



City of Harrisonburg

City Hall
409 South Main Street
Harrisonburg, VA 22801

Meeting Minutes Planning Commission

Wednesday, February 9, 2022

6:00 PM

Virtual

1. Call To Order

The Harrisonburg Planning Commission held its regular meeting on Wednesday, February 9, 2022, at 6:00 p.m. in the City Council Chambers, 409 South Main Street.

Chair Finnegan called the meeting to order and said that there was a quorum with all members present. This meeting will be held as an electronic meeting due to the emergency and disaster represented by the spread of COVID-19. This meeting will be conducted by the following electronic communication means: electronically through GoToMeeting and Granicus. The public had the opportunity to provide comments in advance via email and will have the opportunity to provide comments by phone at designated times during this meeting. Because calls are taken in the order that they are received, we ask that the public not call the comment line until the item you are interested in is being presented or discussed.

2. Roll Call/Determination of Quorum

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

Also present: Thanh Dang, Assistant Director of Community Development; Alison Banks, Senior Planner; Adam Fletcher, Director of Community Development; Erin Yancey, Public Works Planning Manager; Wesley Russ, Assistant City Attorney; and Nyрма Soffel, Office Manager/Secretary.

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

3. Approval of Minutes

Chair Finnegan asked if there were any corrections, comments or a motion regarding the January 12, 2022 Planning Commission minutes.

Commissioner Whitten said that the minutes did not fully reflect what occurred at the end. There is one mention from Ms. Dang that she understood that the phones were not working. I think it might be wise to add a note that we suspended that hearing and continued it. I am not sure that it was completely clear. Things do not get clearer as time goes by.

Chair Finnegan asked are you suggesting that there be a note on page 53 or 54 about what actually happened, that there was an issue with Comcast and the lines?

Commissioner Whitten said yes. We have a note where Ms. Dang said that there is a problem that she needed to make us aware of, that the phone lines in the City are down and we will not be able to receive public comment. We continued with Mr. Surak. When I reviewed the minutes, I felt that it was not completely clear that the decision was made to suspend.

Ms. Dang said that on page 55, Commissioner Whitten made the motion to continue the public hearing until the next meeting.

Commissioner Whitten asked do you think that is enough explanation because it really does not say anything more. It just says that the phone lines are down a couple of pages earlier.

Ms. Dang said at the time, that is all we knew, that the phones were down. If someone wants to write an editor's note here, we could. It is also included in the new summary for this meeting, in the background section, describing that it was a Comcast outage. If you want us to add an editor's note, I would be happy to consider doing that, if you think that would be helpful.

Commissioner Whitten said I think that would be helpful. There have been rumors going around that it was somehow something under our control, and certainly it was not. I want it to be clear.

Ms. Dang said we can add on page 55, before the New Business items, an editor's note and describe that "It was found that a localized outage of Comcast services caused the phone lines to be out and members of the public were unable to call" and clarify that Planning Commission tabled the request.

Chair Finnegan asked if there any objections to adding the note.

Commissioner Orndoff moved to approve the minutes with the stated notations.

Commissioner Whitten seconded the motion.

All members voted in favor of approving the January 12, 2022 Planning Commission minutes.

The minutes were approved.

3.a.

4. Appointment of Board of Zoning Appeals member for 2022

The next item of business was the appointment of a Board of Zoning Appeals member for 2022. Chair Finnegan asked if there were any nominations.

Commissioner Byrd nominated Jim Orndoff.

Commissioner Orndoff accepted the nomination.

Councilmember Dent seconded the motion.

All members voted in favor of appointing Jim Orndoff as Board of Zoning Appeals representative for 2022.

A motion was made by Byrd, seconded by Dent, to appoint Commissioner Orndoff as Board of Zoning Appeals representative. The motion carried by a voice vote.

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

No: 0

5. New Business - Public Hearings

- 5.a.** Consider a request from Bluestone Land Company, Inc. with representatives Woda Cooper Development, Inc. to amend the Comprehensive Plan’s Land Use Guide map for a +/- 4.7-acre property on Lucy Drive

Chair Finnegan read the request and stated that these items are a continuation of last month’s meeting. He asked staff to provide a summary of what was discussed last month.

Ms. Dang said that on January 12, 2022, the three requests from Bluestone Land Company, Inc. with representatives Woda Cooper Development, Inc. were presented to Planning Commission and the public hearings were opened. However, due to a localized outage with Comcast’s services, members of the public were unable to call into the public comment phone line and Planning Commission tabled the requests until February 9, 2022. Given the unforeseen circumstances that occurred at the last meeting, the three requests are scheduled for public hearings and to be presented to City Council on February 22, 2022.

The property is designated Limited Commercial. The Comprehensive Plan states that these areas are suitable for commercial and professional office development but in a less intensive approach than the Commercial designation. These areas need careful controls to ensure compatibility with adjacent land uses. The maintenance of functional and aesthetic integrity should be emphasized in review of applications for development and redevelopment and should address such matters as: control of access; landscaping and buffering; parking; setback; signage; and building mass, height, and orientation. It is important that development within Limited Commercial areas does not incrementally increase in intensity to become similar to the Commercial designation. Efforts should be made to maintain the intent as described.

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

- Site: Undeveloped site, zoned R-3
- North: Across Lucy Drive, professional offices, retail uses, and Fire Station 3, zoned B-2
- East: Professional offices, zoned R-3
- South: Townhomes, zoned R-3
- West: Undeveloped site, zoned R-3

In 2018, another developer, Madison Lucy Realty LLC, requested to rezone the subject site and

an adjacent parcel (totaling 5.7 +/- acres) addressed as 290, 294, and 298 Lucy Drive, from R-3, Medium Density Residential to R-5C, High Density Residential District Conditional, and for two special use permits to allow multi-family dwellings of more than 12 units per building and to allow retail stores, convenience shops, personal service establishments, business and professional offices, and restaurants (excluding drive-through facilities). Staff recommended approval of all three requests. Planning Commission recommended (6-0) denial of all three requests, and on October 9, 2018, City Council (5-0) denied all three requests. More information about these requests can be found at <https://harrisonburg-va.legistar.com/Calendar.aspx>.

The applicant, Woda Cooper Companies (who is currently under contract to purchase the property), has submitted three separate applications. The first is to amend the Comprehensive Plan's Land Use Guide map for the 4.7 +/- acre property from Limited Commercial to Mixed Use. The second is to rezone the same parcel and acreage from R-3, Medium Density Residential District to R-5C, High Density Residential District Conditional. The third is for a special use permit (SUP) per Section 10-3-55.4 (1) to allow multi-family dwellings of more than 12 units per building in the R-5, High Density Residential District. With appropriate approvals, the applicant plans to construct three-story multiple-family (apartment) buildings containing a total of 111 dwelling units on the site.

Comprehensive Plan Amendment

As noted earlier, the applicant is requesting a Comprehensive Plan amendment to change the designation of the property from Limited Commercial (see the designation description within the Background section above) to Mixed Use. The Comprehensive Plan describes the proposed Mixed Use Land Use Guide designation as follows:

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

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

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

With regard to the adjacent properties’ Land Use Guide designations, properties to the south are planned for Medium Density Residential, to the east and west the properties are designated Limited Commercial (as described earlier), and to the north, across Lucy Drive, properties are designated Commercial.

The Comprehensive Plan describes the Medium Density Residential designation as:

“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 Commercial designation is then described as:

“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.”

While a use and site designed for Limited Commercial operations could function at this location, the same uses planned for within that designation could also function on property designated as Mixed Use. Furthermore, changing the designation to Mixed Use also promotes the idea to encourage residential development and staff believes that a mixed use building or multiple-family development at this site with higher density could be beneficial for those that want to reside in the City. From north to south, within a quarter-mile radius of the subject site, if the Comprehensive Plan Land Use Guide map amendment is approved, this area would transition from Commercial, to Mixed Use, to Medium Density Residential, to Low Density Residential made up of townhomes and duplexes, to lesser density of single family detached homes. (See attached Quarter--Mile Buffer Maps.) Staff supports the Land Use Guide amendment change from Limited Commercial to Mixed Use.

A motion was made by Baugh, seconded by Dent, that this PH-Action Item be recommended to full council to the City Council, due back on 2/22/2022. The motion carried with a recorded roll call vote taken as follows:

Yes: 4 - Finnegan, Orndoff, Baugh and Dent

No: 3 - Byrd, Whitten and Armstrong

- 5.b.** Consider a request from Bluestone Land Company, Inc. with representatives Woda Cooper Development, Inc. to rezone a +/- 4.7-acre property on Lucy Drive

Rezoning and Special Use Permit

Before getting into the specifics of the rezoning and SUP requests, it is important to understand the uses and densities permitted by right on the subject site. The subject property is zoned, R-3, Medium Density Residential District. The R-3 district is intended for medium density residential development and other uses intended to respect the residential character, which are aesthetically compatible with the district by means of architectural expression, landscaping, and restrained traffic flow. The R-3 district allows medical and professional offices by right as well as other non-residential uses. The R-3 district's by right residential uses include single-family detached dwellings, duplex dwellings, and attached townhouses of no more than eight units in a row within one structure. Among other SUPs, multiple-family dwellings of up to 12 units per building and personal service establishments may be requested.

If this site were to be developed with the current R-3 zoning, the property could construct a combination of the following by right as lot dimension, setback, and off-street parking requirements allow:

- Residential uses:
 - By-right: 34 single-family detached units, 25 duplexes (50 units), or 102 townhouse units, or any workable combination. (Note: Given all current regulations, including but not limited to, subdivision regulations, off-street parking and landscaping regulations, and stormwater management regulations, as well as needed utilities, it can be difficult to actually achieve the maximum density that is allowed in the zoning district.)
- Non-residential uses:
 - Churches and other places of worship;
 - Governmental uses such as community centers, parks, and playgrounds;
 - College and university buildings;
 - Hospitals, convalescent or nursing homes, funeral homes, medical offices, and professional offices;
 - Charitable or benevolent institutions;
 - Child day care centers;
 - Private clubs; and/or
 - Public uses.

With approval of a SUP to allow for multi-family units, the site could contain 68 units. (Note: Similar to the above comment, given all current regulations and needed utilities, it can be difficult to actually achieve the maximum density that is allowed in the zoning district.)

With regard to the rezoning request, the applicant has submitted the following proffers (written verbatim):

1. No parking lot (including travel lanes and drive aisles) shall be located between any building and Lucy Drive. A bus pull-off lane shall be exempt from this requirement.
2. The Property shall not contain residential units that have greater than three (3) bedrooms.
3. The one-bedroom dwelling units on the Property shall make up at least 10% of the total dwelling units on the Property. The three-bedroom dwelling units on the Property shall make up no more than 30% of the total dwelling units on the Property.
4. The Property shall contain a playground for use by residents. The playground shall be a minimum of 600 square feet and shall include a slide, a swing, and climbing features.
5. A sidewalk shall be constructed along Lucy Drive for the length of the Property. Additionally, the property owner will dedicate right-of-way or a public sidewalk easement to be located a minimum of 0.5-ft behind the sidewalk.
6. A minimum of 16 deciduous trees or a minimum 26 small/ornamental deciduous trees shall be planted and maintained between the sidewalk and the building(s). At the time of planting, tree sizes shall meet the minimum size requirements defined in the Zoning Ordinance.
7. No building shall exceed three (3) stories in height.
8. The existing vegetation (trees and shrubbery) parallel to and within 23 feet of the southern property line shall be maintained to provide a vegetative buffer between adjacent residential uses and uses on the subject site. If any vegetation needs to be removed for construction of the property, it shall be replaced with an equivalent planting. Trees that are replaced must be at least 6 feet in height at the time of planting.
9. Dwelling units may be occupied by single family or no more than three (3) unrelated persons. Exceptions may be made in instances when complying with this occupancy standard would result in violation of Title 42 of the U.S. Code, Chapter 45 - Fair Housing.
10. A minimum of 1.5 parking spaces per dwelling unit shall be provided.
11. Dwelling units shall not be occupied by households that are made up of only full-time students.
12. The development shall be served by only one entrance. This entrance shall align with either Pro Pointe Lane or the entrance serving tax map parcel 77-K-6.
13. A bus pull-off, concrete pad, and easement for a bus shelter shall be provided at a location acceptable to Harrisonburg Department of Public Transportation (HDPT). The bus pull-off and concrete pad shall be constructed to HDPT's specifications.
14. Exterior lighting of the site shall be designed so that light is not directed off the site and the light source is shielded from direct offsite viewing. Light fixtures in parking areas shall not exceed fifteen (15) feet in height.

Note that the submitted conceptual layout is not proffered.

Proffer #1 is intended to promote pedestrian friendly design by placing the buildings close to the street and prohibiting parking between the multiple-family buildings and Lucy Drive. Concentrating

people and places along the public street creates an environment that is more accessible, interesting, and safer for pedestrians, which are designs and environments that staff promotes. The applicant has also proffered to construct new sidewalks and to dedicate right-of-way or a public sidewalk easement along the frontage of Lucy Drive during development (Proffer #5) and to add street trees between the sidewalk and buildings (Proffer #6), which will enhance the pedestrian environment.

Staff appreciates that the proposed development would consist of one, two, and three-bedroom units. Proffer #2 restricts the property to dwelling units with no more than three bedrooms. Proffer #3 establishes a minimum number of one-bedroom dwelling units at 10 percent of the total number of dwelling units on the property while also setting a maximum number of three-bedroom dwelling units at no more than 30 percent of the total number of dwelling units.

Proffer #4 requires a playground on the property that shall be a minimum of 600 square feet in size and that would include a slide, swing, and climbing features.

Within the current R-3, Medium Density Residential District, uses may be three stories, where the maximum height is 35-feet for single-family dwellings and duplexes, and 40-feet for townhouses, multi-family buildings, and other uses. The requested R-5 district's maximum by-right height is 52 feet with the ability to have four stories for multi-family structures and mixed-use buildings. While not proffering a specific height, the applicant has proffered that no building shall exceed three stories (Proffer #7).

In Proffer #8, the applicant has detailed that existing vegetation (trees and shrubbery) parallel and within 23 feet of the southern property line shall be maintained during construction and that if any vegetation is removed for construction of the property, then it shall be replaced with an equivalent planting and that trees replaced must be at least six feet in height at the time of planting. It should be understood that the applicant only intends to replace vegetation removed during construction and that the proffer does not require vegetation to be maintained in perpetuity. Staff has discussed with the applicant that in order to enforce this proffer that staff will require the engineered comprehensive site plan to illustrate where all trees and shrubbery exist within 23 feet of the entire length of the southern property line so that when construction is completed, zoning staff will use the engineered comprehensive site plan to verify that trees and shrubbery have been maintained and/or replaced. Additionally, it should be acknowledged that it appears the majority of vegetation between the proposed buildings on the subject site and the townhome buildings along Emerald Drive are located on the townhome properties and would not be disturbed by construction or are outside the 23-foot-wide area. Any vegetation outside of the 23-foot area could be removed during construction without being replaced. (See Exhibit B in attachments.)

Additionally, staff recommends a condition to provide a buffer between the subject site and townhome buildings along Emerald Drive:

When developed, the site shall include either a six foot (6') tall opaque fence or a

minimum 10-foot landscaping buffer with trees or other plants installed and maintained with the intent to form a dense screen. The installed vegetation shall be six feet in height at the time of planting, installed at a minimum of five feet on center, and located along the southern boundary of the property.

The R-5 district allows by right dwellings to be occupied by a family or not more than four unrelated persons, which is the same occupancy allowed within the current R-3 district. Proffer #9 reduces the allowable occupancy of dwelling units to either a family or not more than three unrelated persons.

Minimum off-street parking requirements of Section 10-3-25 (7) allows for reduced parking when occupancy is restricted. Although the applicant could have been allowed the flexibility of providing only one parking space per unit or less, they proffered that they would provide a minimum of 1.5 parking spaces per unit (Proffer #10). If the proposed 111 dwelling units are constructed, then 167 off-street parking spaces would be required. In the conceptual site layout, the applicant has shown a scenario in how they might organize off-street parking spaces. The applicant understands that parking requirements, among other details, would be reviewed during the engineered comprehensive site plan phase of development to ensure that all regulations are met.

Proffer #11 is intended to address community concerns that the multiple-family dwellings would become off-campus housing for college students. While college-aged students could live here, Proffer #11 would prohibit dwellings from being occupied by households made up of only full-time students.

The Design and Construction Standards Manual (DCSM) would allow this property to have more than one entrance as the number of entrances allowed is based on the length of the property frontage. With Proffer #12, the applicant has proffered that the development shall be served by only one entrance and that the entrance shall align with either Pro Pointe Lane or the entrance serving tax map parcel 77-K-6 (currently BioLife) to limit the number of potential vehicular conflict points.

Proffer #13 would require the developer to provide an easement and to construct a concrete pad for a bus shelter. The Harrisonburg Department of Public Transportation (HDPT) would provide the bus shelter and would approve the shelter and concrete pad's final location during engineered comprehensive site plan review.

To address concerns regarding lighting impacts on neighboring properties, Proffer #14 requires exterior lighting of the site to be designed so that light is not directed off the site and the light source is shielded from direct offsite viewing. Additionally, light fixtures in parking areas shall not exceed 15 feet in height.

As demonstrated in the Determination of Need for a Traffic Impact Analysis (TIA) (attached), the

development is estimated to generate 51 additional trips in the PM peak hour and does not meet the 100-trip peak-hour threshold that gives City staff the ability to require a TIA. When a development reaches or exceeds 100 trips in the peak hour, this threshold is what typically causes concern for traffic safety and delays and would require the need for a TIA study. Thus, a TIA study was not performed.

While the applicant has not proffered a maximum density, they have described in their letter that they plan to construct 111 multiple-family dwelling units. If the request to rezone the subject property to R-5 is approved, then the maximum number of multiple-family dwelling units allowed would be 114, which equates to a density of 24 dwelling units per acre. If the Land Use Guide map amendment request is approved, the density would align with the description of planned density in the Mixed Use areas outside of the downtown as the Comprehensive Plan states that [r]esidential density in Mixed Use areas outside of downtown should be around 24 dwelling units per acre.” The proposed 111 multiple-family dwelling units equates to a density of 23.5 dwelling units per acre.

From a design and site layout perspective, staff likes the applicant’s proposal to mass buildings close to the public street with off-street parking relegated behind buildings and to create multi-family structures with more than 12-dwelling units per building. As previously stated, staff believes that massing buildings close to the public street with parking behind the buildings creates an environment that is more accessible, interesting, and safer for pedestrians. Therefore, staff supports the SUP request to allow multi-family dwellings of more than 12 units per building.

