

Consider a request from New Venture Partners LLC to rezone 715 North Dogwood Drive

Chair Finnegan read the request and asked staff to review.

Ms. Dang said in September 2022, City Council approved a rezoning of adjacent property (a portion of property currently addressed as 820 Waterman Drive and identified as tax map parcel 39-E-7) from R-1, Single-Family Residential District to M-1C, General Industrial District Conditional. The rezoning allowed the property owner to expand an existing self-storage facility. The proffers for that property require a 5-foot tall fence and a landscape buffer with trees or vegetation with the intent to form a dense screen along the property boundary adjacent to North Dogwood Drive/Rockingham Drive.

During the above described rezoning process, the application and public notices had also included a request to rezone the subject property (715 North Dogwood Drive) from R-1 to R-5C. At staff's suggestion, the applicant tabled this portion of their request. At that time, the Department of Public Works was working with the Virginia Office of Intermodal Planning and Investment on a "Street Connectivity Evaluation and Road Diet Multimodal Evaluation" (Street Connectivity Study) and staff wanted the Study to be completed before considering the rezoning request due to the potential for extending Third Street to the west toward Waterman Drive. The Study, which was completed in 2022, identified opportunities across the City for potential new roads and pathways that could facilitate connectivity between neighborhoods.

Vice Mayor Dent said what was the result of that street connectivity study?

Ms. Dang said the street connectivity study was broader. It described that there should be a connection somewhere between Chicago Avenue to Waterman Drive and described other connections, even up to Greystone Street going further west. That Street Connectivity Study did not call out specifically Third Street. What it was saying was that you really benefit from some other parallel routes to West Market Street that connected from this road to the other road. That study has not been publicly vetted, it was just an internal study. City staff has not brought it forward with an amendment to the Comprehensive Plan's Street Improvement Plan to show that these are areas or street improvements and connections that we want. That will come later from the Department of Public Works, but at this time [the Study] is not publicly vetted. No public input has been received it was just more or less an internal study.

Ms. Dang said the applicant is requesting to rezone a +/- 0.99-acre parcel from R-1, Single Family Residential District to R-5C, High Density Residential District Conditional. If approved, the applicant plans to construct 16 dwelling units comprised of two, eight-unit multifamily buildings with a mix of one-, two-, and three-bedroom units.

Proffers

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

1. Dwelling units may be occupied by a single family or no more than three (3) unrelated persons.
2. Townhouses or multi-family dwelling units shall provide 1.5 parking spaces per unit.

3. Create and maintain a landscape buffer with trees planted within 20-feet of the eastern property boundary (adjacent to North Dogwood Drive and Rockingham Drive). The buffer shall include no less than one (1) small deciduous tree, as defined in the Zoning Ordinance, planted for every 35 linear feet of the eastern property boundary excluding the width of the entrance.
4. At the time of development, a 20-ft wide shared-use path easement and 5-ft temporary construction easement will be dedicated to the City. The easement will extend from Rockingham Drive / North Dogwood Drive public Right-of-Way to the northwestern corner of the property as illustrated on the rezoning exhibit.
5. The entrance serving the development shall be located at the intersection of North Dogwood Drive and Third Street. Additionally, the developer shall design and construct necessary intersection improvements to ensure safe intersection operations as deemed necessary and as approved by the Department of Public Works.

The conceptual site layout is not proffered.

The R-5 district allows by right dwellings to be occupied by a family or not more than four persons. Proffer #1 reduces the allowable occupancy of dwelling units to either a family or not more than three persons. With this proffer, because the minimum off-street parking requirements of Section 10-3-25 (7) allows for reduced parking when occupancy is restricted, only one parking space per unit is required by the ZO. However, the applicant has proffered (within proffer #2) that each townhouse or multi-family dwelling shall provide 1.5 parking spaces.

Proffer #3 requires that a vegetative buffer be provided along the eastern property boundary adjacent to North Dogwood Drive and Rockingham Drive. This is in addition to the existing vegetation and trees within the public street right-of-way of the shared use path.

During review of the application, City staff requested a 20-foot wide shared use path easement through the parcel to assist with a future connection from the Rockingham Drive Trail to Waterman Drive. The applicant has proffered (with proffer #4) to dedicate a 20-foot wide shared use path easement plus an additional 5-foot wide temporary construction easement for the City to later design and construct a shared use path.

Proffer #5 describes that the future entrance to the development will be located at the intersection of North Dogwood Drive and Third Street and requires the developer to design and construct necessary intersection improvements to tie the new entrance into the intersection.

