Dwelling units may be occupied by a single family or no more than three (3) unrelated persons.
- A sidewalk connection between the apartment development and Chicago Avenue to connect the apartment project with direct access to the city's sidewalk system.
- The owner will design and construct a 5' wide sidewalk or a 10' wide shared use path connection from the rear of the property to the city's public trail/shared use path to connect the apartment project with direct access to the City's public trail/shared use path.
- A 6' ft tall opaque fence, the full length of the property line separating the apartment development from the properties identified as tax map parcels 39-P-6, 7, 8, & 9 to the south of the property.
- Exterior site lighting shall be designed so that the light is not directed off the site and the light source is shielded from direct offsite viewing. Light fixtures in the parking areas shall not exceed 15' in height.
- The development will contain one area, totaling 500 s.f., of recreational area for use by the residents that will include picnic table or tables, play areas or play structures, and gazebo, and exercise area.
- The existing vegetation (trees & shrubbery) on the western end of the property, within a minimum of 10-ft. of the property line shared with the City's public street right-of-way in which the public trail/shared use path is located, shall be undisturbed to maintain the vegetated buffer, or an evergreen and deciduous vegetative buffer shall be created within a minimum of 10-ft. of the same property line, where such evergreen and deciduous trees shall be planted and maintained at no less than 10 feet on center and 6 feet in height at the

time of planting to fill in and reestablish a vegetative buffer within the area. This evergreen and deciduous tree vegetative buffer shall not be required in the areas of the proffered connection to the public trail/shared use path or any required stormwater management areas.

It should be understood that the preliminary concept plan is not proffered.

While most of the proffers are self-explanatory, staff offers additional information on the first and seventh proffer.

The R-5 district allows by right dwellings to be occupied by a family or not more than four persons. The first proffer reduces the allowable occupancy of dwelling units to either a family or not more than three persons. With the first proffer, because the minimum off-street parking requirements of Section 10-3-25 (7) allow for reduced parking when occupancy is restricted, the development only requires one parking space for each dwelling unit. The applicant understands that parking and parking lot landscaping requirements, among other elements, would be reviewed during the engineered comprehensive site plan phase of development to ensure that all regulations are met. Proffer seven is intended to preserve and maintain the area along the western boundary of the property as a vegetated area. The proffer states that the area shall be undisturbed within ten feet of the property line or, if the area is disturbed, then evergreen and deciduous trees shall be planted at no less than 10 feet on center and 6 feet in height at the time of planting to fill in and reestablish a vegetative buffer within ten feet of the property line.

The Determination of Need for a Traffic Impact Analysis (TIA) (attached) shows the development is estimated to generate 24 additional trips (based on 48 dwelling units) in the PM peak hour and does not meet the 100-trip peak-hour threshold that gives City staff the ability to require a TIA. When a development reaches or exceeds 100 trips in the peak hour, this threshold is what typically causes concern for traffic safety and delays and would require the need for a TIA study. Thus, a TIA study was not performed.

If the request to rezone the subject property to R-5 is approved, then the maximum number of multiple-family dwelling units allowed would be 56, which equates to a density of 24.2 dwelling units per acre. The Comprehensive Plan Mixed Use designation states “[r]esidential density in Mixed Use areas outside of downtown should be around 24 dwelling units per acre.” Thus, if constructed to the maximum density, the development would still be around 24 dwelling units per acre. While the applicant has not proffered a maximum density for the development, they have demonstrated on the concept layout and within the Determination of Need for a TIA to construct 48 multiple-family dwelling units.

Within their letter, the applicant has requested that the City allow them 36 months from SUP approval to obtain any necessary land disturbing permit or building permits for the multi-family buildings due to the typical time frame required for the completion of site planning and financing. Section 10-3-130 (c) of the ZO states that “[w]henver a special use permit is approved by the city council, the special use authorized shall be established, or any construction authorized shall be commenced and diligently pursued, within such time as the city council may have specified, or, if no such time has been specified, then within twelve (12) months from the approval date of such

permit.” Staff is comfortable recommending an extension from 12 months to 36 months by conditioning the following for the SUP:

The special use shall be established, or any construction authorized shall be commenced and diligently pursued within 36 months from the approval date of the special use permit.

If the SUP is approved with this condition, the property owner should plan their submission schedules accordingly for engineered comprehensive site plan review and/or building permit review to ensure that the special use is established or the construction of at least one multi-family building is commenced and diligently pursued within 36 months.

From a design and site layout perspective, staff is comfortable with the applicant’s proposal to create multi-family structures with more than 12-dwelling units per building at this location. Therefore, staff supports the SUP request to allow multi-family dwellings of more than 12 units per building.

The Land Use Guide states that “[t]o the greatest extent possible, all developments throughout the City shall include [Traditional Neighborhood Design] principles.” This includes having a neighborhood that allows residents to work, shop, and carry out many of life’s other activities; allowing residents to walk, ride a bicycle, or take transit for many trips between home, work, shopping, and school; and having a variety of housing types provided at a range of densities with heterogenous mixes of residences, among other things. Staff believes that the proposed rezoning and SUP allow for this project to blend well within the existing neighborhood while providing more housing choices for people who want to live in the City.