While the subject site on its own does not incorporate all of the ideals and characteristics of Traditional Neighborhood Development (TND), the overall neighborhood together would incorporate some of those characteristics such as: having a neighborhood that allows residents to work, shop, and carry out many of life’s other activities; allowing residents to walk, ride a bicycle, or take transit for many trips between home, work, shopping, and school; and having a variety of housing types provided at a range of densities with heterogenous mixes of residences. Staff believes that the proposed rezoning and SUP allow for this project to blend well within the existing neighborhood and serve as a transition between Commercial and Medium Density Residential areas. Furthermore, generally adding more one-, two-, and three-bedroom residential units to the market will benefit the community’s need for more housing and for people who want to live in the City.

An additional component of this project is that the developer, as they describe in their letter, “intend[s] to pursue Section 42 tax credits with general occupancy/family target population. The units would be targeted to households that meet the requirements for 30% AMI (area median income) up to 70% AMI. Simms Pointe would utilize income averaging, so the units will have an average AMI of no more than 60%. No market-rate units or student housing units will be included.” The Section 42 tax credit program is also commonly referred to as Low Income Housing Tax Credit program (LIHTC). The applicant also states that “[i]n applying for Section 42 tax credits, there are minimum design and amenity features that applicants include in order to produce a competitive development. As it currently stands, Simms Pointe will have a [sic] exterior

walls consisting of 50% brick and 50% fiber cement board. There will be a community room of at least 750 square feet. There will also be a playground for children. The development will choose from a select few green building certifications including EarthCraft Gold, LEED green-building certification, or Enterprise Green Communities. There will be a full-time property manager and a fulltime maintenance technician on-site.” While staff supports the applicant’s intent to pursue Section 42 tax credits, it must be acknowledged that the pursuit of tax credits, the average AMI for units, the appearance of exterior walls, and the green building certifications are not proffered. Should the rezoning and SUP get approved, but pursuit of Section 42 tax credits is unsuccessful, another developer could develop the site for multiple-family dwellings or any use allowed by right in the R-5 district so long as they comply with the Zoning Ordinance and the approved proffers.

If the developer is successful in acquiring Section 42 tax credits, the development could assist with the community’s endeavor to provide more affordable housing in the City. The City’s Comprehensive Housing Assessment and Market Study (Housing Study), which was completed in January 2021 identified a shortage of rental housing units that are affordable to the lowest and highest income renter households (0-30% and above 80% AMI) and found that “[t]here is significant mismatch with many higher income households residing in more affordable units and lower income households residing in more costly units.” Among renters, the study noted several key findings of the housing mismatch, which included:

- “There are significantly more households than units in the 0-30% AMI tier. This tier includes most student households (including dependent and independent students), persons needing supportive housing, elderly households, and other household types that are non-student, non-elderly households.
- The vast majority of rental units are naturally occurring affordable housing, meaning that the unit is affordable to a household earning up to 80% AMI without public subsidy; 81% of all rental units are affordable to households with incomes up to 80% AMI.
- Because there are many more households with incomes above 80% AMI but few available for this income tier, these higher income households occupy rental units that cost less, therefore increasing competition among lower income households for the affordable units.
- The vacancy rate is low; CHAS [Comprehensive Housing Affordability Strategy] data identified that only 2% of rental units were vacant.”

The housing study explained that when the rental vacancy rate is low at 2% (or 3.5% per American Community Survey data), it indicates “a very tight market with an inadequate inventory. This creates high levels of competition within the market as renters compete for scarce units and where the lowest income households have the fewest options.”

The housing study also identified that “[t]here are only 230 studio and one-bedroom units affordable to 0-30% AMI households, which is a critical unit type needed to meet the needs of households consisting of 1-2 persons and single persons needing supportive housing.” The proposed development could contribute to help to address the need for more one-bedroom units

in the City. Nonetheless, even if there are more two-bedroom and three-bedroom units rather than one-bedroom units, overall, this project could help the community with the current housing situation because it would add more units to the market and in this case be affordable for certain households.

Another component of the Housing Study places the subject site within Market Type A and notes that “priorities and 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.” Staff believes that the proposal utilizes the recommendation by increasing density with the zoning change.

Staff recommends approval of the requests for the Comprehensive Plan Land Use Guide map amendment, rezoning, and for the SUP with the suggested condition.

Chair Finnegan asked if there were any questions for staff.

Chair Finnegan asked with the change of the building size, it is now 80 units, do we know how many of those units are for affordable housing set asides?

Ms. Dang said that would be a question for the applicant. The proffers do not speak to the LIHTC funding or what they intend to do. The applicant can share what the requirements are.

Commissioner Armstrong asked is the 10 foot fence on the south side new? I see the 23 foot buffer with the six foot replacement trees.

Ms. Dang said that was not included in the staff report in January. Staff made that recommended condition at the January Planning Commission meeting. It is new for this month’s staff report, but it had been presented to you at the last meeting. It is a 10 foot wide buffer. It is either a six-foot tall fence along the property line in the back or trees to be planted within a 10-foot landscaping buffer. They would have to be six feet in height at the time of planting.

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.

A motion was made by Baugh, seconded by Orndoff, that this PH-Rezoning be recommended for approval to the City Council, due back on 2/22/2022. The motion carried with a recorded roll call vote taken as follows:

Yes: 4 - Finnegan, Orndoff, Baugh and Dent

No: 3 - Byrd, Whitten and Armstrong

- 5.c.** Consider a request from Bluestone Land Company, Inc. with representatives Woda Cooper Development, Inc. for a special use permit to allow multi-family dwellings of more than twelve units per building on Lucy Drive

Nick Surak, Senior Vice President of Development for the Woda Cooper Companies, spoke to the request and asked Mr. Watts to introduce himself.

Bruce Watts, Vice President of Development in charge of Virginia properties, also spoke to the request.

Mr. Surak said he would summarize what he is proposing. We did reduce the planned project size down to 80 units. The tax credit resource that we are applying for is more limited this year than is normally the case. In 2021, we have seen a lot of construction cost increases across the board. Virginia Housing decided to take from their 2022 pool and apply that to projects that were in trouble and had already received an allocation of credits last year. There are fewer credits available this year. To reflect that fact, we reduced the project size. We think it is a step forward in reducing the impact on neighbors, as well. It is a 100 percent affordable property. Units are being offered at multiple income levels. Those range from 30 percent to 80 percent. Are there any questions about the project details?

Commissioner Whitten said I have question about parking as it relates to the reduced number of units, and do you have a provision for guest parking?

Mr. Surak said we followed the recommended number of parking spots that came from staff. It is one and a half per unit. Based on our experience that is a sufficient number for existing occupants and any guests. It is similar to most municipalities we work with these days. We are also looking at adding enhanced access to transit with a bus stop at the front of the property. That would be another option. We typically offer bike racks and in some of our projects we add internal bicycle storage as well.

I would like to go over a few things about the company. There is a document circulating in the community that is alleging some things about our property management practices that I would like to address. [Mr. Surak shared a PowerPoint presentation.]

We have been in business for 32 years. We are a developer, a builder, and a multi-family property manager. We have a portfolio getting close to 400 total projects, with 14,000 units under management and over 30,000 residents of those communities. We have nine completed projects in Virginia and we have two that are beginning this spring. At this project, as with the majority of our projects, we have full-time property maintenance staff that are present to any tenant needs or maintenance issues.

These are some of the awards and recognition we have received in recent years to put things in context. I want to give you a sense of how much recognition we have had in recent years for the work that we do. We have number of awards from 2020 and 2021 and going back further. You can see that there is a geographic distribution. One of our projects in Virginia was also recognized. In the last five or six years, we have received 31 awards for 16 separate projects in nine different states. That speaks to our capacity and our ability. It is not just one organization that

is awarding us these accolades. It is not just one location. It is not one product type. It is a broad spectrum in many different locations.

This is from a document that I know the commissioners have seen and the remonstrators, as well. There are a few things here that are misleading and deserve being commented on. This is from the Better Business Bureau (BBB) website and is a screenshot from the document. It highlights this low customer review rate. What it omits, and deliberately cuts out, is that we have a B+ rating with the BBB and that review rating is based on a total of 14 customer reviews. Those reviews date back over the past three years. That is 14 negative reviews over the course of three years. We have over 14,000 units and 30,000 residents. In percentage terms, this is an incredibly low number of people that have seen fit to comment negatively about our company. We do monitor this website and we attempt to respond to these to the best of our ability. You can see on this website where there are cases where people have raised concerns before, and we have addressed those.

This is an image from a property that was presented as a maintenance concern. It is an example of proactive and responsible property management. We had a suspected electrical issue with the sump in the pump room. Out of an abundance of caution, our maintenance technician went to the property to examine it. The responsible thing to do was to shut down that pump. We cannot have water collecting with no way to get out or to flood. We put in a temporary and mobile pump to pump any water out. Since that mobile pump is not connected to the building's plumbing, we have to route the hose from that pump room out of the building. This is exactly what we should be doing in this situation. The issue was addressed within 24 hours.

This image is intended to show us being sloppy in property maintenance. What we are looking at here in this room full of trash is that this property, as one of its features, has a trash chute that is internal to the building. Residents do not have to walk to the dumpster. They simply drop it in the trash shoot. It all falls through the chute into this room. This is where all the trash is collected. The maintenance staff cleans it up every day and takes it to the dumpsters.

We do occasionally have issues with people dumping things on the property. That is what happened in this picture with the pallets. It was picked up and disposed of.

This item garnered more than one slide in the presentation. It demonstrates brick efflorescence. This is literally a salt deposit on the brick which can be power-washed off which we do not do in the dead of winter. The salt is present in the masonry. It gets drawn out through contact with water. It is not unsafe. There are no life safety or health implications. It has no implications for the structural integrity of the building.

In terms of our approach to property management, this proposed development will have full-time, 40 hours a week, maintenance staff and a property manager. It is our practice to inspect all units monthly by the property manager and maintenance technician in all of our properties. This is to ensure that basic housekeeping is being done and to identify any potential maintenance issues. It is

not uncommon for tenants to have minor things that they have not reported to us. It could be as simple as toilets running, but it needs to be fixed and this is how we discover it. I would like to point out that one of the complaints was that we visit their unit every month. Every property is subject to a full inspection by our professional team every year. That includes our head of maintenance and our head of property management. We are also subject to inspections by Virginia Housing as well as our tax credit investors. I want to emphasize that we want to be good neighbors. We want to hear from people. If they spot something that they think is out of place, or needs our attention, we are always happy to hear it because we cannot fix something that we are not aware of if we do not catch them first.

I wanted to make sure that we were able to address some of those concerns. I know that we are going to hear from folks, but I also think that there is a lot of misinformation. I wanted to take that head on.

Chair Finnegan asked if there any questions for the applicant.

Commissioner Armstrong said I agree with you that the biggest issue is the zoning change and the shift from the Comprehensive Plan and the Land Use Plan. There are other already designated R-5 sites in Harrisonburg that would not have required this kind of request. Did you look at those properties?

Mr. Surak said some of the considerations we have, since we are going after a competitive resource, are Virginia Housing has some incentives for the development to be located near public transit, access to employment opportunities, retail, and other things. That was part of the reason why this site was attractive. It is at a price that we found acceptable. The others did not fall under the criteria that we need from an economic standpoint and to satisfy Virginia Housing's priorities.

Commissioner Whitten asked how many children do you think will live in this facility? A 600 square foot playground seems small to me.

Mr. Surak said that the rule of thumb for an impact study is 0.4 children per unit. This question has come up, usually in the nature of school impact studies. Typically, what we see is the calculation of 0.4 children per unit. Usually, 80 percent of the children are already in-district students.

Commissioner Whitten asked how do you make that assumption?

Mr. Surak said we have to get school impact studies sometimes. They have some demographic tables that they use to calculate these things. That is the metric that I have seen time and time again. Those are not my numbers. We get a consultant and that is what they typically come up with for these types of questions. I would say that is pretty accurate. In one-bedroom units we rarely see children. The two-bedrooms are often occupied by a single person who wants the additional space. It is usually in the three-bedroom units where you would see children.

Commissioner Whitten asked and the playground? That seems fairly small to me.

Mr. Surak said that a 600 square foot playground is a decent size in our experience. We feel that is adequate for what we have here. We have tried this out in multiple places. That is larger than what we see in some other communities.

Commissioner Whitten asked will you have any other recreational facilities?

Mr. Surak said at this time we do not have plans for a basketball court or anything like that. We will have a community room inside. Oftentimes, we will also have a computer center or study room available.

Commissioner Whitten said the community room was 800 square feet. Is that going to be reduced because of the reduction in size of the building?

Mr. Surak said it has to be at least 700 square feet under the Virginia Housing standards. It will be between 700 to 800 square feet.

Commissioner Whitten said that is not a lot of space. What is the arrangement of the playground relative to the parking area? All this is behind the building. Is it on that new drawing? Where will the playground be?

Mr. Surak said we usually situate it towards the back of the property. A lot of times what we do is have fencing around it, so that way that a child cannot run off the playground and across the parking lot. It will be contained.

Commissioner Armstrong said I realize that the parking lot in the back of the property is desirable for pedestrian friendly appearance, but it does put that traffic right approximate to that housing development behind there. Is that a requirement? Was it in the front originally and then put in the back?

Mr. Surak said we never had it in the front.

Commissioner Armstrong said it does make the traffic *[unintelligible]* for that row of houses back there.

Mr. Surak said we have a vegetative buffer back there. Also, our lighting is designed to be angled downward, instead of blasting out at neighboring structures.

Chair Finnegan asked staff to speak to the massing of the building towards the sidewalk.

Ms. Dang said that what we have been promoting, as you have seen in other applications, is for

applicants to move the buildings to the front of the street instead of putting a parking lot between the road with the sidewalk on one side and the building being separated from the street frontage. When people are walking along Lucy Drive, they are not walking along an asphalt parking lot. They might have more visual interest with the buildings closer to them, as well as the street trees which the applicant proffered.

Councilmember Dent said I grabbed a screenshot of the new layout of the 80 units. That answers one of my questions about how that layout would look. It looks like you omitted the wings that turned away from the street. I had wanted to suggest that you plant more trees throughout the parking lot to cut down on the heat island effect and to give more sheltering from the light and noise to the neighbors. It looks like you have addressed that in the parking lot mock-up that I see here. I think I see what is probably the playground in the middle of the back and then what looks like a loop track.

Mr. Surak said that this revision is fresh today. That loop came up in my mind as well. That might be a walking path, but I would have to check with the architect. I think he is trying to find ways to add additional amenities. We usually have an outdoor picnic area which is small and hard to see on there, but there is an outdoor picnic area for families adjacent to the playground area. It is a place for parents to sit on benches while they watch their children.

Councilmember Dent said that is excellent because you want people to enjoy living there.

Commissioner Whitten said this rendering is not proffered though, correct?

Ms. Dang said that it is not proffered.

Commissioner Whitten said I just wanted that to be on record.

Ms. Dang said what is controlling the site are the written proffered statements. In this case there are 14 proffers. Those are things that, in addition to what is required by the Zoning Ordinance, would dictate the design of the site.

Mr. Surak said are you talking about the unit count as opposed to the last iteration?

Commissioner Whitten said no. The unit count is a definite piece. The trees and the arrangement of things... this is a picture and we do not know for sure that it will look like this.

Mr. Surak said some of the proffers address the number of trees and the spacing required. That might be moved a little bit, but we have some definite input on exactly the number and how we need to move them around.

Chair Finnegan continued with the public hearing. There is someone who is speaking in opposition who has a presentation. Mr. Nagel, you may proceed.

Rick Nagel, president of the Vista Terrace Homeowners Association, spoke on behalf of the Bluestone Hills community. We are here as a community to oppose all three of the requests by the applicant. First, we will show that the approval of the application will be an extreme and unprecedented departure from the 2018 Comprehensive Plan and, two, show that Woda Cooper has a pattern and practice of properties being kept in extreme disrepair and ignoring their residents' requests regarding serious maintenance issues.

The Comprehensive Plan is a long-term vision for the community and a guidepost for policy and decision-making. The first page states, it is "the central organizing umbrella under which other plans, regulations and initiatives exist, intended to provide guidance and land use regulations, including Zoning and Subdivision Ordinances." An extreme deviation from the Plan will have a chilling effect on people who wish to buy and invest in real estate in the community. Granting this request would fundamentally change the character of the Bluestone community and professional offices in the area. Adding high-density, residential units will create more congestion, noise, and light pollution where traffic is currently moderate. It would decrease the desirability and lower the value of homes and businesses in the area. There are alternate properties in Harrisonburg including commercial property that can be rezoned without creating such a disruption. Virginia Code Section 15.2-2223 Comprehensive Plans to be proposed and adopted section A states that:

The comprehensive plan shall be made with the purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the territory which will, in accordance with present and probable future needs and resources, best promote the health, safety, morals, order, convenience, prosperity and general welfare of the inhabitants, including the elderly and persons with disabilities.

In addition, the 2018 Comprehensive Plan Strategy 4.1.3 states "street system design that promotes connectivity and provides for traffic calming measures to reduce speeding and improve safety." In many jurisdictions where the comprehensive plan is at issue, the courts have held that planning commissions and city councils should act in consistency with the comprehensive plan, and the developer has a duty to justify departure from the comprehensive plan.

I will now address the PowerPoint that you should have in front of you. Mr. Surak already addressed slide three, the 1.07 rating. In our opinion, that is a red flag for any company on this BBB website. I would also like to address some complaints from tenants of Woda Cooper properties. We have Tom M, Patricia R and Brittney H, and I will quote from their comments: "noisy environment;" "overstepped boundaries;" "lack of management at properties;" "no compassion for the disabled;" "don't bother calling corporate, they make you feel like you're in trouble." Slide five, we go to Audubon Crossing in Dayton Ohio, the Federal lawsuit was filed just recently on January 14, 2022 alleging disability discrimination at this property. Mr. Surak addressed the water drainage issue. It drains into an adjacent parcel. At Friedman Point in Hopewell, there are public health hazards, trash areas not maintained, spills on the driveway. Again, at Friedman Point, trash blowing into adjacent properties. More BBB complaints from

Iamsunshine717 and Kim L: “their people are not very friendly;” “maintenance does not do a good job my door that they finally replaced after 3 years;” “completely ignores residents’ complaints;” “harassed me for years over my emotional support dogs;” “you do not want to live in a Woda owned property... they do not care about you.”

