



City of Harrisonburg

City Hall
409 South Main Street
Harrisonburg, VA 22801

Meeting Minutes Planning Commission

Wednesday, April 13, 2022

6:00 PM

Council Chambers

1. Call To Order

The Harrisonburg Planning Commission held its regular meeting on Wednesday, April 13, 2022, at 6:00 p.m. in the City Council Chambers, 409 South Main Street.

Present 7 - Brent Finnegan, Jim Orndoff, Adriel Byrd, Kathy Whitten, Richard Baugh, Donna Armstrong, and Laura Dent

2. Roll Call/Determination of Quorum

Members present: Brent Finnegan; Adriel Byrd; Kathy Whitten; Richard Baugh; Dr. Donna Armstrong; Jim Orndoff; and Laura Dent.

Also present: Thanh Dang, Assistant Director of Community Development; Adam Fletcher, Director of Community Development; Wesley Russ, Assistant City Attorney; and Nyrma Soffel, Office Manager/Secretary.

3. Approval of Minutes

Chair Finnegan called the meeting to order and said that there was a quorum with all members present and asked if there were any corrections, comments or a motion regarding the March 9, 2022 Planning Commission minutes.

Corrections were noted for the March 9, 2022 meeting. First, in the fourth paragraph on the first page, it said that “there was a quorum with all members present.” There were six members present. Second, on the bottom paragraph of page 26, the text that reads “40 foot high...” should be corrected to “40 foot high, fluffy tops.”

Commissioner Byrd moved to approve the minutes with the stated corrections.

Commissioner Orndoff seconded the motion.

All members voted in favor of approving the March 9, 2022 Planning Commission minutes.

3.a.

4. New Business - Public Hearings

4.a. Consider a request from Bradley M. Cohen for a special use permit to allow

short-term rental at 293 Newman Avenue.

Chair Finnegan read the request and asked staff to review.

Ms. Dang said that the Comprehensive Plan designates this site as Neighborhood Residential. These areas are typically older residential neighborhoods, which contain a mixture of densities and a mixture of housing types, but should have more single-family detached homes than other types of housing. This type of land use highlights those neighborhoods in which existing conditions dictate the need for careful consideration of the types and densities of future residential development. Infill development and redevelopment must be designed so as to be compatible with the desired character of the neighborhood.

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

- Site: Single-family detached dwelling, zoned UR
- North: Across Newman Avenue, single-family detached dwellings, zoned UR
- East: Across Ott Street, single-family detached dwellings, zoned R-1
- South: Across Bruce Street, single family detached dwellings, zoned UR
- West: Multi-family dwelling, zoned UR

The applicant is requesting approval of a short-term rental (STR) operation at 293 Newman Avenue and describes the property as their primary residence. The property is located in the Old Town area of the City, at the intersection of Franklin Street and Ott Street. The property is a through lot, which means it has public street frontages on the front and rear of the lot. In this case it has frontage along Newman Avenue to the front and Bruce Street to the rear.

As stated in the applicant's letter, they desire to convert a detached garage in the rear of their property into "living space with a kitchenette, without a stove, to use as a short-term rental." The applicant states that they would rent to a maximum of three individuals. While the proposed operation is similar in scale to a homestay, the requested operation is not classified as a homestay because the space in which the property owner wants to operate the transient use is not within the principal building.

The applicant has been informed that if the SUP is approved, they will need to work with the Building Code Division to ensure that all Building Code requirements are met to convert the detached garage into living space. This will require a building permit or other trade permits be issued for the space and inspected and approved prior to its use as a STR.

Section 10-3-25 (28) of the Zoning Ordinance (ZO) requires STRs to "provide one parking space for each guest room or accommodation space, or as may be more or less restrictive as conditioned by a special use permit." With a request to rent for STR one accommodation space, the property should provide one off-street parking space. In addition to the off-street parking space required for the STR, the ZO requires one off-street parking space for the non-transient dwelling unit. Therefore, if approved, a total of two off-street parking spaces would be required. Currently, there is a driveway on the property that has a portion under a carport. Measured from

the edge of sidewalk to the detached garage, the driveway is about 70 feet in length, which would be acceptable space to accommodate both of the required off-street parking spaces.

If the request is approved, staff recommends the following conditions:

1. All STR accommodations shall be within the detached structure described in the application.
2. There shall be no more than one STR guest room or accommodation space.
3. The number of STR guests at one time shall be limited to three.
4. Prior to operation, the operator shall submit to City staff a completed Short-Term Rental Pre-Operation Form. Furthermore, the operator shall maintain compliance with the items identified in the Pre-Operation Form when short-term rental guests are present.
5. Minimum off-street parking spaces do not need to be delineated and can be accommodated utilizing the driveway or other areas on the property.
6. If in the opinion of Planning Commission or City Council, the short-term rental becomes a nuisance, the special use permit can be recalled for further review, which could lead to the need for additional conditions, restrictions, or the revocation of the permit.

It should be acknowledged that while the applicant has explained their operation plans for the STR, the SUP is not restricted to the applicant because the SUP transfers to future property owners. If the applicant was to sell the property, future property owners could operate a STR so long as they meet the conditions for the SUP as approved. How the STR could be operated by any future property owner should be considered when deciding on SUP conditions.

Because the City has approved multiple STR SUP applications in similar locations throughout the City and with comparable operating situations, staff recommends approval of the request with the suggested conditions. Staff believes that the proposed use is consistent with good zoning practice and will have no more adverse effect on the health, safety or comfort of persons living or working in the area and will be no more injurious, economically or otherwise, to property or improvements in the surrounding area than would any use generally permitted within the district.

There were two letters that came in and were forwarded to the Planning Commissioners today. You also have copies of those in front of you, as well.

Chair Finnegan asked if there any questions for staff.

Commissioner Armstrong said I have a long driveway at my house in Purcell Park. I was told by the parking permit folks that it only counts as one because you do not require a car to be moved in order to enter and exit another car. Clearly that would have to occur on this one, too. It is not the length so much. It is that there is only one entrance. If you are serving two households, that seems not adequate.

Ms. Dang asked for clarification about the parking permit folks.

Commissioner Armstrong said we have permitted parking. I was told by them that although it is long and can accommodate multiple vehicles, we can only count that as one parking place and therefore qualify for another parking permit.

Ms. Dang said I do not know what the context was in that situation. Zoning staff's interpretation of the Zoning Ordinance is that a driveway for a single-family residential home, we would allow those stacked vehicles [in a long driveway to count for more than one parking space]. If you have a townhouse or multi-family dwelling units, we expect those spaces to be delineated where you do not have to have vehicles...

Commissioner Armstrong asked would that not be the case here? You essentially are having two households, if you have the main house and the STR. Is that not two households?

Ms. Dang said we consider this as one household. It is one dwelling. The accessory use is a STR.

Commissioner Whitten said I do remember there being instances where we were told in neighborhoods that you could not count a space if you had to move a car to accommodate. It was not about permits. It was about off-street parking spaces. I do not know that it ever got changed. There was something in the ordinance that said that you could not have to jockey cars. That makes sense especially if there are two different entities using that same space. That can be problematic. Someone needs to move, and the other person is not there. I think that is a good point.

Ms. Dang said this condition, the way we have written it and staff's expectations are comparable to other STR SUPs in single-family homes. This continues to be a single-family home. It just so happens that the accommodation space is in a detached structure instead of in the same building.

Commissioner Armstrong said I disagree. Whether it is detached or attached is not the issue. The issue is having to move a vehicle for essentially two separate households. That primary house is supposed to be occupied when the STR is active.

Commissioner Byrd asked how many spaces does the driveway provide?

Ms. Dang said that it is 70 feet in length. The City's Zoning Ordinance, when we require spaces to be delineated, a space has to be 20 feet long. That is more space than what a typical passenger type vehicle would occupy. In this case, three to four vehicles would fit in that 70 foot long driveway.