Land Use

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

These areas are typically older residential neighborhoods, which contain a mixture of densities and a mixture of housing types, but should have more single-family detached homes than other types of housing. This type of land use highlights those neighborhoods in which existing conditions dictate the need for careful consideration of the types and

densities of future residential development. Infill development and redevelopment must be designed so as to be compatible with the desired character of the neighborhood.

Surrounding properties are designated in the Comprehensive Plan's Future Land Use Guide as Mixed Use and Commercial. The Mixed Use designation 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.

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.

And the Commercial designation states:

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

The applicant describes in their letter that "[t]he proposed residential community aligns with the Comprehensive Plan and the Land Use Guide, as it integrates with existing mixed-use character of the neighborhood where single-family homes are flanked by multi-family apartment buildings to the south west, and to the north (future Sunshine Apartments), and commercial and industrial buildings to the north, northeast, and northwest." In 2022, the proposed Sunshine Apartments, located at 797 Chicago Avenue, was rezoned to R-5C, High Density Residential District

Conditional and received special use permit approval to allow multi-family dwellings of more than 12 units per building.

Transportation and Traffic

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

North Dogwood Drive is currently a substandard City street with about 20 feet of pavement width and no curb, gutter, or sidewalk. During review of the 2022 and current rezoning applications, staff considered whether the applicant/developer should make frontage improvements (road widening, curb and gutter, and sidewalk) along North Dogwood Drive, along the +/- 65-foot length of frontage between the new entrance and the southwest corner of the property. Due to projected low traffic volume in this area and the significant amount of filling, grading, and retaining wall work that would be necessary to make frontage improvements along a short length of frontage, staff is comfortable with this development not constructing frontage improvements. The applicant is aware that removal of trees within the public right-of-way will require approval from the City’s Public Tree Advisory Board (PTAB) and that City Code Section 9-6-7 requires that the individual removing the public tree with a permit from the PTAB will be required to pay the City for a placement tree. “Public Trees” are defined as: “Trees with a diameter at breast height (DBH) of four (4) inches or greater with the majority of the tree trunk located on city-owned and maintained property. Trees that are planted as part of city projects that are less than four (4) inches DBH shall be considered public trees.”

Public Water and Sanitary Sewer

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

Housing Study

The City’s Comprehensive Housing Assessment and Market Study (Housing Study) places the subject site within Market Type A. Among other things, this Market Type is characterized by high population growth. The study notes that Market Type A has “above median overall access to amenities such as public transit within walking distance, full-service grocery stores, and multiple parks and recreation facilities.” The study also notes that “policies that are appropriate to Market type A areas include an emphasis on increasing density through zoning changes, infill development and housing rehabilitation to maintain the quality of housing.”

Public Schools

The student generation attributed to the proposed 16 apartment units is estimated to be two students. Based on the School Board’s current adopted attendance boundaries, Waterman Elementary School, Thomas Harrison Middle School, and Harrisonburg High School would serve the students residing in this development. Harrisonburg City Public Schools (HCPS) staff noted that schools are over capacity in three of the six elementary schools. Note that the City has been planning for the purchase of land for a 7th elementary school for a number of years as such a project continues to be listed in the City’s Capital Improvement Program.

Recommendation

Staff recommends approval of the rezoning request.

Chair Finnegan asked if there any questions for staff.

Vice Mayor Dent said just looking at the schematic here and that huge winding switchback to get to the parking lot and I think there has to be a better way or was there any exploration of the idea of entrance on Rockingham Drive, does that work at all? It just looks like it would go straight in there, but I do not know what kind of street that is.

Ms. Dang said it is a pretty good distance... We call it a paper street, it is heavily vegetated and not a constructed paved street. [Referring to the map] The pavement ends somewhere in this vicinity.

Chair Finnegan said Rockingham [Drive] is all broken up because Rockingham [Drive] continues because, technically, the bike path is kind of Rockingham [Drive]. If you keep going across Chicago [Avenue], it picks back up and turns into Rockingham [Drive] again.

Vice Mayor Dent said it just seems a shame to use so much of the property for that winding driveway, there could be more housing if there was a more direct route. Just an observation without really understanding the topography of that street.

Chair Finnegan said that may be a question for the applicant too that we can ask. Was it staff's recommendation to have access off of Third Street as opposed to Waterman [Drive] or Rockingham [Drive].

Ms. Dang said we started this two years ago, it makes sense for it to be at Third [Street] and North Dogwood Drive there. To go to Waterman Drive, they do not own the property immediately to the front. While they own the self-storage facility, that facility already exists... to expect a private street to get constructed through there... I am interested to hear what their thoughts are.