Staff recommends approval of the rezoning and special use permit request with the suggested condition.

An email came in at late hours. We have placed it in front of everyone.

Chair Finnegan asked if there were any questions for staff.

Commissioner Armstrong said I am a little confused because it seems to be the norm now that the SUP’s are requesting extensions from 12 months to 36 months. Why that big leap? Why not 24 months? It is odd because it seems to be the norm, now? Does it tie up properties because they have this permit in place for 36 months and it elapses if the project falls apart? That means that for 36 months...

Ms. Banks said that a lot of it is because with our design standards for the City, a project like this is required to submit an engineered comprehensive site plan for review. Although that has been submitted and is being actively reviewed by the City, that is not considered the trigger point for diligently pursuing their project. That process alone could take many months to get through the entire review process. After that is done, then the applicant has to post bond and get all of the stormwater management quantity and quality in order and signed off on. Then the site work can begin, and the applicant can apply for his building permits. Depending on how many months it takes for all this to occur, quite often it can extend beyond 12 months. It provides the applicant a

cushion so that they can get their site plans approved and work with the City on getting their bonding in place and moving their project forward to the building permitting process.

Ms. Dang said I thought we considered they were “diligently pursuing” if they had submitted the comprehensive site plan. I understood the extension was because of their need to get this designed, financing and whatever they need to do to then submit for the comprehensive site plan.

Mr. Fletcher said that we do consider that the submission of an engineered comprehensive site plan is a diligent pursuit. The section states: “Whenever a special use permit is approved by the city council, the special use authorized shall be established, or any construction authorized shall be commenced and diligently pursued, within such time as the city council may have specified, or, if no such time has been specified, then within twelve (12) months from the approval date of such permit.” There are different kinds of SUP. There are those that are immediate. You get a SUP and start right away. Then there are SUPs that are like this, that take time to go through the process. Over the years, regulations have increased. Stormwater management is one of them. It used to be just quantity, not quality. There are other things that come into play, especially for someone like Mr. Park who might have multiple projects going on at a time. They stage them as they move forward through the development processes. If we did not think it was acceptable for the 36 months, we would have noted so.

Commissioner Baugh said my recollection is that we, at one point, we did less of this, and we tended to default to the one year. If you throw in a market downturn or something... Am I right that at one point we were finding that what we were getting was people having to reapply for a SUP.

Mr. Fletcher said I think you are thinking of the preliminary plat. Preliminary plats also used to be 12 months. They would expire, then the applicant would be going through the engineered comprehensive site plan, and we could not approve the site plan because the plat expired. We did an amendment to change it from 12 to 24 months. Other things that come into play too is that as the state has been doing since 2009 is that they have extended time periods for plats, SUPs, engineered comprehensive site plans, originally because of the housing crisis. Then it was the pandemic. A great question to ask, but there are differences in the types of SUPs.

Chair Finnegan said I do not know how much of it is construction worker shortage and these types of delays, but there was a time in Harrisonburg when, if you wanted work done on your house, you could have it done next month. Now you are on a waitlist for a year, at least.

Councilmember Dent said that to me it sets an unsettling precedent that it takes that much longer because we need housing now. I agree that it is an odd leap from one year to three years, with two years in between. Why would that not be the next extension?

Mr. Fletcher said I do not know that I share the same unsettling precedent simply because circumstances are different with different projects. It depends. There are so many different things going on. The applicant may be able to speak to their even grander plans because I believe there are plans for the extension of the parking lot for La Morena next door. I think it has a lot to do with how they mortgage things, how they finance things. There are a lot of things that come in to play.

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.

Fred Bosserman, architect with APR Associates, came forward representing the applicant. Gil Colman is the civil engineer on the project. Staff has already spoken to the history of this site. The site got converted 27 years ago to a B-2 zoning district with a number of proffers for limited use. It has also had a mixed-use designation for that many years. It has also been owned by Lumos all those years, with a large real estate firm from Charlottesville attempting to market that property for a good many years. Lumos owns the little house there in front, right next to La Morena. That is all they need. They need that and two parking spaces to do what they do there. The rest of that property has been vacant. It has been subject to occasional lack of maintenance. It has been subject to misuse, other people parking back there and doing things on that property that is not good for the land or the neighborhood. Five or six years ago, the La Morena property began, because of its business acumen, developing additional business opportunities through food service and other opportunities which made them have an interest in operating a full-fledged restaurant. Its current sized property was not such that they were allowed to do that because of insufficient parking. They spent a number of years trying to negotiate with the Red Front property owners next door and with Lumos for small purchases of what was there. Eventually, it got to the point where they were not able to make a deal on a small piece of property on either side to satisfy their parking requirements. There was at least a year to a year and a half of negotiation with Lumos to subsequently conclude the purchase of the entire property that Lumos did not need. That is what has happened up to this point. We have laid out the amount of land that needs to be designated and turned over to La Morena. There is a minor subdivision in the works to have that happen. The balance of the property is what we are here to talk about today and its use and a project for that location.