Chair Finnegan said the average regulated parking space that we find in your average parking lot is nine by nineteen. Is that correct?

Ms. Dang said it is nine by eighteen. I said 20 feet in error. In this case the operator is the owner of the property. The operator does not have to be present during the rental period. Recall that our

regulations state that if it was a tenant renting the space from the property owner and the tenant was operating the STR, that tenant would have to be present during the operating time of the STR.

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.

Bradley Cohen came forward in support of his request. I have lived on Newman Avenue for a year now. I lived in Urban Exchange my first year out of college. I lived on Mason Street when I was in college. I serve on the HDR board as their president and have been connected to the community for the entire ten years that I have lived here. I chose to move Downtown again because I love it. I love being able to walk everywhere. I love the feel of the Downtown community. I love the old houses. The reason for asking for a SUP to create some ancillary income from it is the same reason that it is happening across the country right now. There is a massive move in real estate where people like to have some income coming out of their property, whether a basement, garage or attic apartment, or an accessory dwelling unit that detached from the structure, or multigenerational housing where families are combining an older generation that is trying to live more simply with people. It is a massive move across the marketplace, as a whole. Like any other person, I would like to have my mortgage offset. Why the garage as opposed to anywhere else in the house? It is a separate structure and that creates a bit of a buffer zone that, not only for my personal quiet enjoyment, also creates a quiet enjoyment for anyone who is going to be staying with me. As to the parking issue, we are a one car household. I have a street permit for my own vehicle. We fit four cars end to end in that parking area without any issues. I do not believe it is going to cause any additional street traffic issues or street parking issues if we do have anybody staying on the property.

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

Councilmember Dent said when I went by to see the site, I noticed that it had a garage door. Is the garage door going to be the entrance or do you have a separate door?

Mr. Cohen said that it will be built out. In my discussions with Planning and Zoning and with the Building Official, prior to beginning this process, I wanted to be forthcoming with what I wanted to do. This is very in line with what we are trying to go through as a City with the Zoning rewrite to create more density, to create more flexible opportunities. I know that I may be ahead of the times, but we discussed that in detail. I told them that I have this 20 x 20 square foot building that would make a great affordable housing unit, if it could. Unfortunately, zoning does not allow it to be that right now. I wanted to go ahead and proactively start moving towards that direction and build it out as a STR. That 20 x 20 unit stores a couple of shovels. Otherwise, it is useless to me. We are going to frame in the front of that structure and make it a doorway.

Chair Finnegan said, to clarify, there is no one living there right now.

Mr. Cohen said no.

Commissioner Whitten asked what the cost of the rental would be.

Mr. Cohen said that it would be in line with comparable rentals for a STR unit in the Downtown area. There is the yellow house on Campbell Street and the one that was just approved on Franklin Street. During non-peak times, the house on Campbell Street is \$100 per night. That can ebb and flow based on demand.

To address the email sent by one of my neighbors expressing concern about renting the entire house on the weekend, I attend every football game. I am a donor to the JMU Duke Club. I have a parking pass. We buy four tickets every year. It is not my intention to rent it out for the weekend. I also can very rarely, as a real estate agent in a busy market, step away for a weekend. It is a completely invalid concern. It is not going to be inside the primary residence. As is requested by staff, the limit of the use for the SUP is applied directly and only to the detached structure.

Chair Finnegan said to clarify some of the concerns, here, we are not questioning you or your role in the community. You will not own the house forever. This [special use permit] will convey with the house.

Commissioner Whitten said being realistic, you can appreciate this. When you add something that adds value to a home, it also adds to the price tag of the home, causing everybody else's property value to go up. Which seems like a good thing, but when you are concerned about affordability, it is not always a good thing.

Mr. Cohen said ultimately my hope would be that in the next couple of years, as the zoning rewrite goes through, you could retrofit and add a stove and then you could have accessory dwelling unit that could be rented as an affordable housing unit for \$500 to \$600 per month. That could be a longer stay. Unfortunately, because of where the zoning sits currently, I am not able to do that. That was my goal in the long term and when I first started the process. I did not want to go through the process of doing a STR. I was thinking about the fact that there are no small apartments for people to rent. Unfortunately, I am a little ahead of the times on that. If the concern is affordability, I would hope that as we amend the Zoning Ordinance, that is going to be a more attractive thing for people, in the long term. The rise of the trend across the country of having accessory dwelling units and having ancillary properties occur within the four corners of your property that create income for people, it does increase the affordability. That could be cross-leverages through the mortgage process as income from the property.

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

Commissioner Armstrong said the last comment that was made twice and cited that this is a national trend equated STR with dual rentals on the same property. They are not the same thing. I did a quick search. I want to clarify that we got two letters from the neighborhood, not just one letter. I did a quick search and found a peer-reviewed journal that found an increase in crime with the proportion of households that have STR on site because of a fragmenting of the neighborhood cohesion and communication. It is really pointing to a fragmenting of the fabric of the neighborhood. It was not the number of people who rented. It was not the frequency of the rentals. It was proportion of homes, properties, that have STR permits. I wanted to bring that up. I think that at a time when we need more cohesion, more civic responsibility, more civic engagement, this is not the direction to go.

Chair Finnegan asked Commissioner Armstrong to share the article with the commissioners. I would be interested to see that. Having not seen it, I would be interested to know if those are STRs that are not occupied as a primary residence by the owner. Does it make a distinction?

Commissioner Armstrong said I read it quickly. I do not know.

Commissioner Whitten said I am not sure how you would know that. That would be a hard thing to know. I will note that one of the letters came from one of the neighbors right across the street. That is pretty close for someone who has concern. The other one, was from someone on Ott Street. It may be the other direction across the street. He does reference Savannah, Georgia and some of the horrible things that have happened to historic homes. When we are talking about historic homes in Savannah, it is a whole different level of historic home. That is my hometown. I know it has been a negative in so many ways there, as short-term rentals taking away from the fabric of the neighborhoods. I would be remiss not to mention that.

Chair Finnegan said the one just down the street from this, on Franklin Street, came up in January. I do think that one distinction for me is that applicant said that he “inherited a renter that was in the unit when we bought the residence. She had a lease, so we could not immediately evict her.” That stood out to me. All of these are different. This one is currently occupied by shovels and mice. To me that is a distinction. We are not taking housing off of the market and turning it into STR.

Commissioner Byrd said that when we consider these, we tend to have the condition that mentions that City Council has the option to revoke it if it becomes a nuisance. Since someone mentioned that there was a study done, it makes me wonder if that was a perfect opportunity to know more about how that city considered if that is a way to evaluate if that is a nuisance. We always wonder how we will know if it is a nuisance or not. Do the neighbors complain about the residents in that property? If it is really becoming a nuisance, then the neighbors are going complain and then City Council can consider whether the STR is becoming a nuisance in the neighborhood and invoke the condition that is in the SUP.

Chair Finnegan said the City does track zoning complaints. We can ask staff, when we get to that, how we are tracking that.

Commissioner Byrd said we keep speaking of these things as if they will create problems. People say they have created problems. I wonder, what was the response? If we can just take it away, if it is viewed as a problem.

Chair Finnegan said I do not think that it is that easy. Mr. Russ, can you talk about this? What is the process?

Mr. Russ said that we have never had to do it. It could come up in different ways. If someone complained to a City Council member, City Council could direct staff to look into it and begin the process. If Planning and Zoning received multiple complaints, attempted to abate the violation and it continues happening, we would bring it to Planning Commission's attention. Planning Commission could make a recommendation to City Council to revoke. Basically, you would have to go through the same steps as you would when you are issuing a SUP. You would need a public hearing and it would go to City Council. I suspect the more difficult thing would be... Let us say that you are a neighbor and there were large parties on the weekend. You would call ECC and complain. You might reasonably suspect that you have alerted the City to the issue. You might not realize that you need to call Planning and Zoning and let them know that there is a land use issue with the property, not a non-emergency police issue. That is my concern. Those complaints may not filter their way to the people who need to know about them. We do not have a great process to make sure that every department knows everything that they need to report to other departments.

