

***Consider a request from Harginia LLC to rezone 1300, 1302, and 1316 South Main Street***

Chair Finnegan read the request and asked staff to review.

Ms. Rupkey stated the applicant is requesting to rezone a +/- 1.06-acre property from R-3, Medium Density Residential District to B-2C, General Business District Conditional. The property is addressed as 1300, 1302, 1308, and 1316 South Main Street. The applicant is proposing to build a 7 Brew Coffee shop, which is a drive-thru coffee shop that does not have an indoor dining space or walk-in ordering. If approved, this would be the business's second location in Harrisonburg; the first being located at 1746 East Market Street (the former location of Jess' Lunch #2), which will soon be open for business.

*Proffers*

The applicant has proffered the following (written verbatim):

1. At the time of redevelopment, or when any new use occupies the property, a six (6) ft. tall opaque fence shall be constructed and maintained adjacent to tax map parcels 18-R-2 & 5.
2. All exterior lighting located on the property shall be downlit and of the type and design as to direct the illumination on site toward the building and parking areas with the intent to minimize light escaping beyond the property boundary.
3. When redevelopment of the site triggers an engineered comprehensive site plan, the redeveloped site shall include a minimum 10-foot wide landscaping buffer located along the rear of the property where it adjoins tax map parcels 18-R-2 and 5. The landscaping buffer shall include trees and shrubs installed and maintained with the intent to form a dense screen and reduce noise from the property. Existing vegetation may be preserved and/or new vegetation installed to form the screen. Newly installed trees shall be at least 6 feet in height at the time of planting.
4. The site's entrance at Edgelawn Drive shall be designed and constructed with a channelizing island to prevent left turn egress movements as illustrated in VDOT Road Design Manual, Appendix F Figure 4-4 Commercial Entrance Channelization Island Options, or an alternative approved by the Harrisonburg Department of Public Works.
5. Before any Certificate of Occupancy is issued, the property owner shall dedicate necessary public street right-of-way to encompass the sidewalk at the intersection of South Main Street and Edgelawn Drive.
6. The hours of operation will be no earlier than 5:30 am and close no later than 10:00 pm, seven (7) days per week.
7. Any outdoor speakers will not produce any sound exceeding 55 dB at any property line abutting a residential use.

The conceptual site layout is not proffered.

Proffer #4 is addressed in the Transportation and Traffic portion of this report.

Proffers #1, #2, and #7 were submitted to address concerns staff shared with the applicant regarding sound and light pollution to the surrounding residential uses. Note that 55 dB describes

moderate sounds like the sound of normal conversation, a residential street, or music playing in the background. During review of the rezoning request, staff researched information to better understand the operations of 7 Brew and found that other 7 Brew locations play music on exterior speakers and that it has caused concern in other communities.<sup>1,2</sup>

As specified by proffer #3, when future development triggers an engineered comprehensive site plan (ECSP), a landscaping buffer shall be established along the existing property line to the east adjoining the existing residential dwellings. The site currently has a partially dense screen that exists along tax map parcel 18-R-5. The submitted proffer will allow for the existing vegetation to be counted towards the new buffer.

Proffer #5 will require that the applicant dedicate public street right-of-way to encompass the existing sidewalk.

According to the applicant, the typical hours of operation for 7 Brew are Sunday through Thursday 5:30 am to 10:00 pm and Friday and Saturday 5:30 am to 11:00 pm. Proffer #6 would reduce the Friday and Saturday night hours to 10:00 p.m., which is one hour earlier than 7 Brew typically operates. While staff is appreciative of the applicant's willingness to limit their hours of operation on Friday and Saturday nights, staff is still concerned about the lighting and noise that comes with such a vehicle-centric business along with the additional noise generated by the planned exterior speakers. With this type of operation, the planned operating hours could be disruptive to the adjacent residential neighbors.

### *Land Use*

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

The Mixed Use category 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.

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<sup>1</sup> <https://www.news-leader.com/story/news/politics/2022/07/13/council-debates-proposed-7-brew-drive-through-next-sunshine-elementary/10037681002/>

<sup>2</sup> <https://sgfcitizen.org/economy-growth/business/7-brew-wont-be-getting-its-mind-blowing-drive-thru-but-city-council-says-they-can-still-operate/>

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.