Turkey Properties owns other rental properties. The general area around this has been, and is, residential to some extent in one direction. To do so, if it involves apartments, is very much something that is up their alley of experience and interest in working and managing such a thing. It is a relatively small piece of apartment if you look at what is going on in other parts of town with multi-family opportunities. The rezoning is what we need. We started this project, as we do for small clients, as a project where we had to determine feasibility. That feasibility is a matter of determining how many units we can get on this property, what the maximum expenditure that it is going to cost, whether we have enough land left over to accomplish the required erosion and sediment control and water quality treatment that is now dictated that we deal with. We are at that point. We have established 48 units, three story. We have established a desire for more than 12 units per building. The end result is that we are looking for a rezoning. At the conclusion of the rezoning we would move into some of the preliminary planning, more detailed planning that you saw that the Holtzman group has already gone into before they even got here. As a small, personal business client, our goals on the front end of this are to minimize their expenditures until we get to the point where we know we can do the project. That is where we are today.

Our next step in this project is to figure out what it takes to make this a nice project. Mr. Rodrigues has some ideas from his personal experience. The 48 units are not the goal. A nice project is a goal. A nice project where tenants want to stay there. His goal is not to have a frequent turnover. The result of that is intended to be probably fewer units, but there is also the 12 unit per building

opportunity might let us get to 48, but by virtue of additional storage rather than specifically needing the land to do more. Mr. Rodrigues' goals include possibly, after minimal parking is dealt with, having additional parking that is covered and maybe additional parking that is included in garage structures, so that it would have an opportunity for families that might need a second car. We are looking to acquire the rezoning, then going to work to make it a nice project.

Gil Colman, Colman Engineering, spoke representing the applicant. Thank you for hearing this request. Thank you to Ms. Banks for all her work and dedication to the City for many years. I have heard some of the issues that you have had here. There are a lot of things to consider, and they can be difficult at times, especially when you have conflicting interests coming together. Here, perhaps, we have the same type of situation. There might be some conflicting interests in terms of what is going on in this area, but you are well aware of the need for housing. We are trying to come at different angles. Right now, we have a crisis, and we have to respond to it. We need to do what we need to do to address this. Some of the issues that perhaps have been presented, and many times are presented in these cases, are our schools are filled to the max. That is true, but the people that we are trying to house are already here. They are living in situations that are very poor or very crowded. I say that not only making a statement, but in my experience in working with Habitat for Humanity. We are trying to get people who are crammed into a small space into a nice house. It allows for furnishing. It allows for the family to move forward, to health, to contribute to the community. There are many aspects. Mental health is associated with housing and a place to sleep, a place to live. If we can provide housing for our City, right now, because right now there is a time of crisis, and we need to be responsible and responsive to that. That does not mean we allow just anything. We want to make sure that everything fits within our plans and is appropriate.

What we are talking about in this case is a cluster of apartments that are on the border between commercial, industrial on the other side and some single-family residential on the south side. That is one of the reasons why one of the proffers is to maintain some kind of buffer or separation so that they are not infringing into the single family homes to the south that we want to protect. That is something that we care about. We want to do that. At the same time, we are clustering those units there. There is only so much property to work with. There are many requirements that are part of the comprehensive site plan which might reduce that number, might adjust it one way or another. In this process, we have met with City staff, the Fire Department, Public Works, and Public Utilities, trying to figure out what is all that we need to do here to bring this site to fruition. There are many things that need to happen and many requirements that we need to meet. As much as we see a very simple plan there right now, there is a lot more that goes into it.

Regarding the extension of the SUP, a lot of the comments are true. The issue is that it takes a long time to get to the point of construction. I was under the same impression as Ms. Banks was that the SUP diligent pursuance kicked in when you get the permits, not when the site plan is submitted. That is good to know. Even with that, it takes a long time to get to that point. Other projects are in between. The planning starts early on. This is part of the planning of building this. As much as we would like to have this project built tomorrow, it is not possible for many reasons, not the least of which the fact that construction workers are hard to find. We could have a plan ready to go, but not have the excavator, the builder or the materials with the supply chain being affected by so many things right now. It is probably a good idea to consider changing base from 12 months to 24 or 36 months. I ask for your support on this. Know that this is not a proffered layout. This is an

initial layout. It is likely to change in some ways to allow for some of the requirements of the comprehensive site plan.

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

Councilmember Dent said I realize this is a conceptual layout. I was wondering where the recreational area that you are proposing might be?

Mr. Bosserman said that is subject to more judging of where we are putting things. There is square footage already in there in the front, across from the parking lot. It is behind the Lumos building. We are at the stage of trying to find the land area that it takes to do the project. We were juggling with some very simple diagrams of a building area, just to figure out how we could fit it on there. We have land set aside knowing that there is square footage there for it. It is just not shown where it is going to end up.

Mr. Colman said the plan itself has shifted in different ways. In working with staff, they pointed out the fact that we can get higher density. Initially we were looking at a certain density. We are trying to work on what works best and what can actually be there. Some of the recommendations were can we group the buildings together instead of having them separate. That is the direction that we went with. This is preliminary in many ways. We will have to reconfigure things to make sure we fit the proffers and the requirements of the site plan. If we have a recreation area, we will make sure that it is accessible to the apartments themselves. If it is in a back corner, it is no good to anybody. It goes back to housing and mental health and having a place to live and a place to enjoy. We work on putting it in a location that is accessible to the tenants.