Commissioner Armstrong said I want to clarify. I think there was a bit of a misunderstanding. The study I was talking about was looking at a neighborhood. It was comparing neighborhood crime rates overall. It was not that individual properties were a nuisance. It was not complaints about the STR. It was looking at the crime rate overall for neighborhoods and in neighborhoods that had a higher proportion of STRs. The theory was that the STRs are disrupting some of the cohesion of the neighborhood that allows for a certain amount of neighborly crime watch and so on that happens in neighborhoods. It was talking about the social fabric across neighborhoods with the introduction of these. This is academia. This is a peer-reviewed journal. This is not a city report.

Chair Finnegan said that because we do not have that document in front of us and we have not had a chance to review it, I would like to not refer to a document that none of us have read, at this time. I would like to see it. I am interested in seeing it.

Commissioner Armstrong said I have read it. We do not have to refer to it. We just have to consider the issues that I am raising.

Chair Finnegan said I would be interested to see it.

Commissioner Armstrong said the issue still remains, whether you have read it or not.

Chair Finnegan asked Commissioner Byrd does that answer your question?

Commissioner Byrd said I am not going to comment on something that I have not been able to read.

Councilmember Dent said what strikes me as unique, or a first in this one, is the reverse path from the other request that went from a long-term to short-term rental. This is a path to a long-term rental by way of a STR because that is what you can do now. Since we know that we are working on the Zoning Ordinance, which is still under debate, the goal is towards greater density and allowing accessory dwelling units and so on. I would support that path.

Chair Finnegan said I would agree. I lean in support of this.

Commissioner Whitten said I would challenge that thinking because I think it would be quite unique for someone to want to rent a space for less money than they could rent it for. If the intent was to supplement their mortgage, it seems like you would go for the higher number which would be the STR. It is probably three times what you could rent a small, efficiency apartment for. I do not think that we should necessarily consider that with so much weight. I think, realistically, this owner is not going to live there forever and whoever does live there may very well think they want to rent it for the most that they can without regard to whether the zoning has been changed.

Councilmember Dent said the STR would be sporadic, so I could see wanting the continuity of the long-term rental. A question for staff, would there be a change from the STR to the long-term rental in the hypothetical future when we allow accessory dwelling units, or could it still be used for either depending on the owner?

Chair Finnegan said if they are getting a STR agreement, that would be the use for this. If the City does a blanket rewrite of the zoning, that would not change the fact that there is a STR here. It would allow, if they wish to, for them to rent year-round. Is that correct?

Ms. Dang said whether this property can convert the detached garage into a long-term rental is yet to be determined. It would depend on what minimum lot sizes we might establish, what regulations we would have in place, and what zoning district we would allow it in. In general, what you say is true. The STR SUP would remain with the property. I cannot speak to this property what the new ordinance would allow or not allow for the long-term rental.

Chair Finnegan said that there are a lot of "ifs."

Commissioner Baugh said there are a lot of "ifs," but it would be not impossible. A property owner could decide to do this. In the marketplace, it would be unusual for somebody to voluntarily change when they have already established a pattern and an income level to go back to something else. I think that if we like the idea of this being a long-term rental down the road, subject to zoning changes, then it probably does not make sense to let it be a STR now. I am

skeptical that, even as a general proposition, somebody who is making X-plus on it for whatever they are doing, there will be a lot of movements to go back and say, well I will just take X because I like that better. You might see an instance, but I do not think you could expect to see that.

Chair Finnegan said that is a valid point. We do not know what is going to happen with the zoning rewrite, so we are dealing with the realities of what is before us now.

Commissioner Whitten said I agree. It is the same as an article that you have not read.

Commissioner Armstrong said the point I was bringing up were the points that are in these two letters from the neighbors. This is not a remote issue.

Commissioner Whitten said in the case on Franklin Street, he had it rented long-term and did not love that. He had a tenant that was not so great.

Chair Finnegan said I intend to vote in favor of this request. I have several STR on my street and I have not seen that breakdown on my street. I am not saying that it is not happening elsewhere in the City or elsewhere in the country.

Commissioner Byrd moved to recommend approval of the SUP request with the suggested conditions.

Councilmember Dent seconded the motion.

Chair Finnegan called for a roll call vote.

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

The motion to recommend approval of the SUP request passed (4-3). The recommendation will move forward to City Council on May 10, 2022.

A motion was made by Byrd, seconded by Dent, that this PH-Special Use Permit be recommended to City Council, due back on 5/10/2022. The motion carried with a recorded roll call vote taken as follows:

Yes: 4 - Finnegan, Orndoff, Byrd and Dent

No: 3 - Whitten, Baugh and Armstrong

4.b. Consider a request from Devon Lane LLC for a special use permit to allow reducing required parking areas at 716 & 722 Foley Road.

Commissioner Baugh said the Virginia State and Local Government Conflict of Interests Act requires that I make disclosure, to be recorded in the City records, in any matter in which I am prohibited by law from participating. Therefore, I make the following disclosures:

1. The transaction involved is the item taken up on the April 13, 2022 Harrisonburg Planning Commission Agenda as Item 4(b), a request for a special use permit.
2. My personal interest in this transaction relates to the ethical requirements to which I must adhere as a licensed member of the Virginia Bar.
3. I affirmatively state that I will not vote or in any manner act on behalf of the Planning Commission in this matter.

Commissioner Baugh left Council Chambers.

Chair Finnegan read the request and asked staff to review.

Ms. Dang said in 2021, Planning Commission (PC) recommended approval (6-0; Baugh recused) and City Council (CC) approved (5-0) the applicant's request for a special use permit (SUP) per Section 10-3-48.4 (6) of the Zoning Ordinance (ZO) to allow multiple-family dwellings of up to 12 units per building on the subject property. The following conditions were approved with the SUP:

1. All newly constructed multiple-family units shall be efficiency, or one- or two-bedroom units.
2. Prior to issuance of any certificate of occupancy for multiple-family dwellings, the property owner shall dedicate necessary public street right-of-way to encompass curb and gutter plus 0.5-ft., and deed a public sidewalk easement to include the remainder of the two foot wide grass strip, a five foot wide sidewalk, and 0.5-ft behind the sidewalk. The future curb and gutter location shall be equidistant from the street centerline similar to what exists across the street.
3. The entrance at Foley Road to serve multiple-family building(s) on the site shall be no greater than 30 feet wide.
4. The special use shall be established, or any construction authorized shall be commenced and diligently pursued within five years from the approval date of the special use permit.

The December 14, 2021 CC minutes, including agenda packets and the extract of minutes from the November 10, 2021 PC meeting, is available at:

<https://harrisonburg-va.legistar.com/Calendar.aspx>.

The Comprehensive Plan designates this site as Medium Density Residential. These areas have

been developed or are planned for development of a variety of housing types such as single-family detached, single-family attached (duplexes and townhomes), and in special circumstances, multi-family dwellings (apartments). Depending on the specific site characteristics, densities in these areas should be around 15 dwelling units per acre. Non-residential uses may also be appropriate.

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

- Site: Single-family detached dwellings; zoned R-3
North: Across Foley Road, single-family detached and duplex dwellings; zoned R-3
East: Single-family detached dwelling; zoned R-3
South: Single-family detached, duplex, and multiple-family dwellings; zoned R-3
West: Single-family dwelling; zoned R-3

The applicant is requesting a special use permit (SUP) per Section 10-3-48.4 (3) of the Zoning Ordinance (ZO) to allow reducing required parking areas to permit fewer than the required number of vehicle parking spaces, provided that an amount of open space equal to the amount of space that would have been used for the required number of vehicle parking spaces is left available for parking in the event that, at the discretion of the City Council (CC), it is needed at some time in the future. This request is associated with the applicant's plans to keep two existing single-family detached dwellings on the property, to vacate the property line between the two parcels, and then to add a three-story multiple-family building consisting of 11 efficiency dwellings. As part of the SUP request, the applicant is requesting approval be granted for three years from the date of approval.