Staff does not believe that the proposed use conforms with the Comprehensive Plan. As noted above, the property is designated as Mixed Use, which, among other things, is a designation that promotes for “live-work” environments and traditional neighborhood development (TND). A use devoted only to quick in and out vehicular traffic is contradictory to the Mixed Use designation. The Mixed Use designation description refers to TND, which is explained further in the Comprehensive Plan on page 6-9, and includes promoting walking, biking, and taking public transit. The planned operation is incredibly vehicle-centric as it is a drive-thru only coffee shop; there is no sit-down component that supports a Mixed Use/TND area. Moreover, the Comprehensive Plan places an emphasis on site layouts within the Mixed Use areas as it states that “scale and massing of buildings is an important consideration in development.” With the planned operation, a large amount of land is devoted to vehicle lanes and parking. Continuing to establish suburban-type development moves the City further from the “live-work” neighborhood style of development that we want for this section of the South Main Street corridor.

Although the applicant is specifically interested in operating the planned drive-thru coffee business, rezoning the site to the B-2 district would allow many other uses than are currently permitted under the R-3 district. Uses that staff believes are inconsistent with a Mixed Use area include vehicle fuel stations, bus terminals; the sale and repair of vehicles, recreation equipment, or trailers; and warehousing as it is permitted in the B-2 district.

#### *Transportation and Traffic*

Although a traffic impact analysis (TIA) was not required for the rezoning request, staff has concerns on the impact that the proposed development may have. The intersection of South Main Street and Port Republic Road is one of the busiest intersections within the City and staff is concerned with the proposed vehicle-centric operation being located on this corner.

As specified by proffer #4, the applicant will construct an entrance that will restrict left turns from the subject site onto Edgelawn Drive. In other words, only right turns will be permitted when leaving the site. The proffered channelized entrance control will help prevent customers from turning left onto Edgelawn Drive and then exiting onto East Weaver Avenue and traveling through a residential neighborhood.

While not proffered, during the redevelopment of the site, the applicant will be required to close and reconstruct the entrances along Port Republic Road and South Main Street. The three existing entrances would not be allowed under today’s standards for commercial entrances.

#### *Public Water and Sanitary Sewer*

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

*Recommendation*

Although staff is appreciative of the applicant's willingness to implement proffers to mitigate the concerns of the surrounding residential uses, staff remains concerned about light, sound, and traffic impacts and believes that the proposed use does not conform with the Comprehensive Plan. Staff recommends denial of the rezoning request.

Chair Finnegan asked if there were any questions for staff.

Vice Chair Byrd said since the Comprehensive Plan was mentioned, roughly what year were the section of these parcels zoned R-3?

Ms. Rupkey said there was a rezoning back in the 70s, that was a rezoning to R-3.

Vice Chair Byrd said a follow up question, was the financial institution apart of R-3?

Ms. Rupkey said R-3 allows for certain residential uses and business offices.

Chair Finnegan said what can be built there by-right? I am not asking for a comprehensive list but without going through this body, without asking for permission, what can be put there by-right?

Ms. Rupkey said professional offices could go within the existing spaces or a new one can be constructed, a single-family home, a duplex and with a special use permit, apartments.

Mr. Fletcher said that all goes with lot area and dimensional regulations so those are all uses that are by-right that Meg was just talking about, but you have to keep in mind that there are dimensional requirements that come into play there as well.

Commissioner Alsindi said going back to the Comprehensive Plan, if I am not mistaken the definition of live, work and play says developments combine residential and commercial uses allow people to both live and work in the same area. I would just like to have a clarification for what does commercial include? What is the definition of commercial? If this project does fall under the word commercial or not?

Ms. Dang said I would consider this a commercial use; but I think the distinction I would add with what you pulled up here is that in a mixed use area where we are promoting that walkability and a drive through only coffee shop does not promoting walkability. That is the conflict. It is not the commercial or the coffee shop use... maybe if it was a coffee shop that was designed differently on the site, maybe that would be okay.

Commissioner Alsinidi said the first part of it was in the document like it does not facilitate or help the walk...

Mr. Fletcher said I would like to point out that in the 70s when this site was rezoned from R-1 to R-3 it was possible that financial institutions were permitted by right. Financial institutions are not

permitted by right in R-3 any longer, they are business and professional office uses, financial institutions are in a different use category. We would have to dig into to find if the financial institution has operated within the last two years, to figure out if it is a nonconforming use, but financial institutions are in a different use category.