Chair Finnegan said there is no access from Waterman [Drive] because of the other property that is in between it and Waterman [Drive].

Ms. Dang said this property here [referring to an image], I do not believe is owned by the applicant. It is owned by another party.

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.

Gil Colman, Colman Engineering and applicant's representative, and Gary Myers, the applicant, came forward to speak to the request. Mr. Colman said generally speaking, you want to have access to the property from the immediate right of way if possible. The right of way here is Dogwood Drive and otherwise we would need a private access easement across somebody else's property to get to our property. A landlocked property would not be allowed to have access in another direction. However, this could happen because we have frontage but that is a different conversation. When it comes to the length of the driveway, when we reviewed this with staff that included all the departments including the Fire Department, the Fire Department wanted access all the way around to the back of the buildings. Initially, I think we had parking in the front and pushed everything back, but they wanted access to the back of the building. We could not come straight

down either because it is too steep. We had to swing all the way around. Nobody wanted to build a drive that long. Ideally, you come out and you have your parking there minimize your pavement, minimize your cost. In this case, because of the steep terrain you have to travel all the way around and get a grade that is adequate for the fire equipment to get to the lower side of the property. We put the parking in the back also because that gives access to the lower units. A couple of those are going to be accessible units which parking is right there right to it. You answered the question about Rockingham Drive and it dies much early, otherwise it would have been great access right there. As Dogwood [Drive] continues, it is actually a bike path and not a street, so we are right there on the corner. As a matter of fact, looking at this property the options were limited in terms of even trying to make single family lots because pretty soon you run out of street, you only have the street for a small portion of it and then the rest of the property ends up being without a frontage on the street. This was the alternative plan to create apartment buildings for rent.

Chair Finnegan said in this drawing it says 16 units but I see what looks like eight. Is one of those half?

Mr. Myers said they would be designed as the lowest level would be accessed from the back so those would be one- and two-bedroom apartments and then the upper ones would be, I think we can do three bedrooms. It is sort of stacked. They are townhouse style.

Mr. Colman said it is also to be townhouse style to be more neighborhood friendly versus just an apartment building so the idea of this would be when you look at the front you see townhouses which would be a group of four and four, again not a row of townhouses but just separated in small clusters. It would allow for as an apartment...you can picture the ones that VMRC [Virginia Mennonite Retirement Community] built on Park Road, those are townhouse style homes and when you look at those, they are beautifully built. The back of some of those have access to a basement. In this case the idea given the terrain there are 20 plus feet or more of drop from the street down to the back of the property. It allows for four apartments also an apartment in the rear lower section in each of those townhomes.

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.

Lewis Bagwell, a resident of 645 North Dogwood Drive, came forward to speak to the request. He said why this is even being considered is beyond my recognition. All there is commercial property, there is one residential house through that whole Waterman Drive, it is all industrial and commercial businesses. My main concern is that bike trail and that whole thing where Dogwood [Drive] cuts off and then cuts into Hartman [Drive], I love seeing grandmothers, young mothers, baby buggies, bicyclists walking down that path or walking up through there. They do it because they feel safe and it is accessible and it is quiet and they are getting their little exercise in and I really appreciate that. I see what is going to happen when you start tearing into Third [Street] and our little sliver there and then you are going to have more traffic there, those people are gone. They are not going to participate in the neighborhood. I just want to keep the neighborhood safe and vibrant so that all ages are comfortable are walking through...that bike trail... it is great that the City thought into that because we are on the north end we get the crumbs. I am totally against this because I know what is going to happen. We have enough problems now with college students

parking on the street and when I go to work in the morning I have to navigate in and out. I know that is not the reason I am here, but this is not good for the community and it is not good for the residents of Hartman [Drive], North Dogwood [Drive].