Given that the applicant plans to maintain the two existing single-family detached dwellings, the R-3 district requires 12,000 square feet of lot area be allotted to those two units (6,000 square feet per single family detached dwelling), which then leaves enough square footage to construct up to 11 multi-family units. With regard to required off-street parking, one parking space shall be provided for each single-family detached dwelling. Per Section 10-3-25 (7) of the ZO the parking requirements for multi-family dwellings in R-3 includes:

- 1.5 spaces for each dwelling unit with one bedroom
- 2.5 spaces for each dwelling unit with two or three bedrooms
- 3.5 spaces for each dwelling unit with four or more bedrooms

If all 11 multi-family dwellings contain no more than one bedroom, then 17 off-street parking spaces would be required per the ZO. However, if all 11 multi-family dwellings contained two-bedrooms (the maximum number of bedrooms allowed per the 2021-approved SUP), then 28 off-street parking spaces would be required. At this time, the applicant plans to construct 11 efficiency or one-bedroom dwelling units. The SUP requested herein is to essentially allow the property owner to provide only one parking space per efficiency or one-bedroom multi-family unit rather than to provide the ZO's typical 1.5 parking spaces per unit.

The applicant describes in their letter that they have not yet retained a professional engineer for the

project. However, the applicant has provided a photo mockup showing where 17 off-street parking spaces could be located on the property and has provided a letter from a professional engineer, who, among other things, stated they believe that there is sufficient land to build 17 parking spaces. The applicant is aware that the Building Code requires handicap accessible parking spaces and access aisles be provided for apartments (multi-family dwellings) and that a submitted site plan for the new construction will need to show the reserved open space area for parking if CC determines it is required. The applicant also understands that, if the SUP is approved, the area that would have been used for parking must be recorded in a deed, must remain as open space, and shall not be used to meet any conflicting requirements of the ZO.

During the 2021 SUP review, which allows for the planned multi-family units on the subject property, some might recall the following issues being discussed: the dedication of right-of-way, the deeding of a public sidewalk easement, and the construction of sidewalk and frontage improvements. At that time, City staff recommended a condition which, among other things, would have required the property owner to construct sidewalks along the property's frontage. The condition did not require full street widening improvements such as curb and gutter.

However, PC disagreed with staff's recommendation and instead recommended the following condition that was ultimately approved by CC, which does not require sidewalk construction:

“Prior to issuance of any certificate of occupancy for multiple-family dwellings, the property owner shall dedicate necessary public street right-of-way to encompass curb and gutter plus 0.5-ft., and deed a public sidewalk easement to include the remainder of the two foot wide grass strip, a five foot wide sidewalk, and 0.5-ft behind the sidewalk. The future curb and gutter location shall be equidistant from the street centerline similar to what exists across the street.”

While staff understands that CC approved the SUP without the condition to require sidewalk construction by the property owner, staff believes that this topic should be revisited because some tenants might not have vehicles. Earlier this year the property owner was selected to receive \$350,000 of gap funding from the Central Shenandoah Planning District Commission (CSPDC) so that the subject multi-family project could provide income controlled affordable housing units. According to the CSPDC, at this time the contract has not been officially finalized, however, the plan is for this project to provide affordable housing units up to 60% area median income for a 20-year period. In knowing this detail of the project, it likely increases the potential that individuals that reside within the units might not have a vehicle and might rely on public transportation, and therefore sidewalk construction is essential for the residents. Residents without vehicles will have limited transportation choices and access to public transit may be their best option, provided they feel comfortable walking to the nearest bus stop. City bus Route 2 has a southbound bus stop that would transport people from the nearest bus stop to Sentara RMH in under 10 minutes. In addition, City Route 1 has a northbound bus stop on the other side of Reservoir Street that could get people to the Valley Mall in under 10 minutes with bus stops not much further at several other commercial and employment centers. (Note that there is no

crosswalk at the intersection of Reservoir Street and Foley Road and that people will need to walk across four lanes of traffic to reach the northbound side of Reservoir Street.)

While a 200-foot long segment of sidewalk along the front of the subject property may appear negligible compared to the overall need for sidewalks on Foley Road, the City has a large backlog of sidewalk construction needs all across the City because sidewalk construction was not required years ago when streets were being constructed in the City or the City acquired streets without sidewalks during annexation. When public funding is available, the City has used those funds to retrofit legacy development. In general, staff believes it is not responsible to allow larger-scale housing to be constructed without sidewalk when residents will be walking in the street because they have no other choice than to walk. Sidewalks are an essential service for people who do not have cars. Therefore, staff recommends a condition with this SUP to require the construction of sidewalks.

Staff believes that the SUP to reduce parking shall only be applicable for efficiency and one-bedroom multi-family units up to a total of 11 units, which is what the plan is for the subject property. In conclusion, the requested SUP is consistent with good zoning practice and will have no more adverse effect on the health, safety or comfort of persons living or working in the area and will be no more injurious, economically or otherwise, to property or improvements in the surrounding area than would any use generally permitted within the district. Staff recommends approval of the special use permit to allow a reduction in the required parking areas on the subject property only with the following conditions:

1. Reduction in required parking shall only be permitted for efficiency or one-bedroom multi-family units up to a total of 11 such units, where one parking space per unit may be provided.
2. Prior to issuance of any certificate of occupancy for multiple-family dwellings, the property owner shall construct a five-foot wide public sidewalk along the entire length of the property frontage. The sidewalk may be located within dedicated public street right-of-way or within a deeded public sidewalk easement so long as 0.5 feet of right-of-way or easement area is provided beyond the width of the sidewalk infrastructure. Furthermore, the property owner shall be responsible for engineering design to ensure that the sidewalk is constructed at the appropriate grade and location for future construction of curb and gutter and any other street widening by the City.
3. The special use shall be established, or any construction authorized shall be commenced and diligently pursued within three years from the approval date of the special use permit.

Chair Finnegan asked if there were any questions for staff.

Commissioner Whitten said I remember that a sidewalk does exist across the street.

Ms. Dang said that is correct, (referring to the PowerPoint slide) along the frontage of these three buildings here there is maybe 100 foot of sidewalk length on the other side.

Commissioner Armstrong said she was confused about the five years to three year distinction in the third condition. Are you suggesting that it be reduced from five years to three years?

Ms. Dang said that the applicant had requested the three years in their application. The five years is from their previous application in 2021. They had requested a five-year period for that SUP. I recall conversations with the applicant that with this project moving forward, potential grant money coming in, he felt that the three years was adequate.

Commissioner Whitten said I also remember the applicant speaking about the expense of the sidewalk and affordability of the apartments. That was a factor in keeping the affordability, which we want. Is that correct?

Ms. Dang said I recall that.

Chair Finnegan asked was that before the CSPDC income controlled affordable housing unit grant?

Mr. Fletcher said that the applicant had not applied for the grant at that time. It was before the grant.

Chair Finnegan said that might offset it somewhat. One thing that I have brought up before, and I brought up in the CIP, is the difference between a sidewalk and a multi-use path. What is important for me is that people have a safe place to walk, whether it is made of concrete or whether it is made of asphalt. This would be a sidewalk. I hope this is something that we can look at when we are looking at redoing zoning. If we are concerned about affordability and we can have for a lesser amount of money something that is functionally a sidewalk that is less expensive than a sidewalk. There is one right in front of Bluestone Elementary School.

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

Ms. Dang said we did expect the applicant to be here tonight, but I do not see them in the audience. The applicant did submit a letter. A copy is in front of you.

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.