Councilmember Dent said when you say an opaque fence along the edge, because there are single-family residences there, my fellow Councilmember, Chris Jones, often says add trees too.

Mr. Colman said initially we were expecting to have a ten foot buffer there, but the requirement from the Fire Department is to be able to circulate through that. The drive comes too close to the property line. All we can do is to have the fence. I expect that we will also have trees. Typically, that is what it would be, within ten feet you need to have trees there. I think that it is in everyone's benefit to have privacy there, for the apartments and for the houses. We do not have the buffer area because of the requirement. We have to juggle all these things and make them work. The reason it came up that we need to have a fence there, at least along where the drive is, is to make sure that you can have the drive for the Fire Department. The consensus was to take the fence all the way across. It makes sense to have it all the way across.

Commissioner Whitten said as far as the play area, you probably have, per capita, twice what the Lucy Drive development is proposing. You have a lot more play area for recreation.

Chair Finnegan said there is a gap in the fence somewhere to access that path, the shared use path?

Mr. Bosserman said that is in the back.

Chair Finnegan said that was a question I asked in the CIP review, I think two years ago, was about the turn radius of the fire trucks. They are keeping them standard-sized, so we have to design the parking lots to accommodate the fire trucks.

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.

Nicole Hostetter, 1018 Waterman Drive, called in regarding the request. I sent in an email earlier, too. We just learned about this today, through the Facebook group. I was very shocked because it seemed like a 48-unit complex is a huge deal for the neighborhood. We have lived here about four years now, but my husband has lived in the neighborhood for almost 40 years. Having lived here and walked here, in this neighborhood, I just have trouble picturing what they are discussing putting up, especially seeing that it is going to be two three-story buildings to accommodate that number of units. Some of the concerns, when we are looking for the SUP, why not just two buildings with 12 units each? Are we trying to cram as many people as we can into one space? I know that there is a housing shortage, and it is obviously an issue, but as the City plans and moves ahead with that, are we just putting up sardine cans to put people in? Or are we really looking at the neighborhood? Some of the issues I have with this, just looking at what is happening to the Chicago Avenue corridor, will this, if approved, coincide with improvements on the infrastructure, sidewalks, accessibility down to EMU, so that people are not biking in the middle of the road or having to walk on the dirt on the side there? There is a sewer issue that is going on. I am thinking about the elementary school. If you have four people per unit, two kids and two parents, that is 192 people that are going to be living in this small place. Is the school able to accommodate that? They already have their mobile learning units there. I am also thinking about the empty space over at Red Front and over at the Traditions Shopping Center over at Mt. Clinton Pike and Route 42. This seems like a very big project. When I look at our neighborhood, I try to think about how this is going to impact us. It seems like there are a lot of other pieces that need to be considered for a project this size. It seems like a lot of apartments and is a bit shocking. I wanted to bring up some of those things so that you could hear what somebody in the neighborhood is thinking who lives down the street from it. I understand that the traffic study says that it is not going to create that much of an impact, but I also do not think that each unit is only going to have one vehicle. We already know that the intersection at Waterman Drive and Chicago Avenue is the problem intersection. We live right on it and every day we see people getting into near accidents. There are so many things to consider. Having two three-story units right there, I have trouble envisioning what that is going to look like as a neighbor.

Cheryl and Marlon Foster, 520 Third Street, came forward to speak to the request. My husband and I live in the residential houses that would be, the property would be right behind our house. I would have to agree with Ms. Hostetter a bit regarding the three-story and compacting so many residences in that area, in that small space in our neighborhood that is mostly single-family homes. With the three-story, I know you are building a six-foot fence. A six-foot fence and a three-story building, that is not quite so much privacy for the residents, including ourselves. I would ask for you to consider two stories with less people. I also wanted to know if it was planning to be affordable housing or luxury homes? I wanted to know if it was within the affordability range that we are more in need of for the City, as opposed to more upper end housing and how they plan to accommodate that. I was also wondering, with the amount that they are presently proposing, if a

traffic light will be needed there because of the in and out, and with the La Morena and Family Dollar. As Nicole said, the Waterman Drive intersection that is just another intersection where there will have more traffic with more housing. That is a concern of mind. I would agree with Councilmember Dent, more trees, please. If you are going to have a fence buffer, I would prefer more beautified buffer as well with the trees.

Chair Finnegan asked if there was anyone else in the room or on the phone wishing to speak to the request. Hearing none, he invited the applicant to respond to the concerns regarding housing affordability. The question about where these fit on the market from luxury apartments to affordable housing units.

Mr. Bosserman said we do not know the answer to that at this point. At this initial stage of the project, it is a matter of determining feasibility, getting zoning and looking at what the market needs and will bear. Turkey Properties and Mr. Rodrigues are not in the business of ownership of multiple, large, multi-family projects. We are just beginning the investigative stages of what they want to build. At this stage, there is not a way to say.

Councilmember Dent said in other words, I understand you mean to say that it will be market rate. There are not any special tax credits for affordable housing, but the question is what level in the market and that is of yet to be determined.