Kemper Dadisman, a resident of 360 Hartman Drive, came forward to speak to the request. He said I feel that these eight apartments upstairs and the eight apartments downstairs with two bedrooms in the downstairs apartments and three bedrooms in the upstairs apartments is going to generate more traffic all together. I just feel like there is going to be two cars for each one of those apartments. They have to share those 28 parking spaces. I do not know where the extra cars are going to be going but I also know that I have lived in this area for 53 years now, I know how Third Street is, it is narrow. You meet a car on Third Street somebody has to get off out in the grass to let the car come by. Same way on North Dogwood [Drive] and that end of Hartman [Drive] where Hartman runs into North Dogwood, very narrow. There is parking on both sides of the street out there because a lot of folks do not have off street parking. The traffic that will be generated coming down Hartman, which I feel after people decide I am not going to be able to get out on Chicago Avenue in the morning because Waterman School is there. They are going to start coming down Hartman Drive, we have a lot of young kids on Hartman Drive now. There are new families on Hartman Drive with younger children and a lot of those younger kids really do not pay much attention about walking down the street right now. If there is more traffic, there is going to be greater possibilities of safety. I do not understand, myself... I do not have an objection to apartments there, I know there are housing needs in Harrisonburg but I do not understand why it cannot be negotiated a road from that area down to Waterman Drive. It would make a lot more sense, it would be a lot easier on snow removal. That 20-foot drive getting off Third Street down to this area, snow removal wise, would be ridiculous. I notice my friend Colonel Jack Bowman who has an auctioneering building right behind this area. Jack had told me the other day when he moved in there, he had water problems. When HAJOCA had that they had water problems because water was running off of that hill. If they paved that area up there and roof it, the water has to go somewhere. I know on the map it shows some storm drains. The problem is there are no storm drains on Waterman Drive.

Geoffrey Sigworth, a resident of 425 Hartman Drive, came forward to speak to the request. He said I am one of the people that walks on that bicycle path almost everyday. I agree that this development would have a negative impact on part of the neighborhood; that is important to me. That is not really the biggest problem I have with this. [Referring to the image on the screen] Maybe these are topographical lines, but whoever put this together did not think carefully about the way it is. If you are standing here at the entrance for the bicycle path and you look out in this area, there is a very sharp drop that is about 10 or 15 feet. I have no idea how you are going to put a drive there. Just imagining a car that is coming up Third Street and when it has to turn right and go down, pretty steep. That is going to be tricky to navigate. I do not see how you get a firetruck turning around there. If you decide to do it you are going to have to be very careful how you build that because if you get any serious rain, soil can liquify when it gets full of water. I do not know what the soil is like there. If I did down more than three feet in my backyard, I hit heavy clay so that probably would not give way but there is a possibility that they are going to have to spend a lot of money supporting that soil. Ms. Dent mentioned it makes a lot more sense to have entrance to that on either Rockingham [Drive] or Waterman [Drive]. To try and do it the way it is planned does not make any sense at all.

Eugene Pence, a resident of 399 Hartman Drive, came forward to speak to the request. He said I agree with this man about the extra traffic. They do not stop at the stop sign now. I live right at that stop sign at Gay Street and Hartman [Drive] and they blow right through it, I see it every day. With 32 more cars possibly, it is just going to get worse. I also agree with these gentlemen but I also have another point. I am a member of the American Legion and the VFW and very well known down on that street, it floods. That rain we had the other day, it was almost coming in the American Legion. That is an awful lot of property to cover up with a bunch of roofs and parking lots. That water has to go somewhere. Storm drains will help but it is just going to put it on that street. It might bring it off that hill, but it is still going on Waterman Drive. Where is that water going to go? It is going to rise. Something needs to be done with Waterman Drive if you are going to put that much runoff, this is not going to handle it.

Ben Alison, a resident of 667 Virginia Avenue, came forward to speak to the request. He said that I have a little one and another one on the way. I am concerned with the traffic that is already there and with the addition of Sunshine [Apartments] it really does concern me if we have not looked and understood what the traffic will do with what we already granted. To add another population to that traffic does concern me without understanding what is already there granted how that could affect.

Todd Rhea, a resident of 2322 Alston Circle, came forward to speak to the request. He said I am speaking as a private citizen tonight and not a land use lawyer. My one question is for Mr. Colman and the applicant relating to how the Rockingham Drive shared use path comes into the property and the 20-foot pedestrian easement that is reserved on the northern side of that property. As I look on the plan it does not look like pedestrian extensions or how that bike path might be used is designed into the current site. It is all designed into that curved driveway that comes down and there is a connection there and it is more of a question, are the bikers from that path coming south in order to get up to Third Street and North Dogwood [Drive]? Are they crossing the existing driveway to get to that point of connection? I know Ms. [Erin] Fisher before she left the City looked a lot at this intersection and this area as part of that transportation study. I am not sure anybody in the Third Street neighborhood really wants a vehicular connection to Waterman Drive at that point but it would certainly make a lot of sense for a bike-ped connection eventually from Waterman [Drive] up through this site. If there could be some more intentional design work focusing on that future connection and the existing connection to the bike-ped path, it would be beneficial to the community.