Moving on to Brennan Point in Newport News, Virginia. Same consistent issues here, public health hazards and trash. I will say and I might be able to infer, HB 802 was introduced by delegate Cia Price from Newport News. The bill is working its way through the session as we speak. This bill will seek to amend the Virginia Residential Landlord and Tenant Act to allow localities, such as Harrisonburg, to bring an action to enforce issues related to health and safety, specifically, and I think this is the crux of the amendment, fire hazards, rodent infestation, lack of running water, and inadequate sewage and disposal facilities.

Again, and you all have the deck here, in Norfolk, Virginia, maintenance and debris issues, public health hazards, trash, fire risks. Back to Newport News, the efflorescence that Mr. Surak mentioned earlier, and the definition of that. Slide 16 quotes from Russ W and Miss Nancy, “Woda Property management ignores their mission statement. We felt entitled to a safe and secure neighborhood. Woda ignores this.” “allowing people to stack debris, shoes, giveaways, new my hallway and in common areas.”

In City View Place, Richmond, Virginia, electrical code, health violations, code violations. Baileys Crossing in Stanardsville, building maintenance, public safety hazards, fire hazards, maintenance issues. In West Virginia, Bayberry Place, unsecured trash and debris, other maintenance and safety hazards. Baybridge Manor, unsecured trash and dumpsters. Romney, West Virginia, Muirwood Green, maintenance issues and safety hazards.

In closing, I would like to submit that we made a compelling case and produced overwhelming evidence to show that, if approved, the application to rezone would be an extreme and unprecedented departure from the 2018 Comprehensive Plan and that Woda Cooper has a pattern and practice of keeping their property in extreme disrepair and ignores residents’ concerns regarding serious maintenance issues. For these reasons, we would respectfully request that you unanimously deny the Woda Cooper application.

Chair Finnegan asked if there was anyone else wishing to speak to the request.

Ms. Dang noted that any comments that had been emailed to staff have been shared with the Planning Commission.

Jeff Tyrell, 89 Bluestone Hills Drive, called in opposition to the request. I am concerned that the Woda Corporation has not shown that they can adequately manage this site. There are a lot of complaints that we have listed. Those are just the ones that were raised to the level of the BBB. It makes it difficult for us to understand if they could handle it correctly. Because this is a more isolated location, it will be difficult for them to share the resources from other local facilities when

the maintenance is needed. One manager, 40 hours a week, and a small maintenance team is unlikely to be able to provide and manage the whole system.

Aaron Gordon, 97 Bluestone Hills Drive, called in opposition to the request. My primary question is what type of vetting process is done before we allow certain developers in? It seems as if half or even a quarter of what Mr. Nagel was saying is true with those concerns of the other properties, that would not be something that even City Council would want in our City. I am curious as to what type of vetting process you use, and if there is one, what conclusion did you arrive at?

Leslie Falconi, Bluestone Hills Drive, called in opposition to the request. Good evening staff and Planning Commission. I respectfully ask you, how would you feel if all of a sudden the rules, regulations, laws, zoning ordinances, everything that has been in place for the last many years in your neighborhood, if all of a sudden, with the drop of a single decision, all of this was dramatically changed? Would you want that for yourself and your neighbors? This is why the Bluestone Hills Neighborhood has become so vocal and almost unanimous in our opposition to this proposal. I believe the City planners have two obligations: one to the current citizens and residents and one to the less fortunate, may I say even disenfranchised residents who do not have a voice and do need housing. However, I also feel that you have an obligation to not destroy what has been carefully planned out and has been working well in favor of another group where you must first overturn all of the current and existing planning just to accommodate their request. This would be an unprecedented decision that would then set a new precedent allowing for all other neighborhoods to make changes to their existing zoning and regulations. For example, for a prospective new homeowner, looking to buy and establish their family in a specific area, what assurance would they then have that everything would remain the same? Or do we not know anything anymore? Do we live in a City where everything is subject to change? We want to be able to count on new high-density multi-family residential for only select areas and careful controls to ensure compatibility with adjacent land use. That gives us confidence to trust that our City planners will look after our interests. No one can really fault an out-of-town developer looking to further their process and their mission statement. After all, this is the American way. But should that be at the expense of all others drastically impacting their daily lives forever? This is what you have to decide tonight. In conclusion, we believe and have shown you that we have uncovered numerous and varied code violations and landlord-tenant violations and a lack of proper management, all the issues that impact the quality of life for the new tenants that would be occupying said buildings should this proposal be approved and move forward. Thank you for your time and consideration.

Paul Clancey, 261 Emerald Drive, called in opposition to the request. My wife and I have lived here for 14 years. We are calling to urge you to vote no to the three Comprehensive Land changes as requested by Woda Cooper Development Incorporated. There are numerous allowable by-right uses for the property which is zoned R-3 presently. We share a property line with a by-right use, which is not residential. Our bedroom windows are approximately 110 feet from the Shenandoah Women's Health Care Center Spa employee entrance. They are great

neighbors. If high-density residential is allowed, increased pedestrian traffic will follow, factors that should be considered if this were allowed. The sidewalks in the neighborhood are fragmented and incomplete. There are no crosswalks. There are no pedestrian safety signals. To walk to two of the closest grocery stores, the intersection of Lucy Drive, a three-lane road, and Evelyn Byrd Avenue, a four-lane road must be negotiated. There are no signals. There are no sidewalks. Our property line is approximately 60 feet from my rear deck. The property line would be shared by 290 Lucy Drive, which is part of the tax map parcel 77-A-1. A quotation found under proffer #14 states, and we just saw it this afternoon, “[n]ote that the submitted conceptual layout is not proffered.” What would be the real end result? We urge you to uphold the Comprehensive Plan. It is well thought out. It mixes residential and non-residential uses to our satisfaction. Please vote no to the three requests. Thank you.

Graham Mott, 297 Bluestone Hills Drive, called in opposition to the request. My wife and I have been residents of the Bluestone Hills Neighborhood for 10 years. We have written a lot of emails in opposition to the projects on Lucy Drive. Commissioner Whitten was kind enough to respond to one of my emails. I would like to quote directly from the email that Commissioner Whitten sent to me, that is exactly what we think, and what we think the neighborhood thinks. “I know that we need affordable housing in Harrisonburg. I feel that increasing density on this lot is the wrong choice. I feel that this development would be a disservice to all involved.” I am quoting from Mrs. Whitten directly. Thank you very much for your time.

Jeff Lucatorto, 323 and 295 Emerald Drive, called in opposition to the request. My son lives on Emerald Drive. My sister lives on Emerald Drive. I love Emerald Drive. Thank you for the time here. I just want to say that we all know that successful low-income housing is tough. I think successful low-income housing requires successful planning. Across the nation, we have examples where even in most well-planned situations, with the most reputable companies [unintelligible] the projects, [unintelligible] are still mixed. In the last meeting, Commissioner Whitten correctly categorized this proposal as being far afield from our Comprehensive Plan and I agree. I also agree with Commissioner Armstrong that the issue at hand is primarily one of zoning. Getting the zoning right here is key. I do not believe this is it. I also think that Commissioner Armstrong had a good vision about what the back of this building would look like to the adjacent properties, certainly my property is on Emerald Drive. One of the points I would like to make is that proffers, whether they are landscaping or whatever, I do not think that the look is shown. Woda Cooper, at the last meeting, declared that they were not going to maintain the landscaping in perpetuity. I think that it is pretty clear that most of the proffers are going to be unenforceable. I think the air conditioning units will be in the back. They will be loud. The playground will be too small. Downlighting may or may not be maintained. I do not think that there is anything that could be enforced about the proffers. In reality, the answer is not about proffers. Planting more trees is not a surrogate for good planning. I think the only answer here is to build a Comprehensive Plan that enables low income housing without proffers, without rezoning. Staff’s recommendations that this makes sense is not really aligned with that. It is the opposite of planning. I do not think that we want companies like Woda Cooper or any outside contractor to tell us what our City should look like. I think that is this Commission’s job. I think that planning is the key. I think that we need a

Comprehensive Plan that supports the vision that we want. Thank you.

Susan Adamson, 177 Diamond Court, called in opposition to the request. I have emailed my opposition to the rezoning, but I wanted to add a couple of things to that. Since our last meeting, last month, I understand that the Regal Cinema project was approved last night at the City Council meeting, which is 274 additional units that are within a couple of blocks from where this proposal is being made. The traffic impact is much greater than has been discussed. We know, living here, that at various times of the day there is a line of traffic all up and down Neff Avenue and across Reservoir Street, especially when JMU is in session the majority of the year. I want to say that the congestion is going to be a major problem should this go through in addition to the other development that was just approved last night. I also think that it is a betrayal to the community. We have a petition of more than 100 neighbors here that have signed saying, "please, we are not against development, but to please develop according to the Comprehensive Plan." I think that to betray more than 100 long-term residents is really unfair and is not a right move on the part of our City officials. I am asking you to vote no on all three of the proposals for tonight. I appreciate your time.

Lorna Nichols, 180 Diamond Court, called in opposition to the request. The first thing that I will mention is that in the DNR, Mr. Surak stated that Woda Cooper has no ongoing maintenance issues. Tonight, he pursued that same line of thinking. I know at least a couple. At City View Place, in Richmond, which our citizens vetting group visited on January 18th, and again on February 5th, there is an electrical code violation that was existent on about more than a dozen of the balconies or porches. It was the same on February 5th. Regarding Freeman Point in Hopewell, that Mr. Surak spoke of tonight, we visited and have pictures of that location yesterday. We first noted it on January 18th. Yesterday, February 8th, there was no change. Water was still being pumped out. Instead of running on the adjacent property, it is running on their property now and down the drive. I feel very strongly about these issues. I believe Mr. Surak stated tonight that it was taken care of within 24 hours, that is not the case. About the playground, an approximate 7 yards by 10 yards playground is certainly for toddlers only. That is quite small. I was wondering if staff and Planning Commission had run the number of residents who could live at the proposed Simms Pointe. How highly dense will this parcel be? Three unrelated adults can live in each unit and this is next to impossible to enforce if another adult starts living there. Also, an application used by quite a few other Woda section 42 properties has nine lines to list the number of people who can be living in the units, meaning that there can be the three unrelated adults and up to six minors. That is how I read it. If an average of five people live in each apartment, with 80 apartments there would be 400 people on this 4.7 acre parcel. That would be approximately 85 people per acre. I would ask you to please consider the noise, parking and traffic impact of this many people adjacent to the Emerald townhomes and duplexes. I strongly oppose all three requests. Thank you.

John Sloane, 174 Diamond Court, called in opposition to the request. I am calling to oppose the rezoning of the property for a multitude of reasons, but first and foremost is the reason presented today on this call. The company representative, when asked specifically, what about these other

properties, the multitude of other properties, that are available in Harrisonburg, with the right zoning, he stated, very simply, for money. He did not say for the safety and security of the citizens already living in Harrisonburg. He did not even say for the safety or security of the potential people living in his building. He said, I believe, that more funds were available if they chose this location, meaning profit for the company, a company not in Harrisonburg. They are not even located in Virginia. I believe he said that the bottom line, price of the property, was more appealing to the company. Once again, money. In exchange, they are asking for the property to be rezoned, completely ignoring the previous Planning Commission, all to better the bottom line and profitability of the company. That is why I am respectfully asking you to oppose. Thank you very much.

Chair Finnegan asked if there were any more callers. As there were no more callers, he asked Mr. Surak if we wished to respond to the public comments.

A motion was made by Dent, seconded by Baugh, that this PH-Special Use Permit be recommended to full council to the City Council, due back on 2/22/2022. The motion carried with a recorded roll call vote taken as follows:

Yes: 4 - Finnegan, Orndoff, Baugh and Dent

No: 3 - Byrd, Whitten and Armstrong

Mr. Surak said that it is appropriate for neighbors to have a say and provide feedback and weigh in. We are comfortable with that and that is why we are here tonight. However, my fear is that the presentation that Mr. Nagel distributed and is, obviously, in many people's hands is very misleading. It has things that do not accurately represent us. As I pointed out, that presentation relies and puts its entire weight on 14 review that we have to treat at the unvarnished gospel truth. Even if they are true, that represents one tenth of one percent of all the units that we currently operate. I do not think we should be judged based on 14 reviews against 14,000 potential households. I would like to remind everyone that it is something that should be taken into consideration. I am happy to move on to the next stage.

Councilmember Dent asked Mr. Surak, in light of some of the comments opposing, since I am on both the Planning Commission and City Council, how can you assure us that you will be a good neighbor and will manage the property and address the needs of the residents and the neighbors. If it is built, then any recourse comes to us. By that point, we, as the City, have very little control over what happens on private property.

Mr. Surak said, as indicated, we want to be a good neighbor. We want people to reach out to us. You have my contact information. I am happy to have anybody walk into our residences and ask to speak to managers if you feel that they need to take the City's attention, I am happy to do that as well. Throughout the construction and lease out process, I am available to talk to anybody about any of the concerns that they have. Going forward, they can reach out to our corporate office as well. They can report things that they see that they do not think are being handled appropriately. There are instances in which things get missed and that is how you catch them, by people reporting them, calling in and saying that, "hey, I live near this property and I think this is

an issue that needs to be addressed.” We will try to be as responsive as we possibly can to all those things.

Suzanne Sloane, 174 Diamond Court, called in opposition to the request. Thank you for the opportunity to speak tonight. Several of the comments that I had prepared, I had already sent via email and some of those comments have already been stated by previous callers, so I will move ahead to my final comment. The Planning Commission appears this evening to receive new information from the developer that was significantly different than previously shared. At the top of the call, it appeared that new information was being presented to the Planning Commission. As a former elected official and board member in the Commonwealth of Virginia, I would never have voted on an issue where new information was presented in the meeting where I was to cast the vote. I would ask you to please oppose the rezoning of the property on all three points. Thank you for your time.

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

Chair Finnegan said there is one thing that has come up in this discussion that has been going on for at least a month now, maybe six weeks, and that comment I heard was, because these meetings are virtual, Planning Commission will not hear from people the way they would in person. That may be somewhat true because when people are gathered together in a room, it is a different feeling. I want to assure everyone that has called in that we have made notes and heard your comments. These are all of the emails that we got, in addition to the ones that were emailed between Friday and today. I have read every single email and made notes on them. I want to make sure that everyone, at the very least, feels heard.

There were a number of comments about this conflicting with the Comprehensive Plan. I think that it is important to understand that this first request is a request to amend the Comprehensive Plan. There are no misgivings about what this is doing or what this request is asking for. It is to amend the Comprehensive Plan. The Comprehensive Plan is updated every five years. I served on several subcommittees during the most recent Comprehensive Plan process in 2018. When we were drafting those documents, the one thing that we did not have was the data in the 2021 Comprehensive Housing Assessment and Market Study project.

Another comment that I heard a lot and read in the emails was that we denied a request for this in 2018 therefore we should deny this request. This is a different year, a different proposal, and a much tighter housing market. To my recollection, the Madison Lucy proposal in 2018 did not include any affordable units. I voted against that proposal in 2018.

“This proposal is incompatible with the current zoning, and it conflicts with the character of the neighborhood.” That was a comment that we heard a lot. Changes to zoning happen very frequently in cities and counties all over the US. At one point, the hill that these houses were located on was a forested hill. I went back and looked up old newspaper articles about this area.

On November 18, 1992 in the DNR, there was a story about opposition to Bluestone Land requesting a change for 16 acres of land behind Skyline Village Plaza Shopping Center to provide greater flexibility for developing the land. They were rezoning it from residential to commercial. That did go through and there was opposition to that at that time. Changes happen to zoning.

I do want to call out the xenophobia, racism, and classism. I think there are a lot of legitimate concerns about this request, but we got one from Suzan Guynn saying that, "Currently our country is welcoming millions of unknown illegally immigrating people into our cities and a large subsidized housing project would attract these very people seeking affordable low rent housing." That is classist, racist, and xenophobic fear-mongering and will not be well-received by this body nor by the majority of the members of City Council.

I want to make sure that people feel heard. We do not have to agree. I believe many other members of Planning Commission, regardless of how you feel about this project, have read your emails. We value your input. We do not have to agree with you, but we took the time and reviewed all of this. With that, I will open this for discussion.

Commissioner Whitten said I did attempt to answer every email that I received up until today. I did not have time to try to respond to the many that we received today on several projects. I do not even want to get into the whole company that is making this proposal. There are points on both sides that I understand. I know that there are some people that complain all the time and their voices get heard. I am going to give that point to Woda Cooper. What I will say is what I said the last time, I think this development on this lot is a setup to fail. I have spent many hours on my own driving in that area on Emerald Drive because they are the people that I am most concerned about, the people that live there. I have driven behind those townhouses. I have observed that that is their space to have recreation, to have dinner with their family on a deck, to enjoy the peace and quiet that is there now. Deyerle Avenue, if you drive there at different times of the day, you will find that there are already cars parked along that street. It is not conducive to walking. It is not conducive to bicycle riding because it would be very difficult to manage a bike lane on that street. The same is true of Lucy Drive. While we are so concerned about how things look from Lucy Drive, we do not have the same consideration for the people that already live there in those townhomes. It is very close. The buffer that is there now, it is a very loose use of that term. It is not much of a buffer. I feel that because there is not sufficient amount of area to say we need to make a change to the Comprehensive Plan. It is a small area that is remaining. I think there are uses that would be much more compatible. There is not a good reason that I know to agree to amend the Comprehensive Plan and change the zoning just to allow for affordable housing in this particular spot. I believe in affordable housing. I believe in the Housing Study. I believe in the properties that are recommended already in the Housing Study that have been generally ignored. We need to concentrate on those and not put housing that is incompatible on this land. I feel strongly about it. If we do this, I think it is a breach of the confidence of the people of Harrisonburg. It is not just this neighborhood. There are going to be other neighborhoods that are going to look at this and say the same thing that these callers have said, "How can I depend on you to not change things." Mr. Finnegan, I agree, zoning does change, but it does not change

on a dime, and it should not change in a small lot like this that has so much ability to create an ill-effect. I think that if we approve this, we are setting up these new residents of our City to fail.

Commissioner Baugh said I have a piece that has not come up that I think really needs to get on the table. I want to address a couple of things that have come up first. To be clear, because there was a question from Commissioner Armstrong asking about this, if you look at our zoning map, the City does not have a bunch of R-5 properties. When R-5 was created, that was one of the questions that was wrestled with then, at the time City Council was angling to get recommendations to proactively rezone properties to R-5. It was a deliberate decision made about 15 years ago that we did not want to do that. If you look at the map, there is not a lot of it. There is not a lot of stuff in the Land Use Guide that is designated high-density. Some of that was deliberate because the idea was that as people came forward with that, as happens with rezonings, we get the opportunity to look at it. We like the idea that we were not necessarily going to grease the skids for people to get R-5 zoning because it would allow us to have this type of review when it comes up. There is not a bunch of R-5 property in the City. If I am reading this Land Use Map correctly, one of the big R-5 lots is the site of the new high school. Am I correct about that?