Chair Finnegan asked if there was anyone else 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 when you look at the contrast between this meeting and the last. There were a lot of people in last month's meeting that cared a lot about changes to the Comprehensive Plan, and we did not hear that on the last request tonight. There was a question that was posed specifically to me, or to everyone on Planning Commission, of "Would you want this in your neighborhood?" This is my neighborhood. I walk past Third Street just about every single day. I walk there every morning and use the Shared Use Bike Path behind there quite frequently. I share the concerns of Ms. Hostetter about traffic. The traffic on Chicago Avenue is, depending on the time of day... There is not a sidewalk on most of Chicago Avenue. It is a section where we have a neighborhood anchor, the grocery store is no longer a grocery store. There are some missing pieces. We cannot expect any one applicant to provide everything to the whole neighborhood. I do hope that, if this is approved, that this is part of thoughtful reevaluation of that neighborhood and the needs of that neighborhood. At some point, I do believe that the Red Front site will be redeveloped into, I do not know what. I hear the concerns. I also want to remind us that what we are talking about, the current site, is an open field. When we talk about neighborhood character, I used to go to that, what is now La Morena, I used to go to it when I was a kid, when it was a 7-Eleven. There was a man by the name of Quiet T. Please that lived in that field behind there. There has not been a whole lot of... If you walk in that neighborhood, that is an open field that you will not notice until you go to La Morena and look around that corner. It is a hidden flat spot. I would be a hypocrite if I voted for dense housing in someone else's neighborhood last month and voted against this, this month. I am planning to vote in favor of this request, with reservations that I do have concerns about, the traffic. I do hope that the City... We really do need to keep pedestrians and cyclists in mind.

Commissioner Whitten said three times City Council has approved, and Planning Commission on some of those has approved, apartments in or at the edge what is already affordable neighborhoods. I believe, the future will bear me out or not, to the detriment of the neighborhood. This is another one of those. This is a neighborhood that is affordable. Just because we need more and taller does not make it the right decision for the neighborhoods that are already there supporting the City. I do not know how many times I can say that and not be heard. I do not like the argument that I have heard at City Council that says, “the silent majority. There are so many people who agree with this. They want it.” I do not believe that. Please do not believe that because I do not think it is true. I know what I hear people saying about how in a decision about whether to buy this house in the City or this house somewhere else, they might not want to buy a house in the City because they do not know what is going to happen. They cannot depend on what is going to happen next door or a block over. I do not think that is a good thing for a City. That is not a good thing for a neighborhood.

The sewer issue is real and that has not been addressed at all. This is a lot of sewer connections into an area of town that we know has a big problem. The school connection is a big deal too. They do have lots of mobile classrooms at Waterman Elementary School. It is a very old school building. I do not appreciate the fact that the School Board never does respond with any kind of comments about these. This is not a huge apartment complex. I do not appreciate that they are there. They know what their capabilities are, yet they do not respond. They do not give us any feedback. They should. That is irresponsible. It is hurtful to the school system if we are putting more children, building houses for more children in a school system that is already overstressed. I know that we are doing that in the Stone Spring area because my child goes to school there. And yet, no comment from the school system.

Those are some big issues that are very glaring to me. I can appreciate needing more housing and I can appreciate the thought behind your comments, Mr. Colman, about these perhaps are all families that are already here that are crammed in, living too close together someplace else. I do not think there is an easy solution to that. Recently, I have been doing research on modular types of housing that really can be built quickly and attractively. I think that maybe that might make more sense. Chair Finnegan, you held floor for a while, so I am going to as well. We do not seem to have a connection between City Council and Planning Commission in terms of desiring, like Habitat [for Humanity], a path to home ownership. Most people that are in an affordable rental are probably not going to get out of it. Let us be honest. They are not. Because the rent keeps going up. That is not helpful either. I think that we need to have more of any eye on that as a goal. It should be a goal. In the Comprehensive Plan that should be a goal, that we want to see families have housing that they can afford and own. I would love to vote for this because I think it could be done responsibly and well. I think, on its face because of the complications that I have discussed, I do not think that I can vote for it.

Commissioner Byrd said I have only been on the Planning Commission a short time, but I have seen a number of these situations coming up. I am noticing a trend about housing where the City is concerned and that is if you have an R-1 property, and there is an open field near your property, you need to mentally get prepared for a building, larger than you think, going there. If the City needs housing, someone on City Council is going to argue that there is nothing there, and there has not been anything there for years, so we are going to put this here because someone wants to

put something there. Since no one has put anything there for years, we are going with this. That is going to be a hard argument to fight against where there are people who have to run for reelection. I would just warn anyone who has future plans to actually look around your neighborhood, and ask yourself, how long has that field been like that? Who owns that? Why is it like that? If you have the resources, just buy it yourself and you can put what you want there. That is what I am seeing with this is that we have a piece of land, and I have argued for and against these pieces of empty fields and a large structure. If I am going to keep this running up against “we need housing” how am I going to say do not put housing on an empty field when the City cannot expand. The City is the size that it is and is going to be that size for the foreseeable future. If the City is growing in residents, then people need a place to live. That means is you have an R-1 property, you have to think about what around you is empty and mentally start thinking about what that means.