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.

Larry Wilson, applicant's representative from the 7-Brew team, came forward regarding the request. He said my engineer is trying to get in, he cannot call in [to the meeting]. One thing that I would like to mention is it is a walkable business, there is a walk-up window, we encourage walk-up windows. We are doing the same thing in multiple cities in multiple cities with colleges. We have the ability to be walk up, we encourage walk up, but it is a vehicular traffic operation. There is a patio on the side that has a walk up window where we can take students or anybody else to it. We are doing the same thing in Lexington, Kentucky and Columbia, Missouri where there are big college towns and we have also included in those towns putting a indoor ordering area to meet the ordinance to have a more walkable use. We have opened the first one in town and students love it. It is a very big amenity for the students to go to, they love the product. We are doing over 400 of these across the United States and we are doing them in a lot of college towns and we are doing extremely well with them. I am happy to answer any questions you may have. We are happy to be here. We are hoping to be rezoned. I kind of feel bad for the owner of the property because he spent a lot of money buying this property and he probably cannot do anything with it. Not my problem, but I do feel bad for the guy because he thought he had a property to utilize for something. Unfortunately, it is not zoned right and that is his own problem, but we are here, myself, to try to rezone. We have the owner of the property and myself here to put emphasis there.

Commissioner Armstrong said so if I understand correctly the music would come on at 5:30 AM for seven days a week.

Mr. Wilson said seven days a week, yeah but it would be at a decibel level that the neighbors would not hear.

Commissioner Armstrong said you do not know that.

Mr. Wilson said I control it.

Commissioner Armstrong said even so you are not the neighbors who are listening.

Chair Finnegan said to that point, you set the decibel level, you have a PA system that is playing music on the outside of the building because we did go by and visit the other location and the speakers were facing outwards.

Mr. Wilson said every one is different but we would adjust it. One of the proffers that we were asked for was that we start it later. My problem is not being in town I cannot control when these kids turn it on. I would love to say we would start it at 6 to 6:30 or 7:00. I would be lying to you if I said we can control that.

Chair Finnegan said is that apart of the business model, that every location of 7 Brew has music playing outside of it?

Mr. Wilson said it is a part of the ambiance that make people... if you go online and look at the reviews one of the biggest reviews is the music, and it how it makes people enlightened, and makes people feel good about themselves. The kids are out there dancing and playing. People love it. I would encourage the board to look at reviews online of other 7 Brews.

Commissioner Armstrong said if you are unable to control this because you are offsite, is there the potential that the music can be louder without your control?

Mr. Wilson said we put a lock on it. We are happy to have the town come over and we have the decibel level monitor there, we can do it, set it, lock it. My concern is that I cannot control when these kids turn it on. It would be all off or all on, I cannot control it either way. We can control putting the music completely away from the neighbors. I think that the proffers that we put in place for the fencing and all ten feet of landscape buffer... I am confident and I am willing to if someone tells me it is over 55 turn it off but I put in my proffer that I would control that.

Commissioner Armstrong said I can comment that I live in this neighborhood, not adjacent to this proposal, but one the great things about a R-1 district is that it is quiet. This would be a real problem for me.

Mr. Wilson said I understand. Just the music?

Commissioner Armstrong said there are other issues, but we have not gotten to those. The traffic is a really big problem too. The music would be a definite problem for me. We just do not do that in Purcell Park neighborhood.

Vice Mayor Dent said in our writeup the staff is saying the planned operation is incredibly vehicle centric as it is a drive though only coffee shop as there is no sit-down component, however, you just said there would be.

Mr. Wilson said if the town would like us to put in...It is a modular building we could build the modular building 8 feet longer so that the front 8 feet could be a walk-up area indoors that they could order from and be served. Most college towns are looking for that lifestyle that you are looking for. Columbia, Missouri, Lexington, Kentucky, Louisville, Kentucky, we are doing all of these, Fayetteville, Arkansas, we are putting in an extra 8 foot in front of the building so you could, if that was a concern.

Vice Mayor Dent said that is not a part of your offer at this point.