Mr. Fletcher said that it used to be zoned R-5. It is now zoned B-2.

Commissioner Baugh said that anyone who googles the map right now would see that as R-5, but we are building the high school there. The Land Use Guide basically gets the student area on Port Republic Road. That is the only area of the City where we have said from a planning standpoint. We know that we want to see it developed as higher density. No, I do not think that there are a lot of R-5 properties on the market that someone could just go out and buy.

I have had some issues with some of this and I am going to talk about one of them. I am from Richmond. I know the neighborhood where City View is. I have a hard time thinking that anybody could look at the City View project in Richmond and not appreciate that that is a pretty good neighborhood. It is certainly a resurgent neighborhood. This is a development that actually promotes that. I get it that you can walk around and try to find some unflattering pictures. We can all hop in a car and go, and we can walk to the breweries and the restaurants and all the stuff that is around City View. This is one of the examples of why this is supposed to be a terrible development. Whatever you say about City View in Richmond, I have a hard time believing that it is somehow bringing down the neighborhood.

But let me get to the main thing that I think needs to be out here because it hasn't come up. It was something as I have been wrestling with this. I echo the Chair's points trying to assure that we look through this stuff. I sat through the Aiken, South Carolina meeting, too. As of 2019, one of the things that happens at City Council a lot of times is one of those things that if you are an observer seems puzzling, is some people will come forward as part of grant applications where their scoring goes up considerably if they have an endorsement from a local governing body. They are often a pre-packaged resolution. Those are the types of things typically, if you are watching on

television, it may be a city department, it may be a civic group, it may be a private group, but it comes forward. There is a brief presentation. Somebody says, I move approval of the resolution as presented. They second it and they approve it. In 2019, the Harrisonburg Redevelopment and Housing Authority (HRHA) brought one of those things forward. It caused a substantial discussion by City Council. The result was a five to nothing vote not to move forward with the grant application. I will note that four of the five people who voted on it are still on City Council. Why did that happen? Because this proposal was going to be up on Commerce Drive on some existing property owned by HRHA. The focus of the discussion was input from that neighborhood that had been, "why do all of these projects like this have to be in our neighborhood." Council discussed this pretty thoroughly. As I said, unanimously decided that we were not going to go forward with that application. I am not going to put words in anybody's mouth, but my impression was that we had placed a de facto moratorium on additional housing of that type in that and similar neighborhoods. The next step of that, if you have an affordable housing issue which we by all indications do, and you just said that you are going to make a deliberate effort to not put it in the same areas that have traditionally born that, then what are you saying? You are saying, we think equity suggests that we need to spread this around some. We need to see some of this housing in some other neighborhoods before we are necessarily to just putting it in the same old places that we have historically put it. I am anxious to hear what the other commissioners have to say. Recognize that however this goes to City Council, it starts to become a tough vote. If you are saying that you are not going to put them in a certain area, but you are also going to say you are not going to put them any time a neighborhood says it does not like it or says it is not consistent enough with the character that you have, we do not have a bunch of R-5 properties proactively zoned and planned. To the extent we do is very much targeted to student housing. Subject to hearing what everyone else has to say, my inclination is to vote for these proposals, recognizing that we are not making the decision. We are advisory to City Council. My main thing was to get this other piece out to make sure that it was on the floor, hopefully reflected in the minutes. What City Council decides to do with that is what Council decides to do. At least at this point, we have a challenging frame. You have this statement that says, we want to make a change in direction. This has the potential to be the first in a direction that it looks like some people think we ought to go in. Certainly, we will never go there if the rule is that every existing neighborhood gets to say "we do not like it" and "it is not compatible with what we have" and it probably will not be. I wanted to get into our record the action that City Council had taken just three years ago. I will anxiously await other input and thoughts from the rest of you.

Chair Finnegan said I think it is important to have that kind of perspective and context for this. You did not mention names. I will. It is the Northeast Neighborhood that we are talking about. When I have spoken with members of the Northeast Neighborhood Association, that was the concern. That we are putting all of this affordable housing, subsidized housing, in the Northeast Neighborhood. We need to do our due diligence to make sure that we are not doing that because I do not think that it leads towards equity, particularly when we are about to open a second high school and you are going to draw district lines. Who goes to what high school? If you have higher income folks over here, lower income folks over here, that is not equity. That is something that we need to take into consideration. Something to point out also is that Planning Commission and City

Council do not get to decide who files these requests or the locations of the requests for development. The only thing that this body or City Council can do is say yes or no to the requests. We can suggest conditions for City Council to consider. Anyone watching at home, the City did not select this site and then say an applicant should apply for this site. This is private landowners and developers. That is the situation that we have before us.

Councilmember Dent said I really appreciate Commissioner Baugh's background and perspective. I am glad you brought up that an apparently similar proposal was turned down, but for a very different reason, because it was essentially exacerbating the segregation in an existing neighborhood. I would like to read a couple of lines from this book *The Color of Law* that I got at the Community Housing Summit.

Actions of government in housing cannot be neutral about segregation. They will either exacerbate or reverse it. Without taking care to do otherwise, exacerbation is the more likely.

Exactly to your point, if we listen to everybody who says, "we like affordable housing, just not in our neighborhood," then it all winds up segregated in the same neighborhood, and we have to reverse that. I would say that this Bluestone Hills neighborhood is exactly where we should be putting affordable housing because the entire City needs to be integrated. I have, in the past couple of weeks, talked with the United Way who is advocating for workforce housing for the ALICE population, with the HRHA that made the point that 90% of the people who would be moving into an affordable housing development are already here. I asked, if they are already here, where are they? They said, they are either in housing that is too expensive that they cannot afford or that is substandard. The point is if they are housing cost burdened, paying 50 percent of their income on rent, then they move to an affordable unit where they are paying 30 percent of their income on rent, they essentially got a 20 percent raise, which means that they can afford their groceries and childcare. Instead of struggling to survive, they can thrive and contribute to the community. That ties in with the ALICE population. I also talked with the head of the Chamber of Commerce who is pleading for workforce housing. We have gotten some positive letters from industry that they hired people who then had to resign because they could not find housing. I called the landowner who said, what they plan to do is what the City needs. That is exactly how we are approaching it given the Housing Study, that shows, and I am listening for the silent voices that are screaming for housing that we need. I spoke with the developer saying, yes, we would like to hear your assurance that the development will be good neighbors as I asked him to present tonight in public. I am not just supporting this, but adamantly so.

Chair Finnegan said in addition to some of the comments made, I do think that there are concerns... There was a question, "do you want this in your neighborhood?" from several people who emailed and also someone who called. In my neighborhood, we have a nighttime homeless shelter at our former neighborhood grocery store. Every morning and every evening, dozens of people who have no housing at all, walk by my house and right by houses that have been vacant for decades. I believe it was Mr. Bricker who asked in an email, if I would want public housing in

my neighborhood. Yes, I would. If a development like this comes while I am on Planning Commission, I will vote for it in my neighborhood. I want to be clear that we are not singling out this neighborhood. We need affordable housing all over the City.

Commissioner Armstrong said I was reading in the Comprehensive Plan, in Chapter 6, page 7, there is a table that shows vacant and minimally developed acreage by zone. This was in 2018. It shows 57 acres currently zoned R-5. That is why I asked the question I did. I do not know what changes have occurred since 2018, but I would not call this none considering the density. It is not a huge spatial kind of need. In Chapter 6, page 7, Table 6.3 it shows vacant and minimally developed acreage by zone in the City. R-5 has available 57 acres in the City at 2.5 percent total for the City. The goal in the Comprehensive Plan was to bring this up to three percent, not for the vacant, but to bring R-5 development up to three percent. It does show 57 acres vacant.

Commissioner Baugh said if you go down to page 22 it has, I guess this is an un-updated version, so I think it may reflect what they had then, it will show you where the R-5 is. There are two big parcels. There is the high school property, which has since come off. The other one is the large tract over off of Stone Spring Road, east of I-81. It is pink hatched. Then what we have is a lot of little infill parcels. We have a lot of small lot R-5. One of the things that we are wrestling with in the Zoning Ordinance rewrite is that we have things that have ended up being R-5 conditional because it was the only zoning category flexible enough. For example, the neighborhood between Waterman Elementary School and West Market Street has a number of little dots in there that are R-5 because of particular uses that they wanted and we allowed the rezoning to let people do things that really were not about high density. It was about additional flexibility.

Commissioner Armstrong said I did look at that. This does actually, numerically count the acres. This project here is only 4.7 acres. You can see where high-density is not big spaces. I do not know how it has changed since 2018. I did look at the map. I did see those two areas flanking I-81.

Commissioner Byrd said a lot of this discussion has been bringing a question to me. So, R-3 does not enable affordable housing? The way this conversation has been going, it makes it sound that way, that certain zones do not enable or are not practical for affordable housing. Is that the case?

Mr. Fletcher said that the zoning districts do not dictate the cost of housing, affordability or things like that. It is about the types of units. R-3 zoning allows, by-right, single-family detached dwellings, duplexes and townhomes. I do want to point out that most of our townhome communities in the City often receive a Subdivision Ordinance variance to deviate from the requirement that every lot front on a public street because to meet a higher density, they receive that variance so they end up running on private streets. Places like Liberty Square, Avalon Woods, Townes at Bluestone, Charleston Townes, all received that variance because they front on a private street. Multi-family is permitted by SUP in the R-3, back before 2010 it used to be by-right. What we are talking about here is two things, they wanted the opportunity to have the number of units for their density and to allow more than 12 units per building. In the R-3 district

you can only have 12 units per building. It is out-of-date and that is why we are doing the Zoning Ordinance rewrite. We want to modernize that. We want to take away some of those prohibitions and create more flexibility in design which is what we are drafting right now. There is not a zoning district that says this is where units that “affordable” can go.

Commissioner Byrd said we are discussing because a particular applicant is suggesting that some of their units are going to be affordable housing. As we have discussed with most of the changes, the change holds regardless of who the property owner is. It stays with the parcel. I have not heard any good arguments about why R-3 is a problem in this location. I was keeping in mind, the parcels near Blue Ridge Drive where we had a big discussion about that. That was zoned something that a lot of people in the discussion felt that would never be built the way that it was currently zoned. I felt more comfortable changing that zoning despite how long it had been designated as that zone in the Comprehensive Plan. This situation is odd. Someone had already presented, in the year that they were reviewing the Comprehensive Plan and that application was rejected for whatever the reasons were. They likely heard people’s concerns. Then you approve the Comprehensive Plan, knowing where that area is. We get another application and, of course, the current residents in that general area have their concerns. I did also read a lot of people’s emails, but I want to stay focused on my point at this moment. I did not hear from the applicant. I did not hear in the presentation. I have yet to hear, maybe someone has a good argument, about what is so different now. Just saying, now we have the Housing Study. You needed the Housing Study just to confirm the anecdotal evidence that people were operating on anyway that there was a need for housing. You just did not have a study so you could say “now we know for sure.” If I was just considering that, I would still feel uncertain about agreeing to change the zoning. We also did something last month that is going to have a significant change on the City. That is our change to the B-2 for residential. It will be time before we see the effect of that. It makes me question reviewing anything that is near commercial areas because now I cannot assume commercial areas are simply commercial. In light of those things, I would not feel comfortable voting in favor of changing the zoning.

In light of what the citizens sent in, unfortunately there were a lot of bad arguments if you did not want this change. There were a few that can be viewed in very not favorable ways. There were others that will get dismissed out hand because they come across as simply a “not in my back yard” argument. If you are dealing with a lot of applications for zoning, you are going to hear that for any small change. Some of those get pushed to the wayside. I know that I have had a bad habit on the Commission of not being too concerned about traffic, even though I am very aware and have been stuck in the long traffic that people mention in all those areas because I traverse the City constantly. Some of those arguments are not convincing for what is being applied. I would suggest to the citizens, if you are concerned about things, stay focused on what the conditions are. A lot of the zoning is about building structure, so when you try to make additional ideas about what potential residents live there may or may not do, that gets into some very murky, highly questionable areas that I do not feel comfortable with.

Also, I always thought that our public hearing was the vetting process for applicants, in response

to the caller who asked, “what is the vetting process?” This is the vetting process, then it goes to City Council, and we do this again. It goes through the process twice. If you really do not like someone, you can air your grievances twice. In this case, some people will get thrice maybe.

Chair Finnegan said to Commissioner Byrd’s point, some of the comments were out of line. I also think that “family oriented neighborhoods” there are literally thousands of families looking for affordable housing in Harrisonburg right now. HRHA has the Housing Choice voucher applications to prove that. Families come in all shapes and sizes. They need housing, too. Be careful when we are talking about the character of the neighborhood, what we are talking about.

I do think that the concerns about traffic are certainly legitimate. We have one hundred years in Harrisonburg and in almost all US cities across the country, one hundred years of car-centric development. We are a car dependent society. Community Development staff is doing the best that they can to change that, encouraging mixed-use developments and the massing of buildings along sidewalks and trying to make things more walkable. It will take a long time for us to undo a century of car-centric development. We are not going to solve it with this one application, but we need to start somewhere. These are things that we should take into consideration. I do think that the City, and I will include this in my comments about the CIP next month, can and should be doing better at traffic calming measures to slow down traffic in residential neighborhoods. It has become a real problem in neighborhoods across the City.

Commissioner Orndoff said having listened to all the arguments pro and con and having chaired and sat on the Planning Commission and the Council in the town of Dayton, I have heard for many years, arguments that can be summed up relative to rezoning as “it is a great idea, but not in my back yard.” I tend to take that into consideration when I am looking at a project like this.

Commissioner Armstrong said I think that the reason we are going to R-5, to address Commissioner Byrd’s comments, is it is simply more profitable. Higher density is more profitable than the multi-plex, especially with the high cost of building materials at this point. We have two of these on the agenda tonight that want to rezone to R-5. They are simply more profitable. I do not have a problem with this company. I do not buy into the NIMBY stuff. I know that affordable housing is desperately needed. I respect the employers that are trying to find employee housing or help with that. That is very important to the economy of Harrisonburg. The problem I have with this proposal is this particular site. I do not think there is adequate buffering on it. There is an elevation difference between the planned site and the housing development behind which is going to make traffic and noise, and lighting, even if it is directed down, it is going to make it a problem for that whole row of houses. It is not the neighborhood incompatibility. I think I would have been more amenable to this... I recognize that, in general, there is this aesthetic, designers say they want to put the parking in the back. In this case it would have been more acceptable to have the parking in the front because it would have made that buffering a little bit easier. I think that was a design mistake. I am not very persuaded by the affordability issue. We cannot compromise quality of life in the City and particularly the trust issue of rezoning of the Comprehensive Plan because of a particular company’s profit margins, even for affordable housing. There is affordable housing

that is not high-density R-5, but it is less profitable. I am not persuaded by that. I do not like it on this site because of the issues I raise, specific to the buffering.

Commissioner Whitten said that is exactly what I was trying to say. Site specifically, this is a bad choice for what we are discussing. I will also say, I have had a lot of conversations with Michael Wong about where should it go? He really did keep referring back to the Housing Study and the property that has been recommended. He also made the statement and I do not want to misquote him. This is not a direct quote. He said that if you look at the map that is in the Housing Study that shows subsidized housing, it is spread out across the City. There is subsidized housing in my neighborhood. I cannot tell you where it is because I cannot tell the difference. It is spread out. I do not think that it is terribly concentrated. I think that is an affront to me to say, we need something so badly and yet no, we are not going to put it there because this neighborhood should not bear the brunt. I agree with you, Chair Finnegan, it should not be considered the brunt. We are all in this together. In my neighborhood, we have a little bit of everything and everybody. That is what makes it unique and wonderful. I do not want to move away from it. I like that. But I do not want someone to tell me that, we are going to change what is across the street from you because we think this will be so much better. That is also an affront. To do this in that site is a bad mistake. It is a bad judgment. I do not think it will bode well for the Planning Commission or City Council.

Chair Finnegan said it looks like we are split in our thinking about this which is to be expected on big decisions like this. One thing I did want to enter into this conversation, in doing research into the history of that area, and how it became zoned the way it was, there was an article in the DNR on September 4, 1987, about the de-densification of Harrisonburg as a response to conflicts between longtime residents and student housing. That was in 1987. The City was de-densifying its zoning ordinance. At that time, the builders were speaking up. I am going to quote from the newspaper: "The completed document, builders warned, is going to create more severe housing problems than it was designed to correct." In essence, the new ordinance has tried to solve the problems by de-densifying the City and the builders claim that this de-densification will add costs to housing. It could add 40 percent extra to the lot because the lot sizes were being made bigger. They said that "the new Zoning Ordinance, builders contend, could quite simply raise the price of housing to a level where only the wealthy can afford to buy in Harrisonburg." John Byrd, who was the zoning and building official for Harrisonburg at the time, brushed aside those concerns and said that he sees the future of housing growth in Harrisonburg as the 123 acre Bluestone Hills subdivision, which was at that time being built. This is some historical context to this. De-densifying the City in 1987 was the wrong move and here we are, three and a half decades later, dealing with the results. I think that we will see changes with the new Comprehensive Plan, which will be drafted starting next year.

Commissioner Baugh made a motion to recommend approval of the Comprehensive Plan amendment, as presented.

Councilmember Dent seconded the motion.

Chair Finnegan called for a roll call vote.

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

The motion to recommend approval of Comprehensive Plan amendment passed (4-3). The recommendation will move forward to City Council on February 22, 2022.

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

Commissioner Orndoff seconded the motion.

Chair Finnegan called for a roll call vote.

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

The motion to recommend approval of the rezoning request passed (4-3). The recommendation will move forward to City Council on February 22, 2022.

Councilmember Dent made a motion to recommend approval of the SUP request, with the recommended condition, as presented.

Commissioner Baugh seconded the motion.

Chair Finnegan called for a roll call vote.

Commissioner Armstrong No
Commissioner Baugh Aye
Commissioner Byrd No
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 February 22, 2022.

The Planning Commission took a five minute recess.

5.d. Consider a request from Joyce A. Shultz and Joyce A. Shultz MD Living Trust with representatives Bluestone Land LLC for a special use permit to allow multi-family dwellings of more than 12 units per building in the R-5 district at 765 East Market Street and properties along Franklin Street

Chair Finnegan read the request and asked staff to review.