From the proffers presented, I can see how some of you are concerned about that six-foot wall, but then you are talking about putting trees on the other side. I do not think there are residents on the other side. I would hope the applicant thinks about the trees are more beneficial to residential housing than other housing as a buffer. Where the actual buildings will be placed is not part of this application, simply the size. I am not going to be discussing that any further. I would likely be voting in favor of this.

Commissioner Armstrong said it is one thing to say, would you vote for this in your neighborhood versus would you vote, as Commissioner Byrd is pointing out, to have three-story buildings put immediately behind your property. That is a completely different question than abstractly, this would be a plus in my neighborhood. We need sidewalks, sewer, schools are a consideration. This issue of a three-story building, we are evaluating a SUP to increase passed 12 units per building. In honoring this resident’s request to not go above two stories, we would be talking about 32 units versus 48 units. A three-story building behind those residences there is a big deal.

I am a tree planter. I am a permaculture designer. I plant trees. We keep talking about these six-foot trees. If you see those in reality, they are sticks. It is a stick that is slightly taller than me. That is what that is and it does not look anything like these model renderings that we see that are these 40 foot high, fluffy... It does not look like that at all. On the other hand, this really, unlike a lot of the recent proposals, feels like family housing. It seems that there is a spirit here to make this family housing. We do not get that very often in the recent applications. They are not. They are disguised student housing, or they are blatantly student housing. This does not feel that way. I wish it was, but I know that the units are being proposed is because of building materials and the building costs are so challenging now that the need to put those units in there to afford the project. I know that is what smaller developers such as yourself are up against. This is like the last proposal. I am split on this. I think it could be really good if it were a little more modest. Maybe if it was a little more modest, you could not do it. I do not know. You may not know either. If it were 32 units and you could respect the two-story, I know for myself living in one of those houses, two-story would be easier to live with than a three-story that is looming over your whole back yard. With respect to these tree plantings, if this goes through, City Council is the real decider, you could work with these residents too, to offer them some trees. Trees are expensive. If you get a six-foot stick, it is less expensive than a real tree that is going to grow. You could offer to do plantings on the inside of that fence, in their back yard, if it would help with that buffer, too, and still give you the space on your lot. It is a way of being a good neighbor back there that would help with this

buffering issue. I will wait and hear what others have to say. I wish it was two-story and I do not know if that feasible for you.

Chair Finnegan said a lot of the economics of this, we can say we wish it was a mixed-use something or other, we wish it was this, we wish it was that. The market forces really, in these cases, do dictate. That was an empty field ever since I was a kid.

Commissioner Armstrong said I am going to jump in here with this empty field. I am an environmentalist. We need empty fields in the City. There is nothing wrong with an empty field. That is stormwater management space.

Commissioner Whitten said let us not just fill it up.

Commissioner Armstrong said it is not just wasted area because we have not built on it yet. I want to dispense with the “well, it is just an empty field.” It is our natural environment.

Chair Finnegan said that is not a natural environment. That is a monocultural grass.

Commissioner Armstrong said no, there is a treed area back there.

Chair Finnegan said there are trees along that path. What I am saying is, that property, as what was said, Lumos has had this for a very long time... I would love to bring up that photo of what that field is right now. It is an empty field with trees along the edges. This is in my neighborhood. This is a place that I care about, and I care about...

Commissioner Whitten said that does not matter Chair Finnegan.

Chair Finnegan said it does matter, Commissioner Whitten. I am speaking and I will recognize you when I am done speaking. It does matter to me what we do with spaces when there are people who are looking for housing, who need housing. We have seen the Housing Study that shows that we are very, very short on housing. And we are short on housing in our neighborhood. If this could be turned into single-family houses, then great. The market would have already done that. The market has not done that. In my entire lifetime, the market has not, with that. Here we have a proposal to make sure that we have housing in this neighborhood, for more residents in a very walkable neighborhood.

Commissioner Whitten said Chair Finnegan, I think it is time to stop with “this is in my neighborhood.” It is all our neighborhood. We are in this together. It is nowhere close to my neighborhood, but I care about it. I care about that school. I care about those children that are already there, that are crowded and going to school in mobile classrooms for their whole elementary career. I know what that is like because I have a little child that I am raising. It is near and dear to my heart. I do not want to be shouted down by you.

Chair Finnegan said you were trying to speak over me when I had the floor. I will recognize you and I did recognize you.

Commissioner Whitten said you are right. Thank you. This is the thing, “it is in my neighborhood.” You have to stop. It is too much “it is in my neighborhood.” The homeless walking to the shelter up the street every night. I can go back and tell you how many times you have said “this is my neighborhood.” It is all our neighborhood. This is our City. This is our town. We need to care about. We need to care about the people who live here right now, as much as we do about the people that are going to come here. I heard at City Council, last night, the statement made “I am worried about those people who want to come and have those tech jobs and make a lot of money and live in those apartments.” The heck with the people on Franklin Street, who already live in an affordable neighborhood. Must you go ahead and put a street through there. They will either like it, live with it, or move away. I do not agree with that. I think that is a very bad philosophy.

Chair Finnegan said you are 100 percent entitled to disagree with that and 100 percent entitled to vote for or against any of these requests. For you to say that you do not know how to say something because you will not be heard, you are heard. It is in the public record. You have been heard and your vote is recorded. The people that have spoken for or against this have been heard. We all get one vote and we vote for or against.