Mr. Wilson said if the town would like that, we can make that apart of the offer. What we are trying to find out is to try and find what the town likes; to try and make it workable for the town. If that road is a busy road, I do not know if the town wants people and students walking across that road to get to campus. I am told it is a very busy intersection, which it is. The traffic on the

intersection is loud itself. We have evidence that I would be glad to share with the town in the next meeting that we do not bring new traffic, we take existing traffic. We have done traffic studies. We had them done to show that we do not bring additional traffic, we take traffic that is already there. It is not like we are going to bring more traffic to that place. We are going to bring more traffic to that lot, but to that intersection we will not bring more traffic. That is a factor we can prove through traffic studies that we have done. We are willing to work with the town to do what we can to make it a viable use.

Commissioner Armstrong said but you did get the feedback from the City already that this is car centric. You got that feedback, right?

Mr. Wilson said I do not know what you mean by that ma'am. I want to make sure I understand your car centric meaning.

Commissioner Armstrong said staff has recommended denial of this proposal because it is car centric. You got that feedback, right?

Mr. Wilson said car centric means it has a lot of vehicles through there? I do not know what car centric means.

Commissioner Armstrong said I am only asking if you have heard that term because you got the feedback from this application already.

Mr. Wilson said Meg has told us that the town is looking for something that is a walkup style business not a vehicular style of business if that is what you are asking me.

Commissioner Armstrong said the language that the City has used that we have in this application is that it is car centric. That is the language in the report here. You have seen this correct?

Mr. Wilson said yes, I do not know what car centric means. I am a high school dropout so I do not know what car centric means. I am just trying to understand.

Commissioner Armstrong said but you have read it?

Mr. Wilson said of course.

Commissioner Armstrong said that is all I am asking was that you have seen the feedback from the City already.

Mr. Wilson said of course.

Vice Chair Byrd said you mentioned that you have your own internal studies, which makes sense for any business because you have to figure out where to pick a location. Is that the driving portion of the business that is what that is concerned with?

Mr. Wilson said we have done traffic studies to show that we do not bring in new traffic. Our trip generation is from the traffic that is already existing on that road.

Vice Chair Byrd said you are utilizing the existing traffic to feed the business.

Mr. Wilson said correct, yes sir.

Mr. Wilson said is there any other question about the business itself that I could answer? I would love to answer anything about the business and the tax generation for the business. I know it does not matter to you guys but...In employment we hire 50 people who we pay great wages. These kids make 18-20 dollars an hour between their salary and tips. Management makes \$75,000 a year. It will be about \$600,000-700,000 of payroll and substantial sales tax. We are hoping this goes through.

Chair Finnegan asked if there was anyone in the room or on the phone wishing to speak to the request.

Ms. Dang said while he [referring to the next speaker] is coming up I just wanted to let you all know that I did test the [call-in phone] number, 540-437-2687 and it did go through to the booth.

Dave Pruett, a resident at 28 Edgelawn Drive, came forward to speak to this request. He said as all of you know, Purcell Park is a vibrant, close-knit neighborhood of mixed generations, mixed ethnicities, mixed-race, and mixed social status. A former resident of Purcell Park described it [the neighborhood] as "Norman Rockwell country." We love our neighborhood, as does virtually everyone who lives there. We have wonderful neighbors, two of them are here this afternoon, Jeff Landis and Randy Hoffman. Joyce Millim, who is right next door to the proposed drive through coffee shop, is the one who alerted us to the proposal. Unfortunately, she had a meeting tonight and could not be here. We love walking in Purcell Park, a park that has been gradually transformed over the years from mediocre to almost magical thanks to the long-term care from the City and City staff. Our neighborhood has also been wonderful because of its proximity to our places of work and to downtown events. But the Purcell Park neighborhood is and always has been extraordinarily vulnerable. It is under constant threat from commercial creep or being swallowed, piecemeal or whole, by JMU. Chapter 6 of the Comprehensive Plan entitled "Neighborhoods" makes it clear that job one of good city government, especially a City that proclaims itself to be the "Friendly City," is preserving the integrity and viability of established neighborhoods. You have been asked tonight to consider a measure that could potentially impact a long-term integrity of the Purcell Park neighborhood. I am speaking for myself here and my wife, not our neighborhood, but I suspect that most neighborhood residents feel as I do. We would not strongly object to the parcel in question sprouting a sit-down coffee shop with limited hours, maybe to 5 o'clock in the evenings or a dentist office or a doctor's office or a café with limited hours or even another branch bank something with light traffic options, limited or no noise and limited hours of operation. However, as you have already alluded to this B-2 zoning covers a multitude of sins. Some of those options include 24-7 highly-lit gas stations, vehicle repair shops, warehouses, bars, and parking garages, among other things. Some of the options could significantly degrade the quality of life in the neighborhood and the property values of