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

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

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

- Site: Commercial use and vacant parcels, zoned B-2 and R-2
- North: Commercial uses, zoned B-2
- East: On both sides of East Market Street, commercial uses, zoned B-2
- South: Commercial uses, single-family detached dwellings, zoned B-2 and R-3

West: Single-family detached, duplex, and townhomes, zoned R-2

The applicant has submitted two separate applications. The first is to rezone 23 parcels from B-2, General Business District and R-2, Residential District to R-5C, High Density Residential District Conditional. Because the applicant would like to construct buildings with more than 12 multi-family units per building, the second request is for a special use permit (SUP) per Section 10-3-55.4 (1) of the Zoning Ordinance (ZO) to allow multi-family dwellings of not more than 12 units per building in the R-5, High Density Residential District. (Note: Constructing multi-family dwellings of not more than 12 units per building is a by right ability in the R-5 district.) If both requests are approved, Bluestone Land LLC plans to construct 156 multi-family dwelling units within eight buildings as illustrated in the attached conceptual site plan.

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

1. Occupancy Restrictions and Parking: Dwelling units may be occupied by a single family or no more than three (3) unrelated persons. A minimum of 1 off-street parking space per dwelling unit shall be provided. There shall be a minimum overall ratio of 1.4 off-street parking spaces per unit for all parcels herein requested to be rezoned.
2. Road and Sidewalk Improvements: The following improvements will be constructed as part of this development:
 - a. At the time of development, the Owner shall, as approved by the City, and as generally shown on the concept plan, build Franklin Street as a public street with curb, gutter, and sidewalk from the existing terminus near the western boundary of tax map parcel 28-J-28 to East Market Street. In addition, the mid-block crosswalk nearest East Market Street shall be raised. The crosswalks shown at the intersection of Franklin Street and the private entrances to the development shall, at minimum, be painted. The street width will be narrowed with “bump outs” for on-street parking.
3. Exclusive of the parking lot in front of building # 7, no parking lot (including travel lanes and drive aisles) shall be located between any other building and East Market Street or Franklin Street.
4. Density and Unit Mix: The development shall contain a maximum of 156 units. Units shall be limited to 1, 2, and 3 bedroom units, of which a minimum of 70% shall be 2 bedroom units or less.
5. Affordable Housing- The Owner shall provide affordable housing equal to five percent (5%) of the total residential dwelling units within the Project in the form of for-lease affordable dwelling units. The Owner shall convey responsibility of constructing the affordable units to any subsequent purchaser of the Property. The Owner shall create

units affordable to households with incomes at or less than 80% of the Department of Housing and Urban Development (HUD) median family income for the Harrisonburg VA MSA at the time of initial move-in (the "Affordable Unit Qualifying Income"). This requirement shall apply for a period of fifteen (15) years following the date the final Certificate of Occupancy for the Project is issued by the City of Harrisonburg (the "Affordable Term"). During the Affordable Term, each January, the Owner shall provide to the City of Harrisonburg a Compliance Report for the prior year to demonstrate that 5% of the units were rented in accordance with this proffer.

While they refer to elements that are shown within the concept plan, the concept plan is not specifically proffered.

The R-5 district allows by right dwellings to be occupied by a family or not more than four unrelated persons. Proffer #1 reduces the allowable occupancy of dwelling units to either a family or not more than three persons. Additionally, because the minimum off-street parking requirements of Section 10-3-25 (7) of the ZO allow for reduced parking when occupancy is restricted, the development does not require as much parking as would have been required under the standard R-5 district. Because this development is bisected by Franklin Street, required off-street parking calculations must be calculated separately for each half of the development. Section 10-3-27 (7) requires one off-street parking space to be provided for each dwelling unit when occupancy is restricted. For example, if 68 dwelling units are constructed on the north side of Franklin Street and 88 dwelling units are constructed on the south side of Franklin Street as illustrated in the concept plan, then a minimum of 68 off-street parking spaces must be provided on the north side and a minimum of 88 off-street parking spaces must be provided on the south side. Although the applicant could have been allowed the flexibility of providing only one parking space per unit, they have proffered to provide a minimum of 1.4 off-street parking spaces per unit for all the parcels together. This proffer binds together all the parcels subject to this rezoning request. This means there will be at least 68 parking spaces on the north parcel, 88 parking spaces on the south parcel, and then either or both of the parcels will have a few more parking spaces so that the overall development has a ratio of 1.4 parking spaces per unit.

If the maximum number of 156 dwelling units was constructed (as noted in Proffer #4), then 219 off-street parking spaces would be required. In the concept plan, the applicant has shown a scenario in how they might organize off-street parking spaces. The applicant is aware that the single-garage spaces can be counted for off-street parking, however, the surface parking in front of the garage spaces cannot be counted as off-street parking; that the on-street parking spaces shown on Franklin Street cannot be counted towards off-street parking requirements; and they understand that parking requirements, among other details, would be reviewed during the engineered comprehensive site plan phase of development to ensure that all regulations are met.

Proffer #2 addresses street improvements along undeveloped Franklin Street. The applicant has proffered to construct Franklin Street, as approved by the City, and as generally shown on the concept plan. This will include curb, gutter, and sidewalk from the existing terminus near the

western boundary of the development to East Market Street. Additionally, the mid-block crosswalk nearest East Market Street shall be raised, crosswalks will be painted on Franklin Street at the private entrances, and Franklin Street's width will be narrowed with bump outs for on-street parking.

Proffer #3 is intended to promote pedestrian friendly design by placing buildings close to streets and prohibiting parking between the multiple-family buildings and public streets. The only deviation to this would allow an off-street parking lot to abut Franklin Street as generally depicted in front of building #7 on the concept plan. Concentrating people and places along public streets creates an environment that is more accessible, interesting, and safer for pedestrians, which are designs and environments that staff promotes.

Proffer #4 restricts the development to a maximum density of 156 dwelling units, which is the same as the maximum density allowed on the +/- 6.48-acre site if rezoned to R-5. Additionally, Proffer #3 limits all dwelling units to 1, 2, and 3-bedroom units and requires that a minimum of 70 percent of the units constructed shall be 2-bedroom units or less. If 156 dwelling units are constructed, then 109 units will be either one or two bedroom units.

Proffer #5 states that for 15 years after the final certificate of occupancy is issued, five percent of the total number of units will be in the form of for-lease affordable dwelling units for households with incomes at or below 80 percent area median income (AMI). It should be noted that family size will not be considered for thresholds. In FY2021, the US Department of Housing and Urban Development (HUD) reported that the Harrisonburg area's AMI is \$66,700 and 80 percent AMI is \$54,700. (Note that a direct calculation of 80 percent of \$66,700 is \$53,360, however, the number HUD states as 80 percent AMI is \$54,700.) If 156 dwelling units were constructed, then five percent of those units, which is 8 dwelling units, would be reserved for households with incomes at or below 80 percent AMI.

Since the affordable units will be rented at market rate, meaning that tenants in the affordable units will pay the same rental rates as others, staff suggested that the applicant set aside the affordable units for households that make 60 percent AMI and below. While it would still be a cost burden to renters, setting aside units for 60 percent AMI and below could help people in that AMI category have a chance at finding housing in the City. The applicant explained to staff that this is not financially feasible.

If the concept plan shown was developed, the City's Parking Lot Landscaping regulations would require street trees along the following sections of Franklin Street - on the north side of Franklin Street between Building #6 and the western limits of the parking lot, and on the south side of Franklin Street between the raised crosswalk and the amenity building because those parking lot areas are adjacent to the public street. However, along the remaining sections of Franklin Street and along East Market Street, there is no parking lot adjacent to the public street so no trees would be required. Staff suggested that the applicant consider proffering additional street trees. The applicant was not comfortable proffering street trees and responded that they will consider

the location, type, and number of trees to be planted during the site planning stage.

As demonstrated in the Determination of Need for a Traffic Impact Analysis (TIA) (attached), the development did not meet the 100-trip peak-hour threshold that gives City staff the ability to require a TIA. When a development reaches or exceeds 100-trips in the peak hour, this threshold is what typically causes concern for traffic safety and delays. Thus, a TIA study was not performed.

Staff wishes to acknowledge that the applicant originally desired to close Franklin Street, which could have offered more flexibility for their site design. However, staff did not support closing Franklin Street. Creating an interconnected network of streets provides for street connectivity and accessibility to destinations for people to be able to walk, bicycle, and drive throughout the community. The applicant was able to rework their concept plan and will construct Franklin Street as a public street.

From a design and site layout perspective, staff likes the applicant's proposal to mass buildings close to the public streets with off-street parking relegated behind buildings and to create multi-family structures with more than 12-dwelling units. Staff believes that massing buildings close to the public street with parking behind the buildings creates an environment that is more accessible, interesting, and safer for pedestrians. Therefore, staff supports the SUP request to allow multi-family dwellings of more than 12 units per building.

The City's Comprehensive Housing Assessment and Market Study (Housing Study), which was completed in January 2021 identified a shortage of rental housing units that are affordable to the lowest and highest income renter households (0-30% and above 80% AMI) and found that "[t]here is significant mismatch with many higher income households residing in more affordable units and lower income households residing in more costly units." Among renters, the study noted several key findings of the housing mismatch, which included:

- "There are significantly more households than units in the 0-30% AMI tier. This tier includes most student households (including dependent and independent students), persons needing supportive housing, elderly households, and other household types that are non-student, non-elderly households.
- The vast majority of rental units are naturally occurring affordable housing, meaning that the unit is affordable to a household earning up to 80% AMI without public subsidy; 81% of all rental units are affordable to households with incomes up to 80% AMI.
- Because there are many more households with incomes above 80% AMI but few available for this income tier, these higher income households occupy rental units that cost less, therefore increasing competition among lower income households for the affordable units.
- The vacancy rate is low; CHAS [Comprehensive Housing Affordability Strategy] data identified that only 2% of rental units were vacant."

The Housing Study explained that when the rental vacancy rate is low at 2% (or 3.5% per

American Community Survey data), it indicates “a very tight market with an inadequate inventory. This creates high levels of competition within the market as renters compete for scarce units and where the lowest income households have the fewest options.”

The housing study also identified that “[t]here are only 230 studio and one-bedroom units affordable to 0-30% AMI households, which is a critical unit type needed to meet the needs of households consisting of 1-2 persons and single persons needing supportive housing.” The proposed development could contribute to help to address the need for more one-bedroom units in the City. Nonetheless, even if there are more two-bedroom units rather than one-bedroom units, overall, this project could help the community with the current housing situation because it would add more units to the market.

The Housing Study also places the subject property within Market Type C. Along with other details of this market type, it is the smallest but fastest growing market type in the City. Among other characterizations, Market Type C has a large number of university students. The Housing Study states “[l]ike Market Type A, Market Type C has above median overall access to amenities such as public transit within walking distance, full-service grocery stores, and multiple parks and recreation facilities.” It goes on to say that “Market Type C has above median access to amenities yet is the most affordable market type in the City. The creation and preservation of affordable housing and construction of middle income housing would be appropriate here as there are already amenities in place that would make these areas attractive locations for housing...” The Housing Study also notes that “[h]aving an adequate supply of smaller apartments in Market Types A and C is important because these block groups have higher scores for access to amenities such as jobs, parks, full-service grocery stores, and public transit.”

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

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

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

While not all suggestions that staff offered were accommodated within the submitted concept plan (i.e. a small open space area for residents, a playground, grading specific areas for a potential multi-use path, and more street trees), overall staff appreciates the accommodations that were made and believes that this project could help the community with providing more housing choices for people who want to live in the City. Staff recommends approval of the rezoning and special use permit request with the suggested condition.

I would like to acknowledge that there many comments received after the publication of the Planning Commission agenda packet. All of those that were sent to me have been forwarded to and received by the Planning Commission.

Chair Finnegan asked if there any questions for staff.

Chair Finnegan said, so that I am clear, the applicant wanted to split Franklin Street, dead end it on both sides. Right now, it dead ends in the woods. In this proposal, they wanted to make it so that you could only access this development from Market Street. You could not cut through from Reservoir Street. Is that correct?

Ms. Dang said, not entirely. They were proposing that the public street itself would be closed through their development, but that they were proposing private travel ways that would connect from Franklin Street to East Market Street. It was the City's opinion that we wanted to maintain the public nature of the public street through this site.

Chair Finnegan asked a public street like an HOA type of private street that you would see in a subdivision?

Ms. Dang said that it would not go straight through. Their proposal had a building around this location [referring to the slide]. The travel ways through the site and through the parking lot would go around the building.

Commissioner Armstrong said there are several three story buildings. I know that 75 feet is the heigh limit for this R-5.

Ms. Dang said the limit is 52 feet.

Commissioner Armstrong said I see both three story and four story here.

Mr. Fletcher said four stories is permitted in R-5.

Commissioner Byrd said this is the first time I have seen someone proffer a speed bump, or is that a raised part of the road? I am talking about the second proffer at the sidewalk.

Ms. Dang said that it would act as a speed hump or speed table as well as a crosswalk. The

crosswalk is raised.

Mr. Fletcher said the street is designed to be narrower off of East Market Street and then it would stay at the width to where the raised crosswalk would be. Once you go over the hump, it would widen to allow parking on both sides of the street before narrowing again on the west side of Franklin Street. It would then taper and transition into the width of the existing street.

Commissioner Baugh said my assumption is that what you are talking about there at the intersection is the speed table. I think that Franklin Street and Ott Street are an example of something along that line.

Mr. Fletcher said a speed table functions differently than a raised crosswalk. I think it has to do with the width of that space. A speed table is wider than a raised crosswalk.

Commissioner Baugh asked about the elevation.

Mr. Fletcher said that it is similar.

Commissioner Baugh said that it is at a lower height than a speedbump but enough to slow people down.

Ms. Dang said that at the top Franklin Street, in the Old Town neighborhood, there is a raised crosswalk. I do not know what the traffic engineering terminology is.

Commissioner Baugh said it is probably analogous to what is toward the top of the hill toward Myers Avenue.

Chair Finnegan said the function and purpose of that, plus the street narrowing and the bump-outs is to slow traffic down and make it less attractive to cut through and speed. Is that correct?

Ms. Dang said that is correct.

Councilmember Dent said I appreciate staff clarifying that the five percent set aside for the 80 percent AMI or less is still at market rate. What good does that do if we set aside for slightly lower income people, but they still have to pay the same rate? How do you call that affordable?

Chair Finnegan said that would be a question for the applicant. I fully agree with you. That fifth proffer is weak in my opinion.

Commissioner Armstrong said Franklin Street will still be two lanes plus have side parking on that street?

Ms. Dang said yes, for a portion of Franklin Street. It would be between the painted crosswalk

intersection, where the private entrances are, and towards East Market Street where the raised crosswalk is shown on the illustration. That is where it widens out to accommodate on-street parking.

Commissioner Armstrong said the existing Franklin Street, that is the old neighborhood here, is it the same width as this widened out area?

Ms. Dang said the widened out area is wider than Franklin Street.

Commissioner Armstrong said those were some of the comments. When you have parking on both sides of the old Franklin Street, it is essentially a one lane road. This must be wider than that.

Ms. Dang said that is correct.

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

A motion was made by Byrd, seconded by Baugh, that this PH-Special Use Permit be recommended to full council to the City Council, due back on 3/8/2022. The motion carried with a recorded roll call vote taken as follows:

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

No: 1 - Whitten

- 5.e.** Consider a request from Joyce A. Shultz and Joyce A. Shultz MD Living Trust with representatives Bluestone Land LLC to rezone 23 parcels totaling +/- 6.48-acres located at East Market Street and Franklin Street

William Park, representing Pinnacle Construction Development Corporation and Bluestone Land LLC, spoke to the request. I have a presentation that may address some of the questions that were raised. A quick project overview, Ms. Dang has spoken about the rezoning application along with the SUP that we are asking for tonight. There will be 156 multi-family units, with a combination of one, two and three bedrooms. The density will be about 24 units per acre. We are providing all our on-site recreational amenities. We have a community center which contains the leasing office, a great room, fitness area, yoga area, bathrooms, and meeting rooms. We are providing a swimming pool. At this time, we do not feel that there is a need for a playground based on our target market. As we go forward, if it seems like there is a need, then we have some room around the community center to do such. We have on-site property management and maintenance.

Construction of the extension of Franklin Street creates interconnectivity from Reservoir Street to East Market Street. Additionally, we are contributing the residential use to the mixed-use area. The whole area around there is mixed-use, but there is no residential in that mixed-use. The multi-family residential units that we are providing adds the "mixed" to the mixed-use.

Our target market is graduate students, faculty, staff, younger professionals, and other renters by choice. We have worked closely with staff. On this call, I also have Carl Snyder and Craig George with Valley Engineering. They have been instrumental in working with us and working with staff to develop this site plan.

We have been in business over 30 years doing multi-family. We have a multi-family mixed-use project in town, as we have owned and operated the Colonnade for approximately 15 years. We have another 140-150 units going out in Preston Lake, just outside the boundary of the City. We provided voluntary proffers, as mentioned. This is a vacant parcel. It has been vacant forever and there are a number of site constraints. It is not an easy parcel to develop. You have a road running through the center of it. The grade has a change of approximately 40 feet from west to east. We are going to provide all stormwater quantity and quality requirements. All that will be managed on-site. We provided a fiscal impact to the Economic Development director. We will go into more detail to show that it has a positive fiscal impact to the study. Even though it is not really called for here and not necessarily our target market, we are providing five percent of the units at 80 percent of the median income.

This is a Comprehensive Plan map. You can see that what we are proposing currently fits with what is shown in the Comprehensive Plan. The Comprehensive Plan designates this property and area along East Market Street as Mixed Use. When you look at what we are adding to the entire area, we are adding the residential or mixed portion to this. As you look at the site, it is a transitional piece of property. It is between medium-density residential and commercial. That is a typical good landing spot for higher density multi-family. We think we are going to revitalize the area because we are going to provide a higher-end, high quality project which will include on-site professional management. The site is currently vacant and heavily wooded. You can see the existing right-of-way, the unimproved portion of Franklin Street.

The conceptual layout has eight apartment units. One thing to note that is nice about this project, that to my knowledge is not located in this area, is that we are going to have garages in some of the buildings. The upper floors of every building will have loft units, which are unique to the area. As I mentioned before, we have our own on-site amenities with the community center and the pool.

Some of the transportation and pedestrian improvements include the vehicular connection through to East Market Street. We also have some traffic calming measures, including two raised areas and pedestrian crosswalks. We have narrowed the street and put parking along the street. All of these in an effort to slow down and prevent cut-through traffic. Valley Engineering has worked with staff to determine the need for a traffic impact study. We are not even close to the 100 vehicle peak hour trips that trigger that requirement. We feel that we are going to increase the pedestrian and bicycle connectivity from the areas to the south all the way to East Market Street. The adjacent Family Dollar lot already has an existing bus stop that is right next door that we will be able to take advantage of. The route of the bus shown on the map and route six in the yellow square indicates that it is right next to our project. This slide shows the aerial view showing the

Family Dollar and the bus stop.