[Name unintelligible], an associate broker in Virginia, came forward to speak to this request. She said I am an unbiased party. I do not reside here, I use to reside here. I have very positive feedback both concerning the neighbors being concerned and the developers that are trying housing. As an unbiased party I just wanted to state a simple question for all the community folks who are naysayers. I think it is always helpful for the developer to know what solution they would propose. Coming as an unbiased party but as someone who faces all the time people trying to look for housing and there is a huge lack of housing everywhere in the state of Virginia not only in Harrisonburg. I just wanted to ask the neighbors who are concerned and they have valid concerns. I think it would be helpful for the developer, who is trying to make use of a chunk of empty land, for [the neighbors] to make a suggestions, what would they want to see?

Mr. Colman said the reality of housing we all know if you have younger families they need housing. In Harrisonburg it is lacking as everywhere else in terms of not having affordable housing and rentals are one of the biggest needs right now. A lot of the rentals that were in the market years ago got pulled out of the market to go into Airbnb's so now people do not have a place to live. Having more rental properties is helpful. In terms of your concerns, yes staff spoke about that road being narrow, it is true, that is something that sounds like something the City needs to take care of at some point. When it comes to the connectivity, ideally it would be a lot easier to tie into Waterman [Drive] but he does not own the property. That is something we actually were discussing. If [he] could buy the property, [he] could tie it back into Waterman [Drive]. He does not own the property. That is something at this time is not possible. It would make it easier. We do not like the idea of having to drop down. We can design that to make it work and that is why it has that huge loop there because we cannot go straight down; it is too steep. There are no immediate plans to build this so it is preparing this so that someday it could be done when he is able to do it and perhaps at that time that property may be available. The main reason for answering why not tie in somewhere else is because this is the frontage this is the place where we can build. Responding to Mr. Rhea, the path is located there. That was a request from Public Works that we provide on that end of the property is the most accessible in terms of grade. The plan is if the property is developed that we will prepare it for the future. We can grade it because it makes sense while we are building the property to grade that also for a bike path in the future. That ideally with the property below is the neighbor develops at some point and that the City will probably request the same thing or if Gary were able to buy that property to continue that path all the way to Waterman [Drive]. Ideally, we do understand that those streets are subpar. The number of cars here is small but significant enough to discuss. It is something that we do not have a solution for.

Chair Finnegan said a lot of the concerns that we heard over and over again were about car traffic, cars coming through there. I live in that neighborhood as well and I am currently a part of an effort to try and calm traffic in that neighborhood. Is there any consideration going into that...and I know that you need to get permission from Public Works and the Fire Department to make sure it works for them but are there mitigation measures to try and slow traffic down? Speedbumps and things like that to slow the traffic down coming in there? I do share that concern with one of the commentators that you have the top of the bike/walking path and you have cars coming in and out of this. As someone that lives in that neighborhood next to a stop sign, not everyone looks at the stop signs.

Mr. Colman said that is a very good point. There has not been any discussions for us to address that. A lot of that is on the City, this is beyond the development itself. Right now, it has not been part of the conversation.

Chair Finnegan said I do think trying to address some of the concerns, while trying to find middle ground here, there just seems like there has to be a way to add some sort of traffic calming into that path coming in and out of there that would slow traffic.

Mr. Colman said when it comes down to the existing bike path there, the discussion is on the proffers also that the developer will work with Public Works in improving it and making sure that entrance there is adequate to make sure that it addresses whatever concerns may be from a bike

path coming to that point. We have cars coming out of the development and bikes and people walking close to there. That is something that needs to be considered on that entrance. Even on the sketch that we have there initially one of the things that was asked for is we should have a stop sign there or something that would be negotiated when that entrance is designed.

Vice Mayor Dent said one of the speakers said something about the grading lines and I do not know if I am reading it right but it does look like a 10-foot drop in what may be 10-feet on the driveway.

Mr. Colman said it is very steep and that is why we cannot drive straight down. We go down in grade and come around to do that.

Vice Mayor Dent said even the very first is just straight down.

Mr. Colman said something to keep in mind here is that this is a layout, there is no design here yet. Once it is designed all those grades are going to change so we have to regrade it. That is something where we would need engineers to design it to work. [Unintelligible] has to be adequate and it will be when it is designed.

Vice Mayor Dent said I just sure wish there were another entrance way to it.

Mr. Colman said I agree it would have been great. If we could get to Waterman [Drive], it would be easier in many ways actually.

Vice Mayor Dent said I do like the multigrade apartments, that is a good adaptation to the site. It is just the driveway that takes so much room.