Commissioner Byrd said the request is to reduce parking. That is considering that more people are walking. That would make me more in favor of having a sidewalk for those people to walk on as this road is going to be done piecemeal over time.

Chair Finnegan said I remember that when we had this discussion before, it was this sidewalk is

not connected to any other sidewalk. It just ends. It is the chicken or the egg issue. There is no sidewalk because there is no sidewalk. If we do not require sidewalks, there will never be a sidewalk.

Commissioner Whitten said that the reduction in parking is the same as we have done for others in terms of leaving it in grass and space that could be usable to the tenants of this building that do not have to be asphalt or concrete or gravel. To me that is a plus. The proviso is that if City Council decides that those parking spaces are needed, the space is there for those parking spaces. I do not like making a decision about the sidewalk and then having this thrown in. I feel like that decision has been made. We thought it through. Whether or not there was a grant. Whether or not there was a parking offset. I know that the applicant is aware. He said that in his letter. I am not crazy about that either.

Chair Finnegan said, to clarify, you are not crazy about requiring a sidewalk as a condition.

Commissioner Whitten said now, as a condition now that they do not want to build these parking spaces. What I get from this letter is that he would like that to be greenspace, space for a picnic table or a play space, space that could become communal for the residents. I think that is very important. I think that is what we talked about in the first case, the fabric of the neighborhood or community.

Commissioner Armstrong said I share the view that we have made this decision about the sidewalks. It is odd to have it rolled into this proposal. I have not changed my opinion about that original view of this requirement that we decided was not essential. I like the idea of reduced parking. We have been talking about that in lots of different contexts.

Chair Finnegan said I recently read this book *The High Cost of Free Parking* by Donald Shoup. It talks about off-street parking requirements. I want to negotiate in good faith with anyone who wants to reduce parking requirements while also allowing for, as Commissioner Whitten said, green space that could turn into parking spaces if the number is too low. I do support the reduction in parking. I am on the fence about the conditions. I could go either way on that. The reason why, earlier, I raised a shared use path, as opposed to a sidewalk, is because people need a place to walk. Ideally, that is a sidewalk. If you look on Reservoir Street, next to Wal-Mart, there is literally nowhere to walk. There is no space. There is a guardrail where people have to step over.

Commissioner Byrd said rereading the original wording that currently exists on the property, not the suggested one. It goes from that area being dedicated to us saying build the sidewalk now. Having reread that part, I think it is still set off for when the sidewalk needs to be built. It will be built.

Chair Finnegan said that to staff's point, we have seen the CIP and the backlog of sidewalks that the City has. I think that was another way of saying that the City is not going to get to that

sidewalk anytime soon.

Commissioner Byrd said I remember that there was the issue of that whole side where there was no sidewalk, whereas the other side has some sections of sidewalk.

Chair Finnegan said what is before us right now is alternative (a) Recommend approval of the SUP as submitted, without the conditions, or (b) staff's recommendation to approve the SUP with suggested conditions.

Ms. Dang said that you could also consider alternative (c) with modified conditions.

Commissioner Whitten asked Ms. Dang to bring up a map of the area on the screen and asked, across the street where the sidewalk is existing, the apartments that are to be built on Reservoir Street would that include the rest of the sidewalk on the other side of the street being completed to the corner, correct?

Mr. Fletcher said yes.

Commissioner Whitten said that would connect to Reservoir Street making it a complete sidewalk. That is a lot more than they have on Ott Street right now. It is apples and oranges to some degree.

Mr. Fletcher said another thing to consider when sidewalk is constructed along a frontage, or it exists along a frontage, is that when adjacent properties that develop or subdivide, our subdivision regulations have the requirements in place that state that the other property owner has to extend it. Once it is in place, if the adjoining properties subdivide or create a development, it is required. In this instance, for example, if you look across the street to the left of Sour Cherry Court, if that individual wanted to demolish that single-family home and subdivide it into three townhome lots, that process requires them to construct a sidewalk. While the City might not get here in the near future, other private development might beat us to the punch and fill in some of those blanks. Once that sidewalk goes in there, there are other opportunities that come to pass.

Ms. Dang noted that the applicant arrived.

Chair Finnegan reopened the public hearing and invited the applicant to speak to the request.

Frank Gordon, Manager, Devon Lane LLC, came forward in support of his request. My request is to have a reduced amount of parking at this location. The fact that the City has an ordinance that allows for this suggests that there are occasions in which it is preferable to have less parking. I think it is very important to remind ourselves that the ordinance which allows this also makes clear that the City Council reserves the right to change their mind about that at any point in the future. I would go into this request with the knowledge that that could occur. As a part of that, to make that an easier decision, I have indicated that I would have my engineer demonstrate on the site

plan where that would be if that is required. It is also possible that the marketplace indicate that it needs to be converted back into parking. As I indicated in the letter, which may have not had a chance to read since it came out later, I am aiming this project for people of a lower income. Having a lower income presents a number of challenges but it does not eliminate certain human needs, an opportunity to connect with nature, an opportunity to meet your neighbors and earn a friend, or a chance to enjoy the outdoors on a pretty day. My plan for this additional six parking spaces that I would have held in reserve to be built if needed, or if demonstrated by the Council that they wanted it later, is a grassy area with perhaps a picnic table. I think that would be a great amenity for this. I am trying to make this a pleasant place to live for the people who live there.

I feel like I have a very positive working relationship with Planning staff. I am well aware of their desire to have as much concrete and asphalt as possible. However, I also know that a few months ago, the Planning Commission and City Council thought about this matter carefully. I was honored to have a number of you come to this site to look at it in person. I feel like you had a robust discussion about whether we should require parking at this time. You have heard Mr. Fletcher indicate that if someone builds next door, they could be required to have parking. I would respectfully point out that he did say that if they tore it down and built it up, that the people next door had a plan to make that into four units and to expand housing for community members. That is not going to happen. They are not going to do that. Instead, what we have is a student rental house based on the out of state license plates in the parking lot. From a practical matter, based on what they paid for the property, they are never going to tear that down and build townhouses. It is not going to happen.

What I disagree with staff about is to have you reverse your decision that you made four months ago even though none of the circumstances involved in making your original decision have changed. I told you at the time that I wanted to have an affordable place to live. We pointed out the practical point, as Mr. Byrd has said about deferring construction. I ceded to every single request that staff has made for an actual six inch strip and an easement, even things that they asked for that came up between your meeting and the City Council meeting I said they could have. As I was discussing with Ms. Dang the other day, when I was growing up, if I asked my dad, "Can I borrow your car?" and he thought about it and he said, "No" I did not come back ten minutes later with no change in circumstances and ask him again. The reason for that is because I respect his capacity to make a reasoned decision and his authority in doing so. While I get along great with the staff, I would appreciate it if they would respect your capability to make a reasoned decision and respect your authority to do that. It is not just you who have done that, but City Council has unanimously decided that they agreed with you. I was pleased to see that Dr. Armstrong, having seen it, and being an avid walker herself, said that this does not affect walkability on that street. She was right four months ago. She is right now. I would respectfully ask that you demonstrate that the decision you made originally is a sound one. The composition of the Planning Commission has not changed. The circumstances on this street have not changed. The project has not changed. Nothing has changed. They just did not like that you did not agree with them and now they are asking you, after I have made plans and budgets for this project that will increase the number of efficiency units in this City by five percent with this single project, they

did not like what you said so they want you to change your mind. You just told them no. Thank you for the opportunity to speak even though I was tardy. It was not intentional on my part but a mistake in terms of what time the meeting was.

Chair Finnegan asked if there were any questions for the applicant. Hearing none, he closed the public hearing and opened the matter for discussion.

Councilmember Dent said I tend to agree that this is a bait and switch on the part of staff, that we have already approved it.