We are also proffering that we are going to build this in accordance with National Green Building Standards (NGBS). There are a number of things that are taken into account to get this designation, including lot design, resource efficiency, energy efficiency, water efficiency, indoor environmental quality and how we operate and maintain it. As you look at the lot design, it is important to note that to meet the requirements of lot design, one of the things that NGBS or the green certification requires is an infill lot. That enables you not to have more sprawl and not to have to extend water and sewer and other things like that. They want it near public transportation, so we have a bus stop next door. Connectivity is a big part of this as walkways and street crossings are important. They also feel like higher density is important because it is a better utilization of an infill or a vacant lot. Also, being in a mixed-use area is good because you are near shopping and other things that are required by someone who lives there. In doing this green certification, the lot design is a big part of it. This particular project in this location checks a lot of the boxes for the lot design.

This slide comes from the Housing Study. After listening to the previous rezoning request, you have two projects tonight that hit each area of the housing mismatch. It looked like the Woda Cooper group was doing a tax credit deal using income averaging to highlight or serve those people in the 30-70 percent range. We are at the opposite end of the housing mismatch in the 80 percent and higher. I think there is an opportunity tonight to hit both ends of it. It is interesting to note in the discussion about location and where certain types of housing go that serve different income ranges, this particular site sits within a qualified census tract within the City. In a qualified census tract, the requirement is that at least 50 percent of the households have to already be at 60 percent AMI or below. What you are seeing here, with what we are bringing to the area, we are going to be serving for the most part an AMI that is above 80 percent. In effect what it does is mix very well with what is already there. Also in the qualified census tract, the poverty rate in this area is at 30 percent. Not only is this a mixed use project, but it makes the area a mixed income area, too. We talked a little bit about the rents and the affordable portion of it. Over 70 percent of the units are going to be one and two bedrooms. Around 30 percent are going to be one bedroom units. The rental rent on that will be in the upper \$1,200 to begin with. When we look at the rental rate and the AMI in the area, if you take the standard 30 percent of the income for housing, although a lot of times it is 35 to 50 percent, that would equate to a rental rate of about \$1,370. We are making a difference here, even though it is not required. It felt like something that we should go ahead and do, especially since we elected to do it on a project that we had rezoned last year where we offered the same thing. I think it will be a benefit because what it does is that we ensure that these brand new units are set aside that make no more than 80 percent of AMI. It does not have to be that someone can only live an existing type of apartments around here. This will set aside some of the new housing that will be guaranteed for them. I think it does have an impact.

We did a conceptual rendering. Where you see the arrow is the vantage point of the next couple of slides to show the streetscape and how we pulled the buildings up close to the street. This

streetscape shows the raised crosswalk area. This is a pretty large area where we would have the traffic calming. The street narrows with these bump outs and then we have parking on each side of the street. Having parking on each side of the street tends to slow down traffic. This is an aerial view of the same area. The fiscal impact that was provided estimates real estate taxes somewhere around \$140,000 a year, personal property taxes at a little over \$100,000, and utility taxes at \$15,000. Total annual taxes would be somewhere around \$260,000 for the City. On the cost side, the only cost we can envision would be on the education side. Based on similar projects we have, with the same type of product, we are looking at probably 0.01 children per unit. It was interesting to hear the previous proposal. Their estimate was around 0.4 children. It is not unusual when we see an affordable project with predominantly two and three bedroom units that is targeted more for families, that you do have more children. We do not envision that here. We ended up with somewhere around 11 or 12 kids times the education budget, which for the City, is somewhere around \$5,000 per child. That is how we arrived at the \$55,000. The net annual difference to the City is around \$200,000. We also have one-time fee revenue of recording taxes, not only now, but for subsequent refinancings that we have. We estimate that around \$250,000. The tap fees were somewhere around \$400,000. One-time fees would total somewhere around \$650,000. Not only are we providing housing, but also a positive impact on the City, not only one time but annually.

In addition to the costs, there are also secondary and tertiary fiscal impacts, what we like to call the ripple effect where the people who live there spend money on local goods and services such as restaurants and retail stores. That tends to generate income which is spent throughout the whole City once the project is built and stabilized and people are living there. We support local jobs. It is hard to quantify, not only the initial fiscal impact and the real estate, but also the ripple effect that you get from having the project.

To conclude the presentation, we have a project that meets the Comprehensive Plan and SUP requirements for the mixed-use area. It is an infill development of an underutilized and difficult to develop site. It provides needed high-quality housing built with green housing standards. It helps alleviate the housing mismatch and provides some affordable units. It provides street and pedestrian improvements to benefit the entire area. It provides a positive fiscal impact to the City. I am available to answer any questions.

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

Chair Finnegan said my main question is about that last proffer. If we are talking about affordable units, you had mentioned the upper \$1,200s and \$1,370, to Councilmember Dent's point, if you are setting that aside for people making 80 percent of AMI, that means that they are extremely cost-burdened. The HUD number for fair market rent was \$723 for a one bedroom. Explain how this is affordable. If you are setting aside five percent of these units for 80 percent AMI, if it is not reduced rent, how is that helping the affordable housing situation?

Mr. Park said what it does is that sets aside at least five percent of the units for people who make

80 percent or less of the median income so that they have access at all times to these units. If we did not proffer that, there is no guarantee that anybody at that AMI level or less would have access to those units. Is it a tax credit deal where it is 60 percent or less of the median income? No, it is not. It is not meant to be. That is what the project was before, and I give them credit for doing that. We are at the opposite end, but at the same time we are trying to preserve some units for those people who make 80 percent or less. Based on the rents that we are currently charging, we are going to be at rule of thumb, less than someone paying 30 percent of their income for housing. I am not saying that it is perfect. We are trying to help with that even though our target market is above that.

Commissioner Armstrong said it is great to see a map with elevations on it. Will you need to flatten this whole thing and what do you do with the stormwater? There were disparaging comments about unused property, but it is not unused from a stormwater perspective.

Mr. Park said we have to manage stormwater in accordance with what the City requires. If there are specific questions about the stormwater, I have the engineers on the line who can go into more detail. I can tell you that we have to do whatever the ordinance requires, whatever the DEQ requires, and we have to manage that on our site.

Councilmember Dent said you mentioned garages. How does that work?

Mr. Park requested for staff to show the site plan on the screen. If you look at the large buildings at the top of the page, buildings seven and eight, those are... As we mentioned before, we have a fair amount of grade from the top of the sheet down to the bottom of the sheet, probably about 40 feet. What we do is take these two larger buildings at the top, and we use them as retaining walls. You can see a line down the center of each of those buildings, bisecting the building. The front of the building, toward the parking lot, has four stories. On the rear, it has three stories. The lower level of the four stories are garages. There are 16 garages in each of those buildings in addition to the parking in front of those. Likewise, the building on Franklin Street is also a three/four split building as indicated by the line down the center of it. When you have that garage, you also have the parking space in front of it. When we talk about the parking in the parking calculations, when we were above the 1.4 spaces per unit, it did not include the 40 garage spaces. It did not include the 24 street parking spaces. When you include the garage spaces and the street parking, we end up around 1.85 parking spaces per unit. That is how the garages will work.

Councilmember Dent said that is actually good news. So, you have more parking spaces than are required. Maybe this is a question for staff. Does that mean we could make up for that by reducing the parking paved spots somewhat? I do not know that we would want to do that, but it seems like a possibility.

Ms. Dang said I did not do the calculations for what the parking requirements would be for a standard R-5 with full occupancy. In this case, when the applicant reduces their occupancy, as they have proffered a reduction in occupancy for three people or a family, the Zoning Ordinance

requires that they provide one parking space per unit. What Mr. Park's team has proffered here is 1.4 spaces per unit. What he is describing also is that our Zoning Ordinance does not allow one to double count the space inside the building [garage] and the space outside of the building. Mr. Park's point is that effectively they can still be used by the tenants to park two cars, one in a garage and one in the space behind it, even though the Zoning Ordinance only counts it as one space. The other thing that Mr. Park was explaining, the widened portion of Franklin Street, could accommodate parking on the public street. Because it is on the public street, they cannot count it as their off-street parking requirements, but there would be this on-street parking available for anyone in the area to use.

Chair Finnegan asked is there any plan, with the projections that the sale of electric vehicles is predicted to rise quite a bit, and I know several people who have gone full electric, are there any plans to put facilities in or any consideration for electric vehicles for the tenants.

Mr. Park said yes. Primarily where that happens is in the garages themselves. This is one of the things we run into in all of our complexes now. What is so tricky is that the charging that is required for the Tesla, is not the same as for the Mercedes and the same as for Volt. That is where we run into a problem. What we do in a garage is set a switch for the breaker that someone can charge at night-time and use the dryer breaker and turn that off and it is enough capacity there for them to hook whatever charger they have into their particular garage. It is one of the problems or issues that we are dealing with all the time. The concern is that you put up a charging station and then it does work for that particular car. So yes, but we handle that through the garages in order to give flexibility to the tenants. In this case, we have 40 garages, so we have the ability to have 40 separate charging stations.

Councilmember Dent said that is an interesting conundrum, as you say, you do not know what kind of car they will have. As I understand it, Tesla's can have an adapter to a universal charger, but it does not work the other way around. Tesla chargers only work for Tesla. If you wanted to provide chargers, the universal charger would cover all cases. I understand what you are saying. At least you have the infrastructure there for the units with garages so that they can charge in the garage. That raises a question, people might say that they have an electric car and would request a garage unit. How might you promote that or get it across?

Mr. Park said there is no perfect answer to that. We promote it up front. Whoever has the electric car will be the first ones to sign up for those garages. If someone comes in two years later and all those garages are taken, then you have to make a choice. Right now, they cannot have a garage because they are all full, but they can go on the waiting list to have the first garage when it comes out. The garages are not tied to a specific unit. You would not even have to be in the building if you do not mind walking across the street. We are trying to make it as flexible as possible. Whatever charging station is there today, three years from now will be different. If we have the infrastructure and the power in place, then they will be able to plug in whatever they need to.

Chair Finnegan asked if there were any more comments for the applicant. Hearing none, he asked if there were any callers wishing to speak to the request.

Sarah Showalter, 550 Franklin Street, called in opposition to the request. There are two main concerns that these requests raise for me. The first, I am conflicted about, is that this would be a drastic change to move from R-2 zoning to R-5. This apartment complex would change the feel of our street. The reason that I am conflicted about this concern is because I realize that I carry quite a bit of privilege to live on a street of single-family homes and I am trying to hold my privilege more loosely as I care for the people around me in our City. I do recognize the need for more housing in Harrisonburg and I would be invested in welcoming new families into our neighborhood. The second concern that I do feel quite strongly about is that Franklin Street is not prepared to handle the traffic that will come from this development. Currently, Franklin Street does not connect to East Market Street in terms of actual drivability as it will in this proposal. I am concerned that the combination of extending Franklin Street and adding high-density housing at the same time will flood the existing portion of Franklin Street with traffic that it cannot handle. As Ms. Dang noted, a TIA was not completed with the request. If you look closer, the determination of need only accounted for the increase in traffic from the apartment complex and did not account for any new through traffic that would be added. Although I do recognize that is not the applicant's responsibility, I feel strongly that a TIA does need to be completed prior to any rezoning. I do believe that there will be a significant amount of through-traffic once these roads are connected, with the way that Reservoir Street is often backed up all the way to Franklin Street and due to the fact that the two streets to the north and the two streets to the south do not connect to East Market Street or are compromised by being one-way streets. Franklin Street will become an easy and natural short-cut. It is not prepared to handle that. Currently, there are not sidewalks on the developed portion of Franklin Street. There are not curbs on most of the street. It is narrow. There is a lot of on-street parking that requires vehicles to pause to allow others to pass, where things bottleneck. The current intersection of Franklin Street and Reservoir Street is not ideal and offers low visibility of oncoming traffic. My family has chosen not to use the intersection for biking and walking because it is not safe. We opt to take side streets to the north to find a safer way to access Reservoir Street. I would like to see the City work at making to Franklin Street and ensuring the safety of the route as it connects to East Market Street before considering high-density buildings on it. If that could happen, then Joyce A. Shultz Living Trust, who is trying to sell the land, would probably have a much easier time selling the R-2 lots if there was a road that connected to them. I am invested in the safety of our neighborhood. My husband and I have felt the call to live in this neighborhood and engage especially with the children who live between Long Avenue to the north and Norwood Street to the south, which is primarily an immigrant population. We spend a lot of time hanging out with kids on the playground, at Ridgeway Mennonite Church which is in our backyard. I care deeply about the safety of the children in this neighborhood. I am very concerned that the combination of connecting Franklin Street to East Market Street at the same time as adding high-density housing could compromise that safety. Thank you for considering these concerns and for your investment in our City.

Jeff Bradfield, with Rolling Hills Shopping Center, he had just heard of the proposed

development. My concern with the development is the additional traffic both on East Market Street and Reservoir Street. Both of these streets have extreme amounts of traffic. The intersection of Route 33 (East Market Street), and Hawkins Streets, and all the other streets below the Sheetz frequently are backed up beyond where the Franklin Street cutoff comes out on this property. Adding what has to be potentially a couple hundred cars at various times, going out this way and also out onto Reservoir Street is going to create a huge mess where there is already a big mess. We cannot get out of our parking lot from the front and the side street on Hawkins Street. The stoplight is set for only two cars to get out now because of all the other interchanges. We wind up going back through Norwood Street and coming out onto Reservoir Street to get out of our parking lot because of all the traffic coming down hill. Add all this other to it and we are going to have even more problems. Reservoir Street is frequently backed up well past the cemetery going down Reservoir Street. A lot of times it is backed up into the roundabout. That stops that area. If you put even more cars in it, no one is going to be able to go anywhere in the front or back of this whole area. That is the biggest problem I have with the whole subdivision. The presenter for the subdivision said that he expected there to be approximately 10 to 11 children in 156 units at a cost of \$6,500 per kids or \$55,000 for the City, I cannot see that when you have 156 units and you are only going to have 10 or 11 children. I think that is very wishful thinking on the developer's part. It is also a way to sugarcoat it to make it sound better for the Council. That is all I have to say. Thank you.

Patricia Lobb, 612 Franklin Street, called in opposition to the request. I have lived in this townhouse for 31 years. Currently, it is a very quiet community of homes. We all know each other on Franklin Street. We all get along very well. The one concern I am going to voice is the same that you have heard so far. It is the traffic. I know that you have stated that the traffic survey was not required. It is very difficult, right now, on Franklin Street as it stands with only 15 to 20 homes on this end of Franklin Street. To get out at rush hour, turning onto Reservoir Street at 5:00 or 5:30, going towards East Market Street, it is backed up at East Market Street and Reservoir Street sometimes all the way to Franklin Street. Trying to go toward McDonald's, Reservoir Street is a mess. It is also a very tight street to turn up. If you are coming up from McDonald's and you are turning right, it is a sharp right hand turn. If you want to do this development, it would almost require rebuilding the intersection at Franklin Street and Reservoir Street. With this amount of traffic, you would have to put a light there. If you are going to extend Franklin Street to East Market, you almost have to put a light right there. It would only be a hundred yards and then you have the light at East Market Street and Vine Street. Traffic is a major concern. There are other things about it that you keep saying the applicant said that about affordable housing and 30 to 35% of your income is what they have figured. I worked in mortgages here, locally, for over 13 or 14 years. When you are qualifying and saying you can, based on your gross income, afford a house, rent or lease. That is very deceiving. It is gross. It is not net. If you go on 30% of your net income and then start taking out your utilities, your water, your sewer, your internet and all that, people are living paycheck to paycheck, if they can live paycheck to paycheck. I know you want affordable housing, but \$1,300 or \$1,400 a month? That is not affordable for the average person working in Harrisonburg. The one concern that I do have about this development down here is the traffic. Once again, I know that you said that the traffic survey was not required, but I really feel

that you need to take a major look at the traffic. Come around here on a Friday at about 5:15 on Reservoir Street going toward East Market Street. You can see how backed up it is trying to turn onto Myers Avenue and then trying to get further down to East Market Street. I will be opposed to this.

Chair Finnegan asked the applicant if he wanted to respond to the public comments. Either Hawkins Street or Norwood Street is a one-way street. I think it is Hawkins. Was there any thought, any consideration to make this a one-way street to regulate which way the traffic is coming in? Can you speak to the traffic concerns?

Mr. Park said I am going to defer to staff. I see that we have Ms. Yancey on. Maybe she can speak to it, but also with respect to the traffic. I also have Carl Snyder with Valley Engineering who did the analysis with staff. Maybe they can speak to this more than I can. I know that when we go through this process, it is a quantitative, empirical review. We were far less than what the threshold is.

Erin Yancey said I am the Public Works Planning Manager and coordinate with the Department of Community Development on development review and streets specifically. The Franklin Street right-of-way has been in existence and there are a number of factors leading to our preference for it to connect to East Market Street here and to not sell the right-of-way for private use. As you know, this area is shown as a Mixed Use area in our Comprehensive Plan. Going along with mixed-use, you want to have a connected street network. Downtown is an example of that, as you saw in the staff report. That is the kind of street network that we are trying to create in Mixed Use areas. It would be following the pattern of the streets south of it, starting at Martin Luther King Jr. Way. Heading north you come to South Carlton Street, Kenmore Street, Norwood Street, Hawkins Street and then we have Franklin Street and Long Avenue that are disconnected. We would prefer that we continue that connected network further to create the traffic distribution that you want in a densifying area, so that we do not concentrate all of the traffic on our arterial streets which are really meant for through traffic more than neighborhood movements. Another big reason why we want a connected network is to facilitate non-motorized travel such as walking, biking, scootering or e-bikes. As we urbanize, we are trying to facilitate that mode-shift away from vehicular travel. Shorter travel paths are essential to that goal.

Chair Finnegan said I believe that the next street over that runs parallel to Franklin Street is a one-way street. Was there consideration to make Franklin Street one-way?

Mr. Fletcher said we did not talk about one-way streets at the staff level. We only talked about two-way.

Ms. Yancey said correct. Hawkins Street is too narrow to be two-way. Otherwise, it would be. We do not see a reason to restrict movement unless there is a physical reason to. We really do not know how much traffic is going to be re-routing through there given that there are other options for going between East Market Street and Reservoir Street. We do have a process for

evaluating traffic when there are complaints about speeding or other traffic safety issues. That is through the Transportation Safety and Advisory Commission which has a Bicycle and Pedestrian Subcommittee to address more specific needs to non-motorized travel. We felt that the benefits outweighed any perceived concerns.