Mr. Colman said we had that discussion with the Fire Department, initially we had that steep driveway but it is just too steep. The Fire Department wants something more adequate for their trucks to come around.

Commissioner Baugh said there are all of the obvious challenges with this request. What could you do with this if you wanted to develop it as R-1?

Mr. Colman said one of the challenges with R-1 here would be the lot size. We might get, like it was before, there may be two or three extra lots, that would be the first challenge. It could be done if was not that the street goes long enough. The cost of extending a street is prohibitive to put R-1 housing there. Those houses would be very expensive if we were to do it. I think that was something that Gary was considering at one point. Can I put a single-family home here? You could do one with access, the rest are on the bike path as you go down the end. Grading itself can be a challenge. That is something he considered before this request.

Commissioner Baugh said in order to make it work, you can put one really big house there that would be one of the bigger ones in the City. That is about what you can do with this.

Mr. Myers said the only sewer access we have is down to Waterman [Drive].

Mr. Colman said I want to address some of the questions about the stormwater. We know that there is an issue with Waterman [Drive]. I live around the corner there too. We cannot drive on Waterman if it is raining really bad. Hopefully the City is working on solutions for that. One of the things that we are required by the State and by the City when we design any development is that we reduce the runoff for whatever is being designed. When we worked with Mr. Myers on the expansion of the mini storage, we extended the current stormwater pond that was there but also created two more bioretention [facilities] to provide water quality and water quantity control, so that kind of controls that flow and reduces it. When we did that we also accounted for a development of this size so that can be taken care of in terms of water quantity. If we need to do water quality there, which we might, then we will also do some more stormwater facilities themselves. Right now, this is not a proffered layout, this is a concept layout that may or may not go that way. Depends on what is doable on the site. We are proffering certain things to limit that. The site was also very limiting.

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.

Carol Kingman, a resident on North Dogwood Drive, came forward to speak to the request. She said why do they not just have the entrance over there on Waterman [Drive]? It is already a commercial street. It could save the hill with the water coming down, save the bike path and save all the traffic. It seems logical to me because it is like this. You come in at Waterman, you do not have to build no more. That is a busy street. It would solve all the problems.

Chair Finnegan closed the public hearing and opened the matter for discussion.

Vice Chair Byrd said I forgot how I voted the last time leading to this. As long as M-1 is bordering this property, any talk about a cut to Waterman [Drive] is not feasible. Rockingham Drive not being developed means there is no feasible connection there. Leaving the only connection being this drop. The cost of making that, I feel that if the City keeps this zoned R-1, this property is undevelopable, it will not be developed. I want that in the minutes so that City Council can be aware that if they keep this R-1 they are basically saying they do not want this property developed. I have not decided how I will vote yet but I want to make that known. The water management because this is not proffered, I do not know. From how the property looks, in my experience in water management and my experience with engineering as itself, if the current vegetation is not absorbing the water, then constructing anything there is not going to make that better. Since all parcels are responsible for their water there is going to be even more engineering done to account for that water which makes me concerned about what will ever be built here if it remains R-1. From what is proffered and what is presented, I have never had an issue with adding a bit of density and coming up with a creative solution. This just highlights greater general concerns of the City. The applicant is earnestly trying to come up with something and I commend them on that, but I just do not actually see this being a viable thing it would just end up being rezoned sitting on paper . I can see the cost of this being very high. I am currently leaning not in favor.

Commissioner Nardi said the fella back here mentioned the Sunshine Apartments, if someone could educate me on his question and his concern and how it relates to this.

Chair Finnegan said it was approved a couple of years ago. It is behind La Morena so the access would be off of Chicago [Avenue]. It is not bordering on this property.

Commissioner Nardi said the concern is traffic and safety at that juncture.

Ms. Dang said the access for the property would be on Chicago Avenue.

Chair Finnegan said for Sunshine [Apartments].

Vice Mayor Dent said it is that R-5C on the map.

Commissioner Nardi said I have concerns about the drainage, the entry, the traffic counts, and safety. I am inclined to vote against.

Vice Mayor Dent said I am really torn about this too. I appreciate Vice Chair Byrd's observations about that cutting in from Waterman [Drive] is a nonstarter because of the different zoning. Cutting in from Rockingham [Drive] is nonstarter because it is an unimproved street, somebody would have to build a whole street. This is the only solution they could come up with and it just seems really daunting and not a great use of space to have to use that much of it for the driveway. On the other hand, if we leave it R-1, that is just saying it will not ever be developed. This R-5C could be the only viable option if they can work out the engineering bit, and that is a big if. We got great engineers, but it is quite the challenge too. I have not decided either.