Commissioner Whitten said I think it is difficult when you continue to say “it is in my neighborhood.” I think it puts pressure on other members to think, “It is in his neighborhood. We need to...” That is not the way it is. We represent all of Harrisonburg. There are not any wards. There are not any districts. We are all here for the City of Harrisonburg. Let us try to remember that.

Chair Finnegan said I agree with that. I think you and I are on the same page with that. What I am saying is that when we have voted for these in other neighborhoods, I believe there is a way of looking at that and people saying, “Would you want this in your neighborhood?” That is exactly the question we got last month. What I am saying is yes, we need more housing in every neighborhood in Harrisonburg because we have an extreme shortage of housing. I do not love this request, but I will say that this is better than what it currently is. This does more for people who looking for housing, people who are currently double or tripled up in their living arrangements, which you have seen on this body that we have cracked down on over-occupancy. You have over-occupancy or new housing.

Commissioner Whitten said it is usually over-occupancy with students.

Chair Finnegan said there is over-occupancy with many families in this City.

Commissioner Byrd said I just wanted to break this up a bit. There are going to be two things to consider. Those are the SUP pertaining to the density of the building and the other one will be changing the zoning. Since I spoke about my position on the zoning, I wanted to say something about the density. That is how a business wants to market their units. Us trying to project out, are these new people coming in from the County? I doubt it. Or new residents coming in from somewhere else? We do not know any if those things will actually affect... I also agree that the school should have some position, even if the position is we have no idea if this will be a rearranging of our students’ location. Some statement would be greatly desired so that we at least are not all coming with our own anecdotal positions on what we think is happening to the schools.

The schools should, at least, tell us what they are observing so that we can argue about that. That would be nice to have. I can talk to the School Board members that I know and ask them if they have someone who could take 30 minutes to think about that for a moment.

Chair Finnegan said I agree with Commissioner Whitten. It would be nice if the School Board would weigh in on these and give some sort of feedback. In the CIP there was another elementary school planned. That is on the books. The City is growing and a lot of these students are already in these schools.

Councilmember Dent said what strikes me is the “empty fields” issue. Yes, we do need some natural environment. This is not a lovely natural environment. There is some weird paving and trash. I think it would be a vast improvement. The key issue, as I have said before, is we are a City and we have prescribed boundaries. We have to grow inward, and to some degree upward, in order to accommodate the growth in population and the influx of population that we hope to inspire. I do agree that a lot of the people moving here are already here and in over-crowded situations. It releases the pressure on the unsatisfactory housing situations that people are in now. I plan to support this.

Commissioner Baugh said it is interesting to me, over the course of time, the “would you want this near you” does in fact come up. I will never forget one constituent in particular because there was an issue that came up and the neighborhood was split down the middle over it. The constituent was somebody that I know and I remember going up to him afterward. The project kind of died because the half of the neighborhood that was for it decided, because it was bother to the other half of the neighborhood, they would back off. I told him, you did not want me to make the decision based on whether I would be okay with it going next door to me because I would. I have a weird perspective on this. I tend to not be real sensitive, particularly where I am. I am always fascinated by the way people get so keyed up by their sense of place, that I have to have what I have right now the way I have it and everything that looks like a change seems threatening. I tend to think, things change, and you go on. It is not near me, but that really does not affect my opinion. If it was near me, it would not bother me because it was near.

We like fields and undeveloped property. It is a field that is zoned B-2. Dollar General found a way to do something with it. That is the thing that I always think of when I am looking at undeveloped property. There is always some set of uses that could go in and we would not be having a discussion about it. Particularly when people are against it, they want you to frame it, and I am talking generally, as a comparison between undeveloped property and what is being proposed. I always feel like I need to steer the conversation. It is not between undeveloped property and what is proposed. You have to factor in what could be there. Of course, what could be there could have all pavement that we did not have any say in. It is not that voting against this keeps it as an open space. It does not. I am talking about by-right uses. Every property has by-right uses. Now, let us not kid ourselves. This one sat here for a long time like it is. It has been through a rezoning. It does indicate that the current B-2 zoning is not attracting a lot of market attention. That is a reality.

I am mindful of a piece that Commissioner Armstrong brought up. That in one sense this is unusual because the pitch that is being made by the developer, and they envision that the market for this is a drastically underserved part of the market that we never hear anybody coming in and saying that

they want to do. I do not have the answer to it. It has been my experience that with road projects, they do not come out evenly. They seem to go in fits and starts. Right now, there does not seem like there is a whole lot going on. There was a time not that long ago when Public Works was going from one to the other and things on the table and how they were even managing to do it with the people... What I do recall is that there was a time, and it was really about that time when things were booming, what was expected, at least among leadership, was that the next big one was probably going to be Chicago Avenue improvement. Which is right now in the CIP, sitting where it has been. That is a City Council level issue working with staff. I do not know the details why that has worked its way from one of those that was just a wish list to we recognize that there are real issues there at Chicago Avenue. I think that part of it is that there has been a little bit of a patch. We did a patch where we got some paths off to the side of the road. I think that has improved the situation and taken some of the pressure off. Part of the fact here is Chicago Avenue, as it is right now, is not satisfactory for what is there. It would be nice if there was some way... Even a decision to make project like that at the front of the line and make it a priority, you are still years away from getting funding and having it done. That is worth mentioning.