those who live nearby, essentially undermining the long-term viability of the neighborhood. So, the devil is in the details. Unless the City can guarantee in some way that the B-2 designation would somehow be consistent with the wisdom and values of the neighborhood then we would ask you to please deny the request to rezone. I think it is also worth noting that the company Harginia, that made this offer, is headquartered in New Jersey. I would ask the Commission also to weigh carefully the motives of an out-of-state entity. It seems like they are financial and there is very little consideration if any of what it would do to the neighborhood. It is all about giving the students a good time and we are already suffering enough for that, the good times for the students in our neighborhoods. Finally, I would like to add those in the neighborhood do not feel like we have had time to process this, we just found out about it three days ago. If we had found out about it sooner this room would probably be full because we are a tight knit neighborhood. I believe that the sign that was erected on the property blew down, so that is one of the reasons we have not heard about it. Thank you.

Randy Hoffman, a resident at 25 Edgelawn Drive, came forward regarding this request. He said while I am not necessarily adjacent, my property is right across the street from the location that they are proposing as the entry to this business. It definitely has an impact. Not only on my life but on my property values and on my neighborhood. The person who was supporting this effort, or I guess speaking on behalf of the applicant, indicated that it was unfortunate that they had purchased this lot and spent significant funds and now are finding themselves in a tough situation, I have a lot of empathy for that, I feel very badly that they have dropped a big dime on that corner property that may have limited utilization but that seems like a decision that should have been evaluated and made before they purchased the property rather than to come to you after the fact and say "Woe is me. How can we recoup our investment?" I also am really quite concerned about the comment that this would add no traffic. While this may not add any traffic to South Main Street or to Port Republic Road, the proposal that this unit have its drive and entry off Edgelawn Drive is just almost incomprehensible to me. I am not sure if you have had the opportunity to travel on Edgelawn Drive but if you take a right on Edgelawn as you are heading north on South Main just before you would have gotten to the bank in the past there is a very much a small neighborhood road with two lanes, no sidewalks, well that is not entirely true there are sidewalks for about the first 70 or 100 feet on the south side of the road and they extend down through the first three lots on the north side of the road. As you proceed down Edgelawn Drive and you continue around the curve and you are on Edgelawn Drive heading south towards Weaver, this road changes pretty dramatically and there is room for one car. If I am coming to my home and somebody is coming the other way, one of us has to pull off the road. There is not room for two cars to pass. While I recognize that the applicant may perceive that no traffic is not likely to come there and/or may have the perception that everyone in Harrisonburg would come to that location and would leave that location off of Main Street, I think that is far from reality. I think that our community will quickly learn that one option that they would have to get to that location without going through so much traffic would be to come the back way and come around Edgelawn Drive and slip in. While that drive and that exit may be designed according to VDOT plans, to encourage a left hand turn only the amount of traffic that is on that road is not such that I think you will necessarily generate wonderful compliance simply by having a curved curb at the end of the driveway. I think you would find that many people would look at the traffic that is

on South Main and go “woah” and they are going to zoom around that curved drive and come down exactly that portion of Edgelawn Drive that is designed for one lane of traffic. Third, the applicant spoke to the level of sound. I am a bit of an old fart and I have to tell you I do not know that I can hear 5 decibels from my house right across Edgelawn Drive but I am pretty sure that my dogs can. If my dogs hear that noise at 5:30 in the morning, I will hear my dogs. I do not think that there is a likelihood that another manmade sound in that area, they have gotten use to traffic but next to that location in what use to be, I guess what is now called the stone building there is a tree service and they only use that for parking and they come and go but if they come and go early, I am awake because if my dogs hear that extra noise of a car door shutting it is not a normal sound in our neighborhood at that time of day and they let me know about it. I would also strongly urge the Planning Commission to decline the request. I would agree totally with my neighbor Dave and say that I would not necessarily be opposed to a coffee shop. When I first saw this I was actually fairly excited. I personally make the drive around the corner way too many times to get my wife a drink from Starbucks on a regular basis. It would be wonderful if there was a coffee shop right next door. Unfortunately, the way this is being planned is not consistent with Purcell Park neighborhood. Please turn down this request and/or if that is not something you can do, at the very least postpone a decision on this, table this request until we can get the rest of the neighborhood aware of what is going on to present their concerns as well.