Commissioner Baugh said I feel better about voting against it. To go with what one of the speakers said, it would be...if it was clear to me that if we do not like this vision for what happens to this property, what vision would we like? Assuming for the sake of argument that is right, the topography alone makes it virtually impossible to develop this as R-1 even though it is zoned and kind of planned for that. It is this oddball property. It is kind of close to a potential R-5 and that section up there is designated Mixed Use in the Land Use Guide. You can try to propose something more along that line. If the neighbors do not like this, they are definitely not going to like a Mixed Use [development]. While it is technically not planned for Industrial, it is right next to Industrial. If there was ever a request to rezone this to industrial, the devil would be in the details but assuming you could come up with something that addresses buffering issues you might have a persuasive argument for that and then the neighbors might be saying...you might be in a position to be careful of what you asked for.

Vice Mayor Dent said if we decide it is not viable for residential could it be viable for industrial, and the neighbors would like that even less?

Commissioner Baugh said I think that is a potential. I guess there is a piece to this that...a lot of times these developments have an aspect to them of watching sausage get made but one thing that we do have some precedent for is when we have these spots where we have R-1 against M-1 that something like this is historically what we have sort have done as the quasi-buffering. Put something in between those two uses that maybe neither one of them thinks is ideal but it does maybe help with a sense of transition. There are a lot of examples around the City where I think

we have had R-1 or R-2 up against M-1 or something like that and what we have ended up approving is something like this.

Chair Finnegan said those are good points and I think also two other things that I want to consider. If you look at that [referring to image on screen] and look at what is the majority of the land being used for, it is car infrastructure. I know folks on this dais know I am a broken record on this, we have got to find a way to build housing for people without assuming that everyone is going to come in a car sized package. I think until we are willing to make that break, which it seems like it is too large of a leap for us to make, we are going to be stuck with split decisions on things like this because I agree with Commissioner Baugh, we need housing. Broadly, people agree that we need housing. When the specific sites come out, I think we tend to look at a site and say no. The other point that I wanted to raise here is if this gets denied, technically it only matters if it gets denied by City Council, I think this is something that we really need to think about when we are doing the Zoning Ordinance revision, big picture. The previous infill development that we say, making that easier to build for lots like this that are harder to build on, geographically and physically. I think that we need to take this into consideration. A lot of the prime lots, the flat lots, the ones that are easy to build on that have street access, they are gone. Harrisonburg has not grown an inch since 1983 and in fact we have lost land to James Madison University. This is something that we need to consider. It sounds like this will not be a unanimous vote and that is fine and healthy and good. I will say if there is a motion to deny, I will probably vote against that motion. I also want to say I understand the concerns about the cars. I share those concerns, I use that bike path quite frequently and I do not love that cars are coming in and out of there but we do need more housing. I would lean 51% in favor.

Vice Chair Byrd said there is a number of areas where the community has come out concerned about the development of a particular infill and I would tell that community “this is a water bowl and I do not believe it is actually going to get built even if I approve it.” And then I approve it, and I am still waiting for those things to get built because none of them have been built. There is a reason why certain pieces of property are left untouched and that is because of how you want to build something there and then how much will it cost. All of that then has to come on the backend of how you are going to make money to pay for all of that you just spent. That is why I am sitting on the fence here trying to decide what message I want to send to City Council.

Commissioner Washington said I am also torn on this because honestly the layout is janky. I feel like it very forced. I do like the concept of the two housing [units]. I feel like it is creative in regard to the layout, I am not impressed with the traffic flow in and out of this particular parcel. In terms of the housing piece, kudos for that, but in terms of how it meshes in the larger community around it, I am not yet convinced for or against.

Vice Mayor Dent said I am having a weird flashback to when I lived in San Francisco where a whole City was built on terrain a whole lot steeper than this. My main concern has been what the steepness makes them do to the engineering. That kind of tips me over to the 51% to let them have a chance to see if they can make it work. It may or may not be built, but at least we can have that possibility because otherwise I do not see the use for this property. Unless it goes industrial and then I would rather see it in the transitional housing zone, I think. I guess I will lean to that side.