Mr. Fletcher said I want to clarify a few points. Staff definitely does not want to have a bunch of asphalt. The circumstances in this case are that, while we recognize that a decision was made, the circumstances in our minds have changed because of the request to reduce the parking indicating that there would not be as many people with vehicles indicating that more people would be walking and to necessitate our need from a philosophy across the City that sidewalk is a desired amenity to have in neighborhoods. It was not that we disrespected your decision, or City Council's decision. In fact, we debated that quite a bit among staff. After communicating with the Department of Public Works, we talked about the lower income individuals and not overlooking the fact that they should also have sidewalk in their neighborhoods. We felt it prudent to offer the recommendation to capture an opportunity to bring that sidewalk to fruition.

Councilmember Dent said the other thing that has changed is that they won this grant. I do not think that is a reasonable request to take advantage of that to have them build a sidewalk, too. I am on the CSPDC Board of Commissioners. I know that the purpose of that was to provide affordable housing. They applied for the grant as we approved it before, and they got the grant. I do not think that should be a consideration for now requiring the sidewalk either.

The commissioners discussed the conditions they would include with their recommendation.

Commissioner Armstrong moved to recommend approval of the SUP with conditions 1 and 3 as proposed by staff, but not including condition 2.

Commissioner Whitten seconded the motion.

Chair Finnegan called for a roll call vote.

Commissioner Armstrong	Aye
Commissioner Baugh	Recused
Commissioner Byrd	Aye
Councilmember Dent	Aye
Commissioner Orndoff	Aye
Commissioner Whitten	Aye
Chair Finnegan	Aye

The motion to recommend approval of the SUP passed (6-0). The recommendation will move forward to City Council on May 10, 2022.

Commissioner Baugh returned to meeting at the conclusion of this item.

A motion was made by Armstrong, seconded by Whitten, that this PH-Special Use Permit be recommended to City Council, due back on 5/10/2022. The motion carried with a recorded roll call vote taken as follows:

Yes: 6 - Finnegan, Orndoff, Byrd, Whitten, Armstrong and Dent

No: 0

Abstain: 1 - Baugh

5. New Business - Other Items

5.a. Consider a request to close a public alley located between East Fairview Avenue and Port Republic Road.

Chair Finnegan said pursuant to the Virginia State and Local Government Conflict of Interests Act I make the following disclosure: I am an employee of James Madison University, the applicant, and I am able to participate in the discussion and adoption of a recommendation in this matter fairly, objectively and in the public interest; therefore, I will participate in the discussion and vote upon a recommendation in this matter.

Chair Finnegan read the request and asked staff to review.

Ms. Dang said the following land uses are located on and adjacent to the property:

- Site: Public alley right-of-way, zoned R-1
- North: Across East Fairview Avenue, vacant properties and single-family detached dwellings, zoned R-1
- East: Vacant properties and single-family detached dwellings, zoned R-1
- South: Across Port Republic Road, commercial properties and single-family detached dwellings, zoned R-3 and R-1
- West: Vacant properties and a parking lot, zoned R-1 and R-3

The City, on behalf of James Madison University, requests to close a 20 feet wide public alley right-of-way that is located between East Fairview Avenue and Port Republic Road. The Visitors of James Madison University owns all adjacent parcels. At this time, the University’s plan for the alley is to repair and maintain it for continued access to the single-family detached dwelling at 25 East Fairview Avenue and the parking lot at 1230 South Main Street, which are both owned by the University. If approved for closure, it is planned that the alley would be added to tax map parcel 18-P-1, which is addressed as 10 Port Republic Road.

University representatives have been informed that if trash service for the dwelling at 25 East Fairview Avenue is to continue, then the toter (trash can) must be brought to East Fairview Avenue on trash day. City records indicate that there are no water or sanitary sewer mains and no stormwater facilities within the alley. Harrisonburg Electric Commission and Columbia Gas both have utilities within the alley. Thus, easements will be reserved for their utilities.

Staff recommends approval of the alley closing request.

Chair Finnegan asked if there were any questions for staff.

Chair Finnegan said, to clarify, typically do alley closures, in general, to my memory, staff usually recommends against them. At least the more recent ones that we have had.

Ms. Dang said the other recent ones that we had were in neighborhoods where we thought there would be opportunity for the traditional neighborhood design that we have talked about where people could access the rear yards and park in the back using the alley. In this case, given the surrounding land uses existing there and the fact that the University owns all the adjacent parcels, we are of the opinion that we leave it up to them to determine. It is along Port Republic Road in a way unlike other common requests that we have gotten such as in the Northeast Neighborhood area. It is a different gridded pattern than what is available here.

Commissioner Armstrong asked when you say closing, are you talking about the end that abuts Port Republic Road would become no longer open? Is that what it means to close?

Ms. Dang said closure in planning language, I can see how it can be misunderstood. The intent for the City to close it is for the City to give up ownership of it. The University's intention is to keep it open at this point in time, as it serves the parking lot.

Commissioner Whitten asked does that alleyway go in just one direction? In other words, can you turn right off of Port Republic Road onto that alley to access that parking lot? When you come out of the parking lot, would you have to go out at Fairview Avenue, or can cars come back out onto Port Republic Road? That could create some traffic issues. I have never seen a car coming out of there.

Ms. Dang said it could.

Commissioner Whitten said I do not think it is a great idea. It seems like it should go one way to Fairview Avenue instead of both ways.

Ms. Dang said it is not marked to prohibit drivers from going...

Commissioner Whitten asked if we wanted to close it, could we say this is what we think would

be the safest.

Mr. Fletcher said there is an arrow pointing in.

Councilmember Dent said when I drove it, I drove out to Port Republic Road. Only as I was about to exit did I see there is an arrow going in.

Chair Finnegan said when we say closure, we mean the City is giving up this land, not that we are blocking it off.

Councilmember Dent asked is that giving it up as in selling it?

Mr. Fletcher said it would no longer be owned by the City.

Chair Finnegan said I do not know the financial transaction that would be involved there. I mean, Mr. Fletcher's point, it would no longer be owned by the City.

Commissioner Baugh said they have to buy it from the City.

Chair Finnegan added as with other alley closures.

Councilmember Dent said I also wondered what is going on with that single-family house next door because I saw that JMU owns all the adjacent properties. You just answered that they are renting it to a family.

Commissioner Byrd said the last time we saw an alley closure it was surrounded by the same owner. I was for it because all the land around it was owned by the same person, and they are the one using it. This is not truly a residential section because if the University does not want to keep that one residence, they can decide to not do that. That is their purview. I would be in favor of closing this alley.

Chair Finnegan said this is ripe for redevelopment. It is a parking lot. I do not think it will be a parking lot for very long. In my mind, a parking lot is not the best and highest use of that section of property.

Commissioner Whitten said it stays full all the time, and the one across the street, the next block up on Main Street. It is still very residential.

Chair Finnegan said we had a presentation in perhaps 2018. Someone from JMU gave a presentation on the Master Plan.

Commissioner Whitten said they own the rest of it, so I do not see a problem with it except for that traffic pattern. I would like to see them make it one-way. It seems safer.

Commissioner Whitten moved to recommend approval of the alley closure.

Commissioner Orndoff seconded the motion.

Commissioner Armstrong said this is not greenspace and it does not change the walkability of this area because there is a sidewalk all along the north of Port Republic Road and it is very close to Main Street. For those two reasons I would support this.

Chair Finnegan said I agree with Commissioner Armstrong.

Chair Finnegan called for a roll call vote.

Commissioner Armstrong Aye
 Commissioner Baugh Aye
 Commissioner Byrd Aye
 Councilmember Dent Aye
 Commissioner Orndoff Aye
 Commissioner Whitten Aye
 Chair Finnegan Aye

The motion to recommend approval of the alley closure request passed (7-0). The recommendation will move forward to City Council on May 10, 2022.