The thing that troubles me, as we are all trying to look at the big picture not just silo ourselves on each one of these that is coming up, in some respects it is amazing how things do not change. Some of it really is the nature of this community. The nature of the market forces that have prevailed in this community over time and how, while the market that this developer says that they would like to go to gives a little bit of a unique stamp, the actual building looks like the same sort of stuff. You could point out differences all the time, but these are the types of buildings we are getting asked to build. To me there is a remarkable saneness about them. Forget whether one of them is targeted to affordable housing and one of them is targeted to the market. The physical structures themselves, to me are remarkably similar.

One of the reasons we keep up against three stories and twelve units is that is what used to be our high end. We have a lot of things in our code. That is why we have a lot of those buildings. There was a time before we expanded our Zoning Ordinance where it was not even called high density. It was called medium density. We did not have an actual high density. The highest density you could do in Harrisonburg was a three-story, 12 unit building, four units on three floors. Our market kept pushing us to build those buildings. I have a little bit of sympathy for the property owner here because on the one hand I am sorry I am looking at another building that probably looks like all these other buildings. In another sense, it has been remarkably consistent over time, that is where the market forces seem to push us with our existing rules. Unless and until we came up with a firm vision to do something else, this is what keeps coming back. As I think you have spoken before, Mr. Chairman, the recognition that for someone in the property owner's position, if this is where the market is taking him and you want him to do something else, if all you are going to do is say no, you are not addressing your housing issue. Are there carrots and sticks out there? All of which is beyond our ability to fix right this second.

I agree, this was a close call for me because of all of these things. I am leaning towards supporting it because I have this weird little vision here. When I look at this property where it is located. You do have that little commercial area over there. With Red Front gone, it is pretty dead. There is a rationale for that neighborhood supporting a mini-commercial district. Would putting some density in this spot help kick-start that? Would it make the undeveloped or badly in need of redevelopment

B-2 property around it more attractive for B-2 development? I have this vision that I can see that happening here. If I knew that was going to happen, that would make me want to vote for it. The fact that I do not know that it is going to happen raises these other issues.

Chair Finnegan said that is the risk that we run. The system is that we say yes or no to requests. We do not get to pick the sites. We do not get to pick the applicant. We say yes or no to the applications that come before us. To your point, I think that having... The neighborhood anchor that is missing, that was the grocery store, it will at some point be redeveloped.

Commissioner Baugh said these people could walk to that grocery store.

Chair Finnegan said I will also say that if you look at communities where dollar stores move into, it kills local grocery stores. That is not my opinion. That is established precedent across the country. Grocery stores that do not have to sell fresh fruits and vegetables. I do want to take a moment to publicly apologize to Commissioner Whitten, not for what I said, but for my tone and volume. I do apologize. That was inappropriate. I think that we disagree on a lot of these requests, but I think the one thing that we do agree on is that we care about our community. I think that both you and I, and everyone here, has at times gotten emotional about the direction we think the City should head. We do have disagreements here, sometimes healthy disagreements. I do apologize to you and to Commissioner Armstrong for the volume and tone. That was uncalled for.

Commissioner Byrd made a motion to recommend approval of the rezoning, as presented.

Councilmember Dent seconded the motion.

Commissioner Armstrong said this Housing Report has to be taken in context. The City cannot grow beyond its infrastructure capacity. If that means that it cannot grow until it catches up with some of that capacity, then so be it. It cannot be this focus on housing, housing, housing, to the neglect of real quality of life and services.

Chair Finnegan said I would agree with you on that. As I said last month, there is a prisoner's dilemma around traffic and dense housing. I hope that the City gets to a point where more of these places are dense and walkable. I think we can agree that we are not there yet.

Commissioner Whitten said I would echo the comments about that. I also would say that it is very interesting to me the unrest and the war that has broken out in Ukraine. I heard the woman who speaks for Church World Service from the Harrisonburg area talking about resettlement in this area. She said and I quote, "We really love to use Harrisonburg because of the amount of affordable housing that is here for our people." I thought, that is a different perspective. Apparently, their experience is different from what we are telling people it is from our Housing Study. I do not know what the disconnect is there, but they are finding housing for people. It was interesting to note.

Chair Finnegan called for a roll call vote.

Commissioner Armstrong	No, for the same reason that I voted no on Lucy Avenue.
Commissioner Baugh	Aye

Commissioner Byrd	Aye
Councilmember Dent	Aye
Commissioner Whitten	No
Chair Finnegan	Aye

The motion to recommend approval of the zoning request passed (4-2). The recommendation will move forward to City Council on April 12, 2022.

Commissioner Byrd made a motion to recommend approval of the SUP request, as presented.

Councilmember Dent seconded the motion.

Chair Finnegan called for a roll call vote.

Commissioner Armstrong	No
Commissioner Baugh	Aye
Commissioner Byrd	Aye
Councilmember Dent	Aye
Commissioner Whitten	No
Chair Finnegan	Aye

The motion to recommend approval of the SUP request passed (4-2). The recommendation will move forward to City Council on April 12, 2022.