Commissioner Armstrong asked would the City find it acceptable to have this access between the old and the new Franklin Street as pedestrian and small motorized but not vehicular. I can guarantee that narrowing streets does not slow traffic. I live in Purcell Park. It is a constant problem. There are a lot of kids on our street. We do not have any sidewalks, the same as this old Franklin Street area. A narrow street with parked cars, it does not matter. They are flying. It is a real danger. I am wondering about making this accessible for pedestrian and small vehicle, but not cars. This is directed at the City because the City has required this to be open access.

Ms. Yancey said that Public Works' preference would be that vehicles have more opportunity to circulate off the arterial routes of Reservoir Street and East Market Street and to facilitate those shorter travel paths. One of our goals in the Comprehensive Plan is to lower vehicle miles travelled. That can only be accomplished with a connected network. There are not a lot of places within the City where we can achieve additional connectivity as close in as we have it here. We have sold a lot of rights-of-way over the years.. That is not helpful to the goal of connectivity, and this is an opportunity we have that we think will serve the community.

Commissioner Whitten said if you create a cut-through, people are going to take it. Build it and they will come is a reality. You are creating a situation where there is not a problem and they do not need a traffic calming plan, but they will. To me, that is a disservice to the people that are there. If the apartment complex can be built and not have that extension of Franklin Street, I think that is better for everybody. I do not agree with that philosophy of the connectivity being a benefit to a residential neighborhood. I do not believe that it is. I agree with Commissioner Armstrong. I live on Mason Street. There is parking on both sides of the street. We are currently in the Neighborhood Traffic Calming Program. We are told that people really are not going that fast. If you live here every day and you see how fast people are going, yes, they are going that fast. It is a problem. We do have to address it. I am very reluctant to approve something, and I am disappointed that the City made the suggestion that Franklin Street needs to be extended. That is not pro-neighborhood.

A motion was made by Byrd, seconded by Dent, that this PH-Rezoning be recommended for approval to the City Council, due back on 3/8/2022. The motion carried with a recorded roll call vote taken as follows:

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

No: 1 - Whitten

Carl Snyder, Valley Engineering, spoke in support of the request. I wanted to speak to the speed and the traffic and the need for traffic calming. It was mentioned earlier, but I want to reiterate, do not forget about the mid-block speed table that includes the pedestrian cross-walk. That is a traffic calming device. I realize that we can debate about the narrow street and its effectiveness,

the narrow streets is a traffic calming device in the City's DCSM. I can point to examples of communities with wider streets where the speeds are much higher because of those widths. I wanted to make sure, since it was mentioned about no traffic-calming measures, that there are some already included. Through the site plan process, we will continue to work with Public Works and the City as a whole to address these very concerns.

Craig George, Valley Engineering, spoke in support of the request. To build on what Mr. Snyder mentioned about traffic calming on Franklin Street. It was not mentioned in the presentation because we went back and forth with the City. There is not a City standard for what we are calling a raised intersection. It is not proffered, but there is on the table and is being discussed, the primary intersection which is labelled as the painted intersection on the plans to be entirely raised. What that does is two things. It is an additional traffic calming measure for vehicular traffic. It also gets pedestrian traffic on a single level, obviously because the site is separated in two sites. It helps both pedestrian connectivity and vehicular calming. It is not proffered, not because we do not want to do it, but because it was not on the City standard list. There are details that we would need to work out with the City on how to accommodate that.

Mr. Fletcher said I recollect that there were potential issues with drainage which is why you might not want to build the additional raised table at the crosswalk. We were highly recommending to have both of those spaces be raised. There was concern of committing to that space given drainage that you might not be able to accommodate due to cost. I do not recall it being associated with the City not having any design criteria.

Mr. George said one of your comments was suggesting proffering the raised crosswalk but waiting on the raised intersection, if I am correct.

Ms. Yancey said I do not remember it that way.

Ms. Dang said we requested both the raised intersection and the raised crosswalk. My recollection was that you were not ready to commit to it until you got further along with site design. I do not know if it was because of drainage or tying everything together.

Commissioner Armstrong said I have no problem with the traffic calming within the development. The target market includes a lot of university employees and students. If I *[unintelligible]* Franklin Street to Reservoir Street. There are no sidewalks in the old Franklin Street section. The traffic calming in the development is fine. It is from the development to Reservoir Street that is a real problem. I feel strongly about this because it is an issue of danger for pedestrians. This whole idea of connectivity, not distinguishing between pedestrian and vehicular, especially when you are connecting to a street that does not have sidewalks on it. It does not make sense to me.

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

Commissioner Baugh asked for a brief recess.

Chair Finnegan called for a recess.

The meeting reconvened.

Chair Finnegan said I understand and share staff's view of the traditional neighborhood design. If you look at the best parts of the City, Downtown for example, have that grid, that traditional neighborhood design. We would benefit from some background from staff about the data behind spreading traffic out on that grid. That would be good information for us to have. I doubt that it is a matter of opinion. I would like to see the data on the impact that the grid design has on alleviating some of that traffic, as Ms. Yancey was talking about.

Commissioner Byrd said the mention of affordable housing is not something that I believe at all. The math does not work out. Even with the presented possible low rent for a one-bedroom apartment. I am sitting here looking at a two-bedroom apartment and am surprised at the rent. That is a very luxurious apartment. Five percent, even if it is at the maximum number of the 156 units presented, is six units. I see that neither as a pro nor a con because I do not think it is believable or practical.

We also have to keep in mind that if we consider the SUP, we would be giving them three years to begin doing anything with this. The main concern with this is traffic. I can vouch that the intersection of Reservoir Street and East Market Street, when there is a red light there, that traffic immediately starts backing up, up that hill. As long as the light is red, the traffic collects. When the callers are talking about it reaching Franklin Street, I have been in that traffic. I have seen that often. If we are going to allow the extension of Franklin Street to Route 33, and it is two-way, then of course traffic will come in from 33 and go out. I can see where if someone did a traffic study, they would think there is less encouragement to go all the way down Franklin Street to Reservoir Street, especially if you have done it once or twice. You will notice the issues with that road. I understand what people are saying about the traffic. It is on my mind.

Commissioner Whitten said if the complex did not generate enough concern about traffic, or the numbers to warrant a traffic study, certainly extending a street through another portion that is not the apartment complex, the other part of Franklin where people do live and are living, and do not have sidewalks. Should that not trigger a traffic study? That is a real concern and a real danger. This needs to go back to the drawing board. While the SUP does give them three years, they could start building it right away, too. Three years from now, the traffic is going to be worse and we are still not have a traffic study. I am not comfortable with that. This is about public safety. We need to be concerned about that.

Chair Finnegan said when it comes to traffic, I used to live on Long Avenue for several years. That neighborhood is, because of the dead end of Franklin Street and Long Avenue, it is not connected in with Market Street. Having lived there I can say that I can walk downtown, cutting

through the cemetery, but there is no walking in the opposite direction. It was not connected. That section of Route 33 is not pedestrian friendly, especially if you are trying to get to something on the other side of it. We are in something of a prisoner's dilemma when it comes to traffic. We say we are concerned about traffic. We are concerned about parking. We have to have enough parking. We are concerned that there are not enough parking spots for this because there are cars. We are stuck in this never ending loop. When I say "we" I do not just mean Harrisonburg, most American cities are in the same boat. I do not know how we get out of it. Having interconnected streets is one way of making more pedestrian friendly. As I said earlier, we have had 100 years of car-centric development. We are now living in the reality of this catch-22 of wanting to have enough parking, wanting it to be safe for people and then having traffic issues because we cannot live without our cars. It is not good. I do not know what the answer is. I think the beginning of the answer is to make sure that we are making all new developments as pedestrian friendly as possible. I do appreciate that there are traffic calming measures that were taken into account. I do not fully understand why it was not considered to make this one-way because it would cut down on cut-throughs going one way. The next street over is a one-way street. At this point there are a lot of things about this development that I do not love, but I am still inclined to support it. I have had a coworker and a family member who recently have just about given up on finding any housing in Harrisonburg. Our apartment occupancy rent, not even talking about affordable housing because I think that this proffer for affordable housing is not affordable. We have gotten to a point where our vacancy rate is below two percent. It is a huge problem. I have family members living in guest rooms and on couches who are working here, gainfully employed, and have nowhere to live. I would hesitantly support this. I do not love it, but I think we have painted ourselves into a corner with housing and car dependent development for far too long.

Commissioner Orndoff said this is the dilemma that we continue to have. We are not going to solve the problem. We are certainly not going to solve both parts of the problem, but housing is an issue. Although this is going to contribute to the traffic problem, I think that trying to find housing for people is a higher priority. I am inclined to support this.

Commissioner Baugh said I am not sure anybody wants to hear what I have to say about this, although I guess the punchline, I am still open to hearing more, but for reasons that I will get into in a second, I end up where Commissioner Orndoff is. Maybe be for similar reasons, maybe not. I am going to say some things that may seem heretical to some people. Maybe we can just say that we have honest differences of opinion. As long as I have been doing this, I do not think that I have ever said out loud what I am going to say right now. I have been doing this on and off now for 18 years. This traffic study thing comes up every time. I understand people are worried about traffic. So much of the dialogue about traffic studies, it almost seems to imagine a world where the purpose of a traffic study is to possibly tell you that the development is going to put too much traffic on the road and therefore, you should not do it. Now that I have been around people who do this, I do not think the people who do this think that is what traffic studies are for all. They are actually more related to the CIP than the way we commonly use it. They are more about making sure the local government has enough notice and opportunity, as you can see in the CIP, there

is a list of road projects with priorities. This is a way for the City to get data in certain instances. If it does not meet a threshold, that is not saying that there will not be any traffic in the neighborhood or that people will not be more inconvenience or might possibly be less safe in the circumstances. The threshold is about 'is it enough volume that the City needs to start doing something with their planning for their infrastructure to address it?'

Here is the other thing that is my point of view that a lot of people disagree with, it is almost like there is this mindset that when you have areas where some property is developed and some is not, that people come real close to saying that the people who develop the property first have superior rights than the people who own the undeveloped property. I think that is the point of what City staff was saying about connectivity. I have had these discussions with people. I understand people feel strongly about these things sometimes. I think about one spot in town where I remember looking at folks and going 'you really do not want anybody driving in front of your house. You want a pedestrian mall in front of your house.' There may be reasons to take that up, but in the meantime there is a reason why these are called public rights-of-way. They are there for the benefit of the community. The fact that the people with the property around me are living on property that got developed ahead of me, I know I am weird, but I have trouble with this idea that it somehow gives them superior rights to limit what happens on the property. I think that is a broader question for the community to address in its planning and in trying to look at its own larger interests. It really, not only to me is it simple... I get it. If I have lived at the end of the cul-de-sac, I do not want the road to go through. That is human nature, but I am not sure that I see the planning or even legal value in that necessarily.

I also do pick up a sense here that some of the stuff that is getting discussed... Commissioner Orndoff talked about how he hinted that you hate NIMBY arguments. I can tell you, I am hard-wired to hate NIMBY arguments, too. I am also a little hard-wired not to care for arguments, positions or points of view where I feel like the perfect is starting to become the enemy of the good. If we could do something here, it would be helpful, but let us really put all of our energy into 'well, we could have done it this way' and 'we could have done it that way' and because there is... 'I am not looking at it about whether the project is in some sense a net benefit. I am looking at it solely focused on 'it could have done this' and 'should have done that' because it is not doing those.' I reject that. At least in the general sense. We do not know. None of us can predict the future. I have to admit, the one that we did on Lucy Drive. I know that there have been some strong opinions voiced. I probably feel strongly the other way. I will not be surprised that if that goes on to be developed the way that it is proposed, that five or ten years from now nobody will remember that there was a dispute there. As I have been playing this over in my mind, one of the things that, Commissioner Byrd was talking about, why can it [the Lucy Drive development] not develop as an R-3? I think the best answer I can come up for that is, given the proximity of that property to the mall and the big commercial area, the economics for that ever to develop as R-3 are not good and would require something that 18 years ago I believed in a lot, and I do not think I believe in it much anymore. Which is, a real commitment on the part of the City and the planners to say 'we believe in the development of that property as an R-3 so much that we are willing to hold the line. We are willing to draw the line in the sand and we are saying

we are never going to do it.’ My experience has been that, even if you are going to find a majority to do that right now, wait to the next election or two, it is going to change, and the stuff will be moot. You never really can plan when it is hinging on ‘we as a community are going to hold the land on this type of development.’ I feel differently about this one.

The other thing that I feel differently about, that we touched on a little bit, is that while they do not have their own neighborhood association, Hawkins-Norwood historically has been one of the more stressed little neighborhoods in the City. In some respects, you have almost an opposite dynamic than what we were looking at with Lucy Drive. It is, not my argument, but the crude argument of the landowners up there is, this type of development is going to bring my property value down therefore do not do it. This one is probably going to bring some property values up. Probably in and of itself would have helped that stretch over that we are not talking about so much where, as we are pointing out, you cannot even do the things that you would like to do because the City right of way is so narrow through there.

To the extent that I have hesitation over this, it is not the piece that it does not do enough for affordable housing. I am mindful of the piece in our Housing Study that said, ‘we need more of everything.’ Probably to go in with just the affordable housing segment of it is not a great idea either. Now I am thinking what some people were thinking on Lucy Drive a little bit. You have a six and a half acre undeveloped property... This is going to pull... This is one I almost wonder where there is an argument for holding out for better. The existing R-2, nobody wants it. With the development of R-8 and some things, there are maybe some possibilities for that. This does not have the same appreciation market pressure on it that the property up behind the mall has. Mr. Chair you asked and maybe I should have kept my mouth shut and said I do not know, tell me and I will vote. It is not a strong yes, but I am leaning toward yes. We need housing. I think that something in this market range, it has been demonstrated is something we need.

The argument that I want to give a shout-out to is Commissioner Armstrong’s argument on the other property. This is the one that feels more to me like the developer is going to make more money because it has more density. You could just put some smaller houses on it. Maybe you could do an R-8. It is planned for mixed-use, so you could get imaginative and really develop it as mixed-use. That is what is playing in my mind.

Commissioner Byrd said Commissioner Baugh reminded me of something that I was thinking about during the open portion. That was, if the development is successful, then a lot of the traffic concerns that people have in that area would get more attention. Clearly everyone knows about it who is around there, but it will not get any attention. I have driven on Hawkins Street three times. Unless I absolutely have to, I will avoid it. When we are saying ‘narrow,’ that is a glorified alley that eventually becomes a real road near Reservoir Street. That made me reconsider some things that I was thinking about with this location. Pedestrian-wise, it is better closer to Route 33. Yes, that intersection, where the Sheetz is, is not the best place to cross, but any multilane road never has a great intersection for pedestrians to cross. It is clearly designed for vehicles, not for human foot traffic. A person walking it is unlikely, especially if they are as affluent as their market, to be

walking to the Sheetz. They will be walking to the Food Lion if they are going to be walking somewhere. They will deal with walking past cars to walk over to the parks and go all the way down Franklin Street despite the fact that there are no sidewalks. I might be in favor. No one has talked about the SUP being extended from one year to three years. They are the ones that presented that, so I do not think that they are ready to go within a year.

Chair Finnegan said they can start building as soon as this is approved, or they could wait three years. That is not for us to say or decide.

Commissioner Byrd said it is for us to say or decide because we are the ones that are saying whether we add it as a condition or not. I am asking, why did they ask for it?

Chair Finnegan said we could decide not to grant it.

Commissioner Whitten said we do not often see fiscal sheets of number that tell us economic, developmental-wise, how much good this is going to the City. Since we did on this one, I will say, there are some pretty big costs in streets and traffic signals and those types of infrastructure needs that could come as a result of this that could erase that revenue sheet pretty rapidly. I think you know which way I would go as far as a motion, so I am going to wait.

Commissioner Armstrong said I do not think this is a matter of privilege in this older neighborhood. At least I do not see it that way. This is a matter of safety and I do not hear enough discussion of that. I tell people who are flying down my street, you hit a kid *[unintelligible]* your life. And they say 'well I would not mean to.' It does not matter whether you mean to. *[unintelligible]* That is too late in my opinion. I do not think that there is enough consideration here. I would consider a motion that says to approve this project with pedestrian only access there.

Commissioner Baugh said we should take a second to address Commissioner Byrd's concern. The history on this has simply been that, I think that it was a year, we found that a lot of these SUP were dropped by the wayside because the default time was too short. At one time we ended up having, particularly if you hit a little economic downturn, suddenly you have a lot of agenda items that are about renewing SUPs that you already did because the market kept you from doing it. How that plays with what was requested here and what staff recommended, I am wondering if staff could give us the summation of that.

Ms. Dang said it came at the request of the applicant and we did not have any concern that extending this particular SUP an additional 24 months to make it 36 months.

Mr. Fletcher said that the SUP is to allow more than 12 units per building. It is a reflection of the development itself and how long it might take that developer to get through their own sequence of other projects that they are working on, getting the financing set up correctly. There are so many different things. Working through the engineered comprehensive site plan review timeline. This

particular site, if I am remembering correctly, our City engineer had comments for the applicant about stormwater. They are really going to have to drill down to decide how they are going to manage their stormwater. A lot of that back and forth can take place outside of these conversations. They take quite a bit of time. Once they have submitted their engineered comprehensive site plan, casually I would say that they are locked in, they are moving forward. There are times that applicants hope to have a bit more time to get started on a project and this happens to be one of them. When Mr. Park began the discussions several months ago, we did remind him about his other project on Blue Ridge Drive and Country Club Road where the timeline for that was coming up and he needs to get moving on that. I would not be surprised if see a request from Mr. Park if that timeline expired and he has to come back and ask permission to have it regranted.

Commissioner Byrd said thank you. In light of that, I make a motion to recommend approval of the rezoning and the SUP with the suggested conditions.

Councilmember Dent seconded the motion. Commissioner Baugh, I love what you said about the person who got there first does not want the person who comes there later. One of the best renditions of that I have heard is ‘if you like your viewshed, you better buy it.’

Mr. Fletcher said procedurally the rezoning vote needs to occur before the SUP.

Commissioner Byrd moved to recommend approval of the rezoning request.

Councilmember Dent seconded the motion.

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 No
- Chair Finnegan Aye

The motion to recommend approval of the rezoning request passed (6-1). The recommendation will move forward to City Council on March 8, 2022.

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

Commissioner Baugh seconded the motion.

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 No
 Chair Finnegan Aye

The motion to recommend approval of the SUP request passed (6-1). The recommendation will move forward to City Council on March 8, 2022.