A motion was made by Whitten, seconded by Orndoff, that this PH-Action Item be recommended to City Council, due back on 5/10/2022. The motion carried with a recorded roll call vote taken as follows:

Yes: 7 - Finnegan, Orndoff, Byrd, Whitten, Baugh, Armstrong and Dent

No: 0

6. Unfinished Business

None.

7. Public Comment

None.

8. Report of Secretary & Committees

8.a. Proactive Code Enforcement (On Hold)

On hold.

8.b. Rockingham County Planning Commission Liaison Report

Chair Finnegan said there were two items. A rezoning from A-2 General Agricultural to B-1 General Business on Garbers Church Road and John Wayland Highway. That was in district two. There was some public comment, but there was not much opposition or discussion. It was approved unanimously. There was a request to rezone 29 acres from A-2 General Agricultural to B-1 General business on East Side Highway, in district five. There was an error when they rezoned from I-2, which no longer exists, to A-2 they identified this incorrectly on the tax map, so it was a housekeeping item. It was approved unanimously. There were some Planning District Commission projects that were discussed about VDOT Smart Scale. It mostly had to do with signals at Route 33 east and various other places in the County where there are traffic issues.

8.c. Board of Zoning Appeals Report

None.

8.d. City Council Report

Councilmember Dent said we had a couple of postponements of the two relevant things from Planning Commission. One was the Holtzman Oil proposal on North Main Street and Mount Clinton Pike. That was tabled at the request of George Hirschman who was absent and wanted to be part of the discussion. What we did was go ahead with the staff presentation and the public hearing. We stopped at that point and will pick back up for City Council to debate and vote. The one thing that I brought up is that I had a discussion with City Attorney, Chris Brown. He said he had looked into it and the site is currently zoned M-1 Industrial. They can build a gas station there by right. The rezoning is about creating that commercial, retail and restaurant complex. That will be part of our discussion at City Council next time. Several Council members were startled to hear this, including Vice Mayor Romero who said that it is interesting that Planning Commission did not discuss that aspect of it, which could have, conceivably, changed some of the votes. When I read back through the extract, it seemed that most of the people who voted one way, or the other were split on it. It is accurately a split vote. It was a close one for all of us.

We had the presentation of Mr. Ramirez and Mr. Colman. The thing that I noticed right away is that they had rotated the layout by 90 degrees in response to some of the comments that we made about more buffer zone and more parking. They had a community meeting with the neighborhood. My response was that this is the first time I have seen, in action, what we say every time, that the layout is not proffered. It can change as they find out more about the site or get feedback. Several of my fellow councilmembers felt that there was not enough information about how the layout was going to be and that we wanted more information about the rental unit to see how affordable it is. They gave an estimated range, and it is market rate, anyway. The motion from Councilmember Jones was to table it while we get more information. The others of us were more inclined to support it, but we tabled it so that we could have the extra time for more information and to have Councilmember Hirschman back so that we have a clearer margin one way or the other. I figured it was safer to table it than to risk having it denied.

We approved the CIP. I thank Mr. Fletcher for adding the environmental consideration. We addressed many more things about the JMU polling locations. The budget is huge. All these

various reports. It stretched out because we were getting a lot of report on funding for the CDBG and what not. It was a long night.

Commissioner Whitten said at least you got the Housing Coordinator.

Councilmember Dent said now that we have the Housing Coordinator coming on, instead of berating the developers for not being affordable enough, we can do the deep dive to see what incentives the City can offer to make it truly affordable.

Chair Finnegan said I watched the City Council meeting last night. It feels like there is a pattern of an applicant comes with something they want to build, and we ask, "How affordable is it going to be?" Unless it is subsidized with tax credits or LIHTC, it is going to cost what it costs. There are going to be land costs. It may be luxury apartments where it might cost more than market rate, or it might cost market rate. Unless or until the City is willing to reduce parking requirements, waive fees, do these types of things that will actually reduce costs. Required parking on a lot of these apartment buildings accounts for 10-25% of the cost of the rent. Unless or until the City is ready to get serious about doing something on our end to lower it, it is not fair to say to the developer, "Make it affordable." It is going to be as affordable as the market allows, unless there are tax credits.

Commissioner Whitten said they are not non-profit agencies.

Commissioner Baugh said if you do that then you are not going to see them, you are not going to get them approved. Then you are going to stare at your Housing Study that told you that you have a pervasive shortage of housing across the board in all categories which will not get addressed when people cannot build. We do have the general understanding that the more housing, the better, because it increases the supply which helps approach the demand which overall has the effect of more affordability. I think that "how affordable is this?" is an unfair question to the developers.

Commissioner Whitten said to Commissioner Armstrong's point, last month, regarding infrastructure keeping up with the amount of building that is done, that must have eye on schools, sewer, water, services. We do not want this meeting in two years to be "now, what do we do? We have all these apartments and all these kids, where do we put them?"

9. Other Matters

9.a. Planning Commission Annual Report 2021.

Ms. Dang said included within packet is the Planning Commission's 2021 Annual Report. This report is put together as a requirement in the City Code that lists the powers and responsibilities of the Planning Commission that requires that Planning Commission make an annual report to City Council concerning its activities during the year. This is a summary of those items that you received, discussed and made decisions on. This will be forwarded on to City Council.

Commissioner Whitten moved to approve the Annual Report to be sent on to City Council.

Commissioner Orndoff seconded the motion.

All members voted in favor of sending the Annual Report to City Council.

A motion was made by Whitten, seconded by Orndoff, that this Report be referred to the City Council, due back by 5/10/2022. The motion carried by a voice vote.

9.b. Community Development Annual Report 2021

Ms. Dang said this report is for your information. It is a summary of minor subdivisions and final plats that we have approved, along with some zoning activity.

Chair Finnegan said I think this came up in 2018, when we were in the thick of grappling with STRs. Here it says:

Zoning Concerns/Complaints Received 285

Is there a breakdown of categories?

Ms. Dang said there is. I may be able to find out how many violations relate to STRs. The categories are tall grass and weeds; inoperable vehicles which are not zoning violations but are enforced by zoning staff; use; setbacks; and others. I can present more details at the next meeting. I can find out if there have been any homestay or STR violations. Because proactive code enforcement has been on hold, we have not been proactively looking at Airbnb, VRBO and other websites to look for violations. I do not recall receiving complaints about STRs.

Chair Finnegan said because we are approving them and having this discussion about revoking SUPs, I think it would be good, if possible, to at least get feedback on complaints regarding those items that we are approving.

Ms. Dang said I will speak with our team about how we can track STRs. Are there other categories you would be interested in?

Commissioner Whitten asked are the Home Occupation permits annual? Or are these 245 new Home Occupation permits.

Ms. Dang said those are newly issued permits. We do not require renewals.

Commissioner Whitten said that is a lot.

Mr. Fletcher said that a small number could be reissuances from new addresses.

Chair Finnegan said it would be interesting to know how many of those are because of COVID and people working from home.

Commissioner Whitten said I would think that most people working from home would not have to have a Home Occupation permit.

Mr. Fletcher said they would not.

Mr. Russ said if they are working under contract, they do.

Commissioner Baugh said, essentially, the Commissioner of the Revenue's office tends to track these. Many get picked up by them reviewing individual's income tax returns that indicate that you are operating some sort of business out of your home. That is how we pick up a lot of them. How this year matches up with other years? We would need to see that data. We can have a lot of things that are not what we typically think of as home occupancy. You may be working on a paper or study subject to a grant, but you are there, you are afforded the income, so you are required to have the home occupancy. There are things like that which get picked up. It is more about what you are doing, and not can someone from the outside know that you were doing a business activity.

Commissioner Whitten said that is the point of us making that available, so that it does not become a burden.

Ms. Dang said that it gives us the opportunity to talk to individuals to let them know what the regulations are about visitors or employees, keeping the residential appearance and not storing the things outside.

Chair Finnegan said I see that as a good thing that there are more Home Occupancy permits. This is more tax revenue and more economic activity happening in neighborhoods where we for a long time segregated where we live from where we did business.