Jeffery Landis, a resident at 59 East Weaver Avenue, came forward regarding the request. He said I and my family have lived in the neighborhood for 43 years. We have spent a lot of time in Council Chambers and with Planning Commission fighting for survival essentially. We have heard through the years assurances that traffic impacts would be minimal, noise levels minimal and with respect to the applicant’s comments I hear that efforts have been made to address those concerns but in reality sometimes what is promised does not actually happen. We have a great deal of walking traffic through the neighborhood from the students. Carousing from Main Street and that could potentially add to it albeit at earlier hours than we usually hear students. They do not usually walk down the street at 5:30 in the morning unless it has been a long night of partying. I would just say again, that as Dave Pruett mentioned, had more neighbors been aware of this proposal, I think we would have probably would have had more representation tonight and I think it is an important matter that would require input by those affected by it. I just ask that you consider that. I think that is pretty much it. My concerns have been well expressed by my two neighbors. Thank you very much.

Chair Finnegan said while the public hearing is still open, if the applicant would like to respond to any of the concerns you are welcome to, you are not obligated to.

Mr. Wilson said I understand the public neighborhood’s thoughts. It was not our desire to do Edgelawn ourselves. It was something that we were told coming in tonight, was mandated. It was not a choice of ours. We accepted closing and I want to say I do not own the land, it was not my investment. The person who bought the land is from New Jersey, I am not from Jersey, I am just a simple business guy trying to come to a town to do something. We were happy to have one entrance on South Main Street at the back end but we were told no and I have accepted that. We are willing to be a willow tree in this case and to bend any way we can bend to make it good for

the neighbors. We have agreed to put the porkchop I guess you call it coming out of the property so that you can take a left-hand turn. We put a one-way sign that you must turn right. I truly understand the neighbors' concerns. They were talking about their values and again I do not own the property and it is not my business. The fella who bought the property for \$1 million thought he found a commercial property; I feel bad for him because he thought he had something that he could do something with and he has something he can do nothing with. Not my business but I would just like to say that. We are willing to look at any option to make it work for the town and for us. It is, I think, probably the busiest intersection in town. You cannot change the traffic that is there, it is a college town and college kids are out and about. They do not come out at 5:30 in the morning, that is a fact. They are out at 10 and 11 o'clock in the morning but not 5:30. We are not busy at 5:30 in the morning. Normally we get four or five cars for that first half hour. It is really not a high traffic place in the morning. Our traffic is all day long. Thank you.

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

Mr. Wilson continued again the music, I am willing to work on the music. If the music is the concern, there are obviously alternatives to do the music and we are not silly enough to say that we are not willing to talk about the music. I do not think the music is one of the things that is going to stop this from happening but I can promise you, I can prove that trip generation will show you that people are not driving out of their way. We are taking people that are already in the neighborhood on that roadway.

Chair Finnegan 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 is this section of Main Street apart of any corridor classifications? When we were discussing something about those on North Main Street there was discussion that it was designated for certain...

Mr. Fletcher said corridor enhancement would likely...I can double check but it is probably within the corridor enhancement areas and it speaks to high level matters associated with signage, street appeal and aesthetic, biking, walking. It speaks to matters of, as is really a big charge from Public Works, entrance controls and making sure flow of traffic is controlled in an appropriate manner.

Vice Chair Byrd said thank you, I just needed to clarify that in my mind.

Vice Mayor Dent said based on the applicant's response there was consideration of an entry directly off of Main Street was not allowed?

Ms. Rupkey said the Department of Public Works the entrances that are existing now are not allowed by our standards now without significant improvements

Ms. Dang said if you notice it is a corner lot, but the entrance is very close to the intersection. The turn lane begins where the intersection...There is a lot of conflict already existing there currently.

Vice Mayor Dent said there are two entrances exits from Main Street currently, that was my bank that I used until they closed it, right?

Ms. Rupkey said yes, there are two [on Main Street] and then one on Port Republic.

Vice Mayor Dent said it seems to me that if they kept the one entrance, the further one from the intersection from Main Street...

Chair Finnegan said none of those entrances will be used. Correct me if I am wrong, but those do not conform to the modern-day standards. If you were to build a new bank, same exact use, new building they could not do the entrances the way they have them now.

Mr. Fletcher said that is correct.