Commissioner Alsindi said in such cases would it be reasonable to vote denial with the reasoning why? Yes, it should be utilized rather than staying this way, but I also take into consideration the concerns in terms of the safety and the traffic. We want this to happen while considering the concerns that have been brought to attention. If we vote to deny this with why to City Council, would that become public issue enough to be sold by the City Council? If we table this and look for more engineering insight and solutions would that be a solution? Not to just table for the sake of tabling but for more engineering here. That is what I heard from the applicant, that there might be some more innovation solutions.

Chair Finnegan said I would just say to your question about reasons, I see that as our role our job to not just vote yes or no but to say "I am voting yes because..." or "I am voting no because..." and making that very clear. We are going to need a motion.

Vice Chair Byrd said first, I am against tabling because the questions we have concern on are for the applicant and therefore we should say yes or no, and the applicant can make their own decisions in their own time. Therefore, I will make a motion to recommend denial of the rezoning request.

Commissioner Nardi seconded the motion.

Chair Finnegan said before we do roll call, does anyone want to state why they are going to vote the way they are going to vote. I have already stated mine. I share the residents' concerns about traffic. What tips me to vote against denial is we need more housing in the City and I think we will always find reasons to vote against housing. That is why I will be voting in favor of the request.

Vice Chair Byrd said we are an advisory body so when we vote we are just saying this is what we think. City Council has more stringent rules because you are actually approving a final decision.

Vice Mayor Dent said I have coached some of my fellow council members is the first thing you look at is the extract from Planning Commission because that is where we explain how we vote.

Vice Chair Byrd said I should be clear; I will be voting yes for the denial. For one because I am not concerned about traffic because I do not believe this will get built. I see a lot of construction issues and also you are generating a loop that if Rockingham Drive ever does get developed now you have that road that would actually be feeding to this loop that then feeds into Third Street and I do not see our future city planners thinking that is a good idea. It makes me concerned about whatever happens to Rockingham Drive that is currently undeveloped. When it come to the water, I do not think that the City is prepared in this area to address that and I do not think any particular developer would be able to solve the God given problems of elevation and water movement. Therefore, any solution is just trying to make do with the constraints presented to them. Even if we approved it, I still do not think it would get made and therefore I want to recommend denial of this to be more consistent about how I feel about certain areas of the City.

Ms. Dang said this does not promise any infrastructure improvements by any means but later next month and mid October, Public Works does plan to have some public engagement as they have initiated stormwater and improvement studies for the Waterman Drive and Chicago Avenue area.

Commissioner Baugh said there are definitely opportunities in the City for neighborhoods to come and for certain properties to work together. There is actually some funding available for some of it. I think I am in the 51% group. Mr. Byrd let me ask you, where I am taken with what you are saying is that you would probably favor or sort of see that the real future for this tract is M-1? That is how I am connecting the dots.

Vice Chair Byrd said yeah. It is more consistent with what the lowland area is more connected to is zoned than when the upper land is zoned. To me, if you walk out into the area and you look down, would you ever say at those trees “oh, this is zoned with these houses that are behind me” and I simply do not believe that. Then I look at a map it says it is true and I go well are my eyes wrong or is the map wrong and to me I go the map is wrong because we can change the map.

Commissioner Baugh said I think I am going to vote against the motion. I would say I am not quite there yet. I think it is a close call in a lot of ways. I keep coming back to all of the...we do seem to understand that what is not going to happen with this parcel is that we are going to draw six, seven or eight lines and turn it into lots and develop it as R-1, that is not happening. It has got to be something. This may be about as close as to what we have done. I can certainly see the merits of M-1, but I guess what is throwing me in favor of it is all of the uses that I can see that make sense of this do not really address the concerns of the neighborhood. I think a lot of this is absolutely normal it is what you see. This has been a quiet corner of an established residential neighborhood. Nothing that goes there, other than maybe an extension of a particular M-1 use with a big fence, is going to change that and people may not like that.

Chair Finnegan called for a roll call vote.

Commissioner Nardi	No
Commissioner Baugh	No
Vice Chair Byrd	Aye
Vice Mayor Dent	No
Commissioner Alsindi	Aye
Commissioner Washington	No
Chair Finnegan	No

The motion to recommend denial of the rezoning request failed (5-2).

Vice Chair Byrd said I make a motion to approve the rezoning request.

Commissioner Baugh seconded the motion.

Chair Finnegan called for a roll call vote.

Commissioner Nardi	Aye
Commissioner Baugh	Aye
Vice Chair Byrd	No
Vice Mayor Dent	Aye
Commissioner Alsindi	Aye

Commissioner Washington Aye
Chair Finnegan Aye

The motion to recommend approval of the rezoning request passed (6-1). The recommendation will move forward to City Council on October 8, 2024.