Commissioner Armstrong said that if we do break out the STR, we need to bear in mind about the type of complaints that was commented on earlier. A dilemma of data is once you attach a number it becomes [unintelligible]. We cannot do that. It needs to be recognized from the offset that it is squishy.

Commissioner Whitten asked is there a charge for the Home Occupation permit?

Ms. Dang said there is not.

Commissioner Baugh said that there is a penalty for when they catch you not doing it. At least, there was at one time.

Ms. Dang said, from a zoning perspective, we just ask that it be remedied, and they are usually quick to come in.

Commissioner Baugh said the Commissioner of the Revenue's office has a penalty.

9.c.

Ms. Dang said I sent you some information and asked about availability to conduct site tours. I received a few responses from individuals. It appears that we could start on Tuesdays before the Planning Commission meeting at 4:00 p.m. This is an optional tour. You are not required to attend. If you cannot attend and happen to miss a tour and want to go to a future one, that would be fine.

The commissioners agreed.

Ms. Dang said that our next tour will begin on Tuesday, May 10, 2022 at 4:00 p.m. We will meet here at City Hall on the first floor.

9.d.

Ms. Dang said we had some discussion about this at the last meeting. Mr. Russ provided in writing by email a summary of what he had shared with you verbally. Within the memo included in your agenda packet, we offered our recommendation that the Planning Commission establish two regular meetings. The first meeting would be like today's date, on the second Wednesday of the month. We can decide on what the second regular meeting would be with the option that we could cancel the second meeting if you decided the month prior that there would not need to be any items on that meeting.

If you decide to do this, I would provide to you a memorandum by email, some time Monday or Tuesday before the Planning Commission meeting when you have to make the decision. For example, if this evening you had the opportunity to decide whether the next meeting in May would require one meeting or two meetings, I would send you a memo on Monday or Tuesday describing what would be on the May agenda so that tonight you would have the discussion and decide if you will have one or two meetings and what would be discussed on each day. That would give us sufficient time to advertise.

Chair Finnegan said I appreciate that you included the meeting times here. It looks shorter than what they felt. It felt longer than three hours and fifteen minutes. It is helpful to see that. What is a meeting that is too long? According to the Rockingham County Planning Commissioners, any of our meetings are too long. What do we feel constitutes too long? Three hours?

Commissioner Byrd and Commissioner Whitten said three hours.

Commissioner Finnegan said if we anticipate a meeting is going to be longer than three hours... It is hard to tell, too, because we do not get emails of opposition until the week before. Do we need a motion on this?

Ms. Dang asked that the Planning Commissioners decide which of the three dates they would prefer.

Commissioner Armstrong said I completed my Certified Planning Training. Could this also be selectively used for work planning sessions that are needed on a particular topic and educational presentations to advance some of the training? As an example, they had in our training an outstanding presentation on climate change in the Commonwealth. It was great, and I am a knowledgeable person on that. They are funded to do these presentations all over the Commonwealth. Could this, with shared approval, be selectively used that way? It would still be public.

Ms. Dang said that reason that I would like for you to select which would be the second day, is because it would be regularly published to let people know to expect that it could be one of those two dates. We would build it into the bylaws and, at the next meeting, I would present to you an amendment to the bylaws. You would have the option to cancel it.

The planning commissioners discussed their schedules and settled on the third Tuesday of the month. Staff will prepare the amendment to the bylaws and present it at the next meeting.

Councilmember Dent said that Tom Benevento, who is among other things on the EPSAC Transportation Area Focus Group, wrote to me and Chair Finnegan. He said, "I wanted to explore with you if it would be appropriate to share a PowerPoint presentation on clean, active and accessible transportation concepts with Planning Commission." This is the presentation that Kate Kirwan from JMU showed at EPSAC. It was wonderful and provoked a lot of good discussion. He says the "concept of active and accessible transportation has a strong overlay with planning and would be a valuable basis for future planning." I agree.

Chair Finnegan said I did follow up with Mr. Benevento about how long it would take. He said it would be about ten minutes.

Staff and Planning Commission agreed to invite Mr. Benevento and staff would include the presentation in the agenda, just after the approval of the meeting minutes.

Chair Finnegan said that Wednesday, April 27th at 5:30 p.m. online, Livable Cville has a presentation *The High Cost of Mandatory Parking* by Dr. Andrew Mondschein and the Department of Urban and Environmental Planning at the UVA School of Architecture. I can send out a link.

Commissioner Armstrong said the email that I requested that Ms. Dang send out to all of you, I wanted to encourage you to look at it. It has a good summary of the advantages of greenways and green spaces, including the enhancement of property value located proximate. There are some good statistics in here.

Commissioner Whitten asked if Woda Cooper received the grant.

Mr. Fletcher said that in a recent meeting of a committee of a homelessness group that the Assistant to the City Manager facilitates, there was a conversation regarding that project. If I understood correctly, they might have dropped the unit count much lower than 80 because of the competition statewide. I do not know if they are still going to build it.

Commissioner Whitten said I am curious about several of these, such as the Blue Ridge Drive project where nothing is happening.

Mr. Fletcher said it does take time to get through those. They are working through their prerequisites. There is even an opportunity that we may revisit it for a technicality.

Commissioner Whitten said that SUP expires.

Mr. Fletcher said that is still being debated among staff. They are in Fire Review. One of the prerequisites for the Engineered Comprehensive Site Plan review is the Fire Review, where they are evaluating water pressure and capacity with the Fire Department and the Public Utilities Department. They run analyses and there are comments among departments and with the applicant. They are in heading in a positive direction to make that project come to fruition.

Chair Finnegan said that is a good reminder that whether it is a split decision or not, or we vote against something or not, and then City Council approves it, that does not mean it gets built.

Councilmember Dent said it also takes time. Having been in office for a little over a year, I wonder when the things I approve start to show up.

Ms. Dang provided a preview of the next meeting. In addition to Mr. Benevento's presentation, we have a rezoning on South High Street near the CVS, a SUP on Collicello Street request to increase occupancy to allow three people in the duplexes at 348 and 350 Collicello Street and a Comprehensive Plan Amendment to the Transportation Chapter. Three items total.

10 Adjournment

The meeting adjourned at 8:05 p.m.

INTERPRETATION SERVICES

Language interpretation service in Spanish is available for Planning Commission meetings. To ensure that interpreters are available at the meeting, interested persons must request the accommodation at least four (4) calendar days in advance of the meeting by contacting the City Clerk at (540) 432-7701 or by submitting a request online at: www.harrisonburgva.gov/interpreter-request-form

El servicio de intérpretes inglés-español está disponible para las reuniones públicas de la Comisión de Planificación. Para asegurar la disponibilidad de intérpretes, cualquier interesado deberá solicitar la presencia de un intérprete al menos cuatro (4) días calendarios antes de la reunión comunicándose con la Secretaría Municipal al (540) 432-7701 o por medio de la página por internet al:

<https://www.harrisonburgva.gov/interpreter-request-form>

NOTE TO PUBLIC

Residents/Media will be able to attend the meeting according to best practices and procedures associated with pandemic disaster.

1. Masks are not mandated but strongly encouraged
2. Social Distance rules will apply

The Public can also view the meeting live on:

- The City's website, <https://harrisonburg-va.legistar.com/Calendar.aspx>
- Public Education Government Channel 3

A phone line will also be live where residents will be allowed to call in and speak with City Council during the Public Hearings and the Public Comments portion of the night's meeting. We ask those that wish to speak during the public comment period to not call in until after all the public hearings and public comment on those have been heard. This will avoid anyone calling on any other item from holding up the queue and then being asked to call back at a later time.

The telephone number to call in is: (540) 437-2687

Residents also may provide comment prior to the meeting by e-mailing Thanh.Dang@harrisonburgva.gov.