Commissioner Baugh said I asked about this during the site visit and the answer as I understood it was basically anybody that went in there let us say that you wanted to do the bank or something and you wanted to use the existing building more or less the way without any substantial redevelopment, then you are allowed to use the existing entrances. Anything else whether it is a rezoning or substantial redevelopment even under the existing zoning would require them to go to the new rules and that would not allow any of the ingress or egress off of Main.

Commissioner Armstrong said one of the big problems which you can see on the conceptual site layout is not only is South Main really busy going both directions but there is a dedicated right turn lane that wraps around this property. People have to cross two lanes of traffic and cross that dedicated right turn lane which is really busy. It is kind of an accident waiting to happen. It is a third lane but it does not move very fast and it is dependent on the light structure. It is not a good plan.

Chair Finnegan said I think a couple of things could be true at the same time it may be true that there are people already driving. I do not think that denying this will make the traffic on that corner better but I do think that by approving it that is going to make things worse especially for Edgelawn. I understand the comments that the applicant made about you cannot change the traffic that is there and not with this request, but I think we can change the traffic that is there in the long term. I think we have to because in order for this to be mixed use, I am talking big picture, and have people feel comfortable walking around in this area, which we should be encouraging, we need to find a way to reduce the amount of traffic that is there. When we were there on the site visit two days ago I saw a gentleman on a bicycle. He was on the sidewalk on Main Street he got honked at, he almost got hit. Regardless of what happens with this site the roads that are here are car centric in and of themselves and that is something that I hope we can change in the long term. I agree with staff.

Vice Chair Byrd said I have been historically known to not care about traffic however I do want businesses to succeed and for any business that has a drive through that would succeed we would have lots of cars at their drive thru area. Which if we were a certain business in town that have had a lot of success at particular times, that becomes a nuisance in areas that are already built to absorb that success. This area is not structured to absorb that type of business having success. That brings a concern to me about this particular type of business at this particular intersection. Then there is

the other issue of even though I am not bound by the Comprehensive Plan, I do feel it is a promise to the community that we are in general going to be in alignment with what we have suggested to the community as the plan and any significant divergence from that I feel that I need to be a little bit more stringent on. The neighboring areas are not zoned to be commercial businesses though some office businesses and things like that may be acceptable currently under the current zoning I feel that this particular type of change is too divergent from what we have promised the communities. If we are always encouraged to just change things just because someone has presented an offer then why even present a Comprehensive Plan to the community at all, besides the fact that the state mandates it. In light of that, I would not be in favor of changing it into a business zoning. A B-2 type of zoning in this area speaking in this area in general I would not see rezoning any of these areas into B-2. I am also highly aware that sometimes I have to go through the south side of the City and I come that way to head onto 81 and that intersection is not kind to anyone who is from that neighborhood. I am not from that neighborhood, so I am not helping them. I am getting in their way, but it is not that way. The neighboring roads as I have mentioned before I am one of those people who take the path less traveled and it is not structured for a person like me and I will admit I would be one of those bad people doing that and therefore I would also not want to encourage people to do a thing that I know I would do when I know it is wrong, that is another reason even though I rarely worry about traffic. This particular intersection I feel is not a good idea for basically any drive-through, any gas station, anything like that.

Vice Mayor Dent said just looking at this conceptual site layout, it really is all about the cars. Turning the whole lot into traffic lanes. Now, I can see this being an ideal spot for something along the lines of Greenberry's. It is a coffee shop where people mostly sit and stay for hours and study or whatever. There is a drive through lane, but it does not dominate the whole property the way this does. I think there could be viable uses that would be more neighborhood friendly and less assaultive to the neighborhood. Having the late hours with the music going all the time really does not sound neighborhood friendly. Much less this entrance onto Edgelawn that especially learning about the one-way part of Edgelawn, that is really inviting trouble. I would be against this in hoping that there could be a better proposal that is more neighborhood centric. I will also just echo what Chair Finnegan says about this is not a neighborhood friendly street. As I said, that was my bank and I would walk across the street, but it was terrifying. Islands in the street or whatever traffic calming that is another longer term idea but whatever we can do with this property to slow it down a bit and have a business where it is friendly to both the neighborhood and the drivers, that would be more amenable. As it is, I would not approve this.

Commissioner Baugh said I think... I too, unless somebody can say something I find persuasive, I am not going to support this. I guess I have a couple of thoughts on this that one of them has not really been mentioned but I have to say I think I might vote against this alone just on the inadequacy of the proffers. There is just too much of right B-2 that is left of this. I think we can talk about all of these other interesting things all night long, but that in and of itself is probably enough to not get me to support this. The other piece that I think is maybe a little closer to what we are getting at...as I was looking at this I was mindful that we have had some of these proposals come up where we have property, some of these areas and this would be one of them, where we have proactively said that we were going to promote mixed use long term. I sense that staff has been pretty consistent in reviewing these. One of the things we liked about mixed use is the flexibility, but staff has been pretty consistent in saying let us look at the big picture, let us really think of what

we are trying to promote for a mixed-use area. I am sure there are others but the two that come to mind because we were not unanimous is the convenience store up at North Main and Mount Clinton and the maybe one of these days 865-esque building behind the McDonalds on Reservoir over by the Food Lion. Both of those were ones that staff recommended against. They recommended against them for reasons that are consistent with the recommendation here. We had some difference of opinion about it. This one I am having trouble seeing the difference in opinion here. The convenience store at that spot was not exactly like we wanted, maybe it was perfect, maybe you could see where someone would support it. The student housing over there, we have student housing that still has a commercial component, maybe just not exactly what would be ideal. This is going to be a big chunk, we are going to struggle to ever get this back into the mixed-use thing that we hoped to see develop in that area. If we let something this car centric, it is not just that, but it is certainly one aspect of it. I do not see myself supporting this to be honest.

Chair Finnegan said I do think you make a good point that we have an opportunity here. What is the Giles Stone property is a couple blocks away that has been rezoned to R-5.

Ms. Dang said with a special use permit to allow for non-residential use.

Chair Finnegan said and we have Grilled Cheese Mania. They are the start of some sort of more walkable businesses, mixed use. That kind of stuff is not fully formed but the pieces are there and I would agree with Commissioner Baugh that if we move in this direction we are moving in the wrong direction. I do not think I could support this.

Commissioner Washington said I just have to say that Vice Mayor Dent said everything that I wanted to say. The only thing I have a thought about is the noise ordinance, is 55 decibels a standard everywhere? What is the standard for noise?

Ms. Rupkey said it depends on different uses that are on the site. For restaurants, they can play music during their operating hours to 65 decibels.

Commissioner Armstrong asked on an outside speaker?

Ms. Rupkey said yes ma'am.

Commissioner Baugh said I can tell you from experience that trying to think that you are going to anything, getting a result that you want because we are going to be able to hold the line on the noise ordinance regardless of even how much you tinker with, it is going to be tough. I am probably oversimplifying it. I think that its primary function is allowing the City to address the classic examples of large parties. The situations where somebody is just really generating a lot of noise in a spot that just seems inappropriate for the surrounding but say that you are going to go around trying to enforce the noise ordinance, actually it was the Virginia Supreme Court that made a decision seven years ago that says yeah if you go to an objective standard which means if you call law enforcement and you are going to try and do it, they have to actually be able to take the measurement. That in and of itself is problematic, there are a whole series of things if you have been around this before. I am not going to say the noise ordinance does not do any good but if you

are thinking that you are going to address the situation by saying well as long as we can keep them on the right side of the noise ordinance it would be okay, good luck on that.

Commissioner Washington said I was just curious because what is loud to me is probably not loud to you all, or vice versa. In terms of the standard to measure it to I think that would be important in this case. Based on what has been presented, I am not in favor of it but the opportunity for it to be more walkable... that would be a cute place for a coffee shop but not like this.

Commissioner Armstrong said something that has not come up is student car sound systems are really obnoxious. They have got these super woofers, I think, that do a loud bass that I can hear through my closed house. It is pretty incredible. As a public health practitioner, I do not know how they... That has not even been discussed. You have students sitting in a car waiting to go through a drive through at whatever time and they are playing their sound systems. They are going to exceed the 55 dBs.

Commissioner Alsindi said I have nothing to add except another thing I agree with the nature of the business, the concept does not fit with the location.

Vice Chair Byrd said along with those comments, I will make a motion to deny.

Commissioner Armstrong seconded the motion.

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

The motion to recommend denial of the rezoning request passed (7-0). The recommendation will move forward to City Council on December 12, 2023.

The applicant withdrew their application and was directed to work with staff to complete the withdrawal process.