5.f. Consider a request from Mountain View Apartments LLC with representatives Harrisonburg Community Health Center to rezone 1381 Little Sorrell Drive

Chair Finnegan read the request and asked staff to review.

Ms. Banks said the Comprehensive Plan designates this site as Limited Commercial. These areas are suitable for commercial and professional office development but in a less intensive approach than the Commercial designation. These areas need careful controls to ensure compatibility with adjacent land uses. The maintenance of functional and aesthetic integrity should be emphasized in review of applications for development and redevelopment and should address such matters as: control of access; landscaping and buffering; parking; setback; signage; and building mass, height, and orientation. It is important that development within Limited Commercial areas does not incrementally increase in intensity to become similar to the Commercial designation. Efforts should be made to maintain the intent as described.

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

- Site: Vacant parcel, zoned R-3C
- North: Across Little Sorrel Drive, single family detached dwelling, zoned R-1, and medical offices, zoned B-2C
- East: Across Little Sorrel Drive, medical offices, zoned B-2C
- South: Across Wine Drive, single family detached dwelling, zoned R-1, and vacant parcels, zoned B-2C
- West: Single family detached dwellings, zoned R-1

Before getting into the details of the rezoning request, some history of this property should be known. Prior to 2007, this parcel was part of a larger 16.51-acre tract known as Ashby Meadows. In May 2007, City Council approved to rezone a +/- 6.96-acre area closest to Port Republic Road (which includes the subject parcel identified as tax map number 88-H-8) from R-1, Single-Family Residential District to R-3C, Multiple Dwelling Residential District Conditional.

Three subdivisions took place in 2008, which divided the original 16.51-acre R-1 zoned tract into

29 parcels for single-family dwellings and the remaining +/- 6.96 acres into three R-3C parcels, creating the subject parcel, the Harrisonburg Community Health Center (HCHC) parcel, a +/- 2-acre parcel, and the right-of-way for Wine Drive and Little Sorrel Drive. (The +/- 2-acre parcel was later subdivided into two, +/- 1-acre parcels).

From 2007 until present, all the parcels from the original 6.96 +/- acre rezoning have been rezoned in some manner, with three of the parcels being rezoned to B-2C and the subject parcel rezoned with proffer amendments to R-3C, Medium Density Residential Conditional in January 2017. The current proffers governing the subject parcel are as follows (written verbatim):

1. All buildings would be used only for medical offices and professional offices.
2. Screening between properties zoned R-1 and the subject property will be a six-foot-tall vinyl fence, similar to the picture from 2007 rezoning.
3. All buildings would be no more than two story, substantially of brick material, and of colonial design similar to attached pictures. Design would have to be approved by Architectural Control Committee.
4. Islands would be landscaped by Developer and maintained by adjoining property owners. This is a deed requirement.

The applicant is requesting to rezone a +/- 37,000 square foot parcel zoned R-3C, Medium Density Residential District Conditional to B-2C, General Business District Conditional. The site is located on the northwest corner of Little Sorrell Drive and Wine Drive, directly across from the HCHC. The site is about 200 feet west of Port Republic Road as well as about 200 feet north of the City/County jurisdictional boundary. If approved, the applicant plans to construct a parking lot on the parcel, which will serve as additional parking for HCHC. It should be understood that the R-3 zoning district does not allow for a “stand alone” parking lot as a principle use, whereas parking lots are permitted by-right in the B-2 zoning district.

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

1. Permitted uses of the subject Property shall be limited to:
 - a. An off-street parking lot to serve the needs of the designated use of the property identified as TM # 88-G-7, and as generally depicted in the attached Exhibit A.
 - b. Building uses shall be limited to Medical and Professional Offices.
 - i. All traffic generating uses shall be limited to a combined total of 100 vehicle trips in either the AM or PM peak hour based on the gross square footage or other unit of measure as calculated using the latest edition of the Institute of Transportation Engineer’s Trip Generation Manual.
 - ii. All buildings would be no more than two story.
2. Screening will consist of a six-foot-tall vinyl fence between properties zoned R-1 and the subject Property.
3. A five (5) foot minimum landscape buffer, measured from property line to back of curb,

- shall be provided adjoining TM Parcels 88-H-6 and 88-H-9. Landscaping shall consist of 1 canopy tree per 50 linear feet, or 1 sub-canopy tree per 30 linear feet.
4. If trees are planted within sight distance triangles, they shall not impede sight distance. For example, large deciduous trees without low hanging branches could be appropriate.
 5. Owner shall install bump-outs on Little Sorrell Dr. at proposed location of pedestrian crosswalk, as generally depicted in the attached Exhibit A. Bump-out design will generally match those existing along Little Sorrell Dr. and Wine Dr.
 6. Site shall be limited to one (1) entrance only. Sole entrance shall be located on Little Sorrell Dr.
 7. Islands would be landscaped by Developer and maintained by adjoining property owner. This will be a deed requirement.
 8. Property signage (excluding directional/way-finding signs aimed to address traffic and/or pedestrian flow) shall be limited to:
 - a. One (1) freestanding sign:
 - i. Shall be 60 square feet or less in size;
 - ii. Overall height of freestanding sign not to exceed eight (8) feet;
 - iii. Sign may be double faced;
 - iv. Sign may not be internally illuminated. Lighting of the sign will be from ground mounted light fixtures only.
 - b. One wall mounted building sign
 - i. Shall be 30 square feet or less in size;
 - ii. Signage will not be illuminated.
 - c. No scrolling or digital signs will be permitted.

While the applicant refers to Exhibit A., the Preliminary Site Plan, and elements that are shown within the preliminary site plan, this plan is not specifically proffered.

Regarding the first proffer, the applicant has removed all B-2 permitted uses for the site other than a parking lot that will be serving the development across Little Sorrel Drive, which is currently the HCHC, and the ability to have medical and professional offices in which buildings would be no more than two stories. The medical and professional offices with the height restriction proffer is a carryover from the existing R-3C zoning and staff is comfortable with allowing such use to continue to be allowed.

Given that there are no details regarding future medical and professional office uses for the site at this time, proffer #1.b.i. addresses staff's concerns about traffic generation to and from the development. This proffer limits future uses on the site to no more than a combined total of 100 vehicle trips in either the AM or PM peak hour as calculated using the latest edition of the Institute of Transportation Engineers' Trip Generation Manual. This is the threshold the City uses to require a traffic impact analysis (TIA) for planned developments associated with rezonings, special use permits, preliminary plats, and engineered comprehensive site plans. Should a property owner ever desire to put a medical or professional office use on the site that increases the calculated vehicle trips in the peak hour above 100 vehicle trips, then the property owner must amend or

remove proffer #1.b.i. through the rezoning process and a TIA may need to be provided at that time.

Proffer #2, also a carryover from the existing R-3C zoning, requires a six-foot tall vinyl fence to separate any development on the B-2C zoned parcels from the R-1 residential uses. Proffer #3 extends that separation between the subject property and the directly adjacent R-1 properties (TM Parcels 88-H-6 and 88-H-9) by requiring a minimum five-foot landscape buffer with trees to be provided along with the existing vinyl fence.

Proffer #4 ensures that sight distance for vehicles exiting the subject parcel will not be impeded by any trees that may be planted within the specified sight distance triangle. Furthermore, proffer #6 limits the subject parcel to only one entrance and that entrance shall be along Little Sorrel Drive. In addition, it should be understood that the City will be removing on street parking from Little Sorrel Drive along the subject parcel's side of the street, from Wine Drive to the existing bump out furthest west, so as not to impede sight distance from the site's entrance.

Proffer #5 provides that Little Sorrel Drive's width will be narrowed with bump outs at a mid-block pedestrian crosswalk from the subject parcel to TM Parcel 88-G-7. The bump outs will be similar to the existing "islands" referred to in proffer #7. These bump outs will shorten the crossing distance and should assist in raising awareness of potential pedestrians waiting to cross the street.

Proffer, #7, is a carryover proffer from the original 2007 R-3C rezoning. These islands currently exist; therefore, it is important to maintain this proffer.

The last proffer, #8 specifies signage limits on the subject parcel. In the R-3 zoning district, freestanding signs are restricted to a maximum height of six feet with a maximum sign area of 32-square feet. In the B-2 zoning district, signs are permitted to be a maximum of 35-feet in height and sign face area is limited to one square foot per one lineal foot of site frontage parallel to the principal street, not to exceed 240-square feet. The subject property's frontage is +/- 370-feet. The proposed proffer reduces the parcel to one freestanding sign with an allowable sign height of eight feet, a maximum sign area of 60-square feet, and no internal illumination. Wall mounted signage is limited to one sign, 30-square feet in area, and no illumination. Proffer #8 also restricts the use of digital or scrolling signage on the site. These signage proffers mimic some of the proffers approved in 2010 for the Harrisonburg Community Health Center parcel and the other B-2C parcels in this area.

As previously stated, the Comprehensive Plan designates this site as Limited Commercial. The Limited Commercial designation states that this area is suitable for commercial and professional office development, but in a less intensive approach than the Commercial land use designation, and that careful controls are needed to ensure compatibility with adjacent land uses. Under the existing R-3C proffers, a small building housing a medical or professional office use could be built on the subject parcel and a relatively large parking lot-that could appear similar in design to the

proposed concept of Exhibit A -could be constructed along with the building. Given the limited B-2 uses proffered by the applicant with this request and the fact that a relatively large parking lot and building could currently exist on the R-3C zoned property, staff believes the proposal meets the intent of the Limited Commercial land use designation.

Staff recommends in support of the rezoning request.

Chair Finnegan asked if there were any questions for staff.

Chair Finnegan said this is my primary care provider. I was there when it was being built. It was constructed in 2011. Maybe this is a question for the applicant. When it was built, were they expecting less traffic than they ended up getting?

Ms. Banks said when it was originally rezoned, they also requested a SUP to have a reduction in parking and left a certain part of their property grass so that if they ever needed to come back and put the parking in, they would do so. Since then, they have gone back and put the parking in and continued to have some parking concerns with individuals parking on the street. There is a lot of traffic in and out.

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

Jon Ernest, Monteverde Engineering and Design Studio, representing the project applicant Harrisonburg Community Health Center, spoke in support of the request. First off, I want to say that I see a lot of tired faces out there. I want to affirm you and what you are doing, especially, City staff and several Planning Commission members. You feel the weight of the proposals that are coming through for development. I appreciate that. Local designers and engineers appreciate that. We appreciate that you are in this and fully engaging. Thank you, Ms. Banks for presenting this request. Thank you, Planning Commission members for staying engaged after a very long evening of what has seemed to be a very productive discussion of the items. I commend staff for their accessibility throughout this process and their timely response. There is always a direct line of communication between staff, myself and the applicant. It has allowed for clarity and communication in our requested goals and communicating what the intent is for this request as well as creating efficiencies when coordinating submittal documents and the subsequent revisions that occur throughout the process.

The proffer conditions proposed take into consideration much more than the desired goal of the application which is the construction of a parking lot. To meet the parking needs of the existing demand for the Health Center that it receives day to day. The Harrisonburg Community Health Center understands that the Zoning law goes beyond what is needed today. They are pleased to have an open dialogue with staff on what they could do to provide a softer transition from existing uses today, especially with the residential community adjoining their development in addition to being sensitive about potential development, even considering far in the future when an additional

owner may seek to develop the property that could impact the surrounding neighborhood. What these proffered conditions say could impact that. After vetting through these comments and potential concerns with staff, the applicant, Harrisonburg Community Health Centre, found themselves in total full agreement with the City and they met staff comments by the way of the proffered conditions that have been outlined. I will answer any questions that you have for me. We also have Beth Mosely who represents the Heath Center as the CFO. She is on the line if there are any operational questions.

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

Chair Finnegan said I am not sure who to address this question to. I wanted clarification from Ms. Banks. You had mentioned a variance from parking requirements, initially.

Ms. Banks said that when they originally rezoned, they also received a SUP that allows you to have a reduction in your required parking as long as you leave the open green space available in case you need to put that parking in at some time. They came back and needed to have to put that parking in.

Chair Finnegan said that is not this request?

Ms. Banks said that is not this request. That was back in 2010 when they asked for that.

Chair Finnegan said they have already extended into this section that they had set aside and now they are still having parking issues. Is that correct?

Ms. Banks said correct.

Beth Mosely, CFO for the Harrisonburg Community Health Center, spoke in support of the request. I was not employed when they built this building. If I had been, things would look a little bit differently. When I did join in 2015, we had 15 exam rooms. Since that time, we have expanded to 24. We have also added several services that did not exist at the Health Center then, including prenatal care along with behavior health services. We have grown our existing practices. When I started in 2015, we had roughly 5,800 patients that we were serving. Today we are serving close to 17,000. One of the needs in this community, that is not only affordable housing, but affordable healthcare and that is what HCHC provides. This has been an ongoing issue for HCHC. It is a safety issue for our patients and for the surrounding neighborhood. The fact that we do not have enough parking is because we are meeting the needs of the community. We have not been able to purchase this land, until now. That goes to the care that we have been able to expand and provide and the funding we have been able to secure, that we are now in the position to be able to secure this land and hopefully bring this parking lot to the center that should enhance the experience, not only for the patients and the employees, but also the neighborhood.

Chair Finnegan said I was marginally involved with some fundraising having to do with this building

that was built in 2011. I remember when the Harrisonburg Community Health Center was on Neff Avenue, next to Costco. This seems similar to the Harrisonburg High School on Garbers Church Road. It was an expansion, and it met the needs at the time, but it quickly outgrew that. I have experienced the parking issues there.

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

Chair Finnegan said as someone who is a patient at the Harrisonburg Community Health Center, the parking is not great, currently. I do think that this is needed.

Commissioner Whitten moved to recommend approval of the rezoning request.

Commissioner Byrd seconded the request.

Chair Finnegan asked 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 rezoning request passed (7-0). The recommendation will move forward to City Council on March 8, 2022.

A motion was made by Whitten, seconded by Byrd, that this PH-Rezoning be recommended for approval to the City Council, due back on 3/8/2022. The motion carried with a recorded roll call vote taken as follows:

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

No: 0

5.g. Consider amending Sections 10-3-25(14) and Section 10-3-25.1(3) and enacting 10-3-25(29) - off-street vehicle and bicycle parking requirements of the Code of Ordinances, Harrisonburg, Virginia

Ms. Dang said the definition of *community building* in the Zoning Ordinance (ZO) is as follows:

Building, community: A building for social, educational, cultural, and recreational activities for a neighborhood or community, provided any such use is not operated primarily for commercial gain.

The *community building* use has included community buildings associated with housing developments (townhomes, apartments, duplexes, or single-family detached home developments), where the use of such space is primarily used by residents of a housing development. The *community building* use also applies to places like the Dallard-Newman House owned by the Northeast Neighborhood Association at 192 Kelley Street and the Shenandoah Valley Black Heritage Project at 425 Hill Street.

With regard to *community center*, there is no definition in the Zoning Ordinance that defines this use. When the *community center* use appears in the Zoning Ordinance it is described as a subset of governmental uses and would be used to apply to places like the City's Cecil F. Gilkerson Community Activities Center and the Lucy F. Simms Continuing Education Center, both owned and operated by the City of Harrisonburg.

Attached is a summary table of *community building* and *community center* uses as they appear in zoning district regulations as uses permitted by right and by special use permit.

Staff proposes to amend off-street vehicle and bicycle parking requirements within Article G of the Zoning Ordinance (ZO) for *community building* and *community center* uses. Specifically, within Section 10-3-25, staff proposes the following changes:

- (14) Community centers ~~not associated with a housing development~~, libraries, museums and similar facilities not dependent on public assembly or seating: One (1) parking space for each two hundred and fifty (250) square feet of gross floor area. ~~Community centers associated with housing developments, where the use of such space is primarily for the use of residents of the housing development, have no minimum off street parking requirements.~~

- (29) Community buildings: If associated with housing developments, where the use of such space is primarily used for the residents of the housing development, or if the building is no greater than 4,000 square feet of gross floor area, then no minimum off-street parking requirements. If the building is not associated with a housing development and is greater than 4,000 square feet of gross floor area, then one (1) parking space for each two hundred fifty (250) square feet of gross floor area.

Historically, staff has applied the *community center* parking requirements of one parking space for each 250 square feet of gross floor area to *community building* uses. In June 2019, staff proposed and City Council approved amendments to Section 10-3-25 (14) with the intent to allow *community centers (and community buildings) associated with housing developments* to have no minimum off-street parking requirements. The intent was and still is to allow *community buildings associated with housing developments* (townhomes, apartments, duplexes, or single-family detached home developments) to not have to provide off-street parking spaces because when housing developments are constructed, the parking requirements for

dwelling units, Section 10-3-25 (7) of the ZO, must be met for each individual dwelling unit on site; and therefore, would meet the parking needs for the community. The residents are the same individuals who will primarily use the *community building* and having to provide additional parking for an area to be utilized by the residents, whom already have parking, creates excessive parking, reduces available green space for residents, increases stormwater runoff, and increases the cost of the development.

The amendments proposed herein are intended to differentiate *community buildings* and *community centers* and to amend how the off-street parking requirements for *community buildings* is determined and implemented. Staff proposes to allow *community buildings* that are associated with a housing development or are no greater than 4,000 square feet of gross floor area to have no minimum off-street parking requirements, and if the building is not associated with a housing development and is greater than 4,000 square feet of gross floor area, to provide one parking space for each 250 square feet of gross floor area.

For illustration purposes, the *community building* at 192 Kelley Street (zoned R-2) currently has +/- 1,408 square feet of gross floor area and there are plans for a building addition that would make the building a total of +/- 2,250 square feet of gross floor area. The community building at 425 Hill Street (zoned R-2) has +/- 576 square feet of gross floor area. If the proposed amendments are approved, then these two *community buildings* would not have any minimum off-street parking requirements.

Staff also proposes the following amendments to Section 10-3-25.1, Off-street bicycle parking spaces as shown:

Use	Parking Requirement
Community centers, community buildings , private clubs, museums, libraries, recreational and leisure-time activities, and similar uses	1 space/10,000 square feet of gross floor area or 4 spaces minimum, whichever is greater

Staff recommends approval of these amendments.

Chair Finnegan asked if there were any questions for staff. Hearing none, he opened the public hearing and asked if there were any callers wishing to speak to the request. As there were no callers, he closed the public hearing and opened the matter for discussion.

Commissioner Whitten moved to recommend approval of the request.

Commissioner Baugh seconded the motion.

- 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 request passed (7-0). The recommendation will move forward to City Council on March 8, 2022.

A motion was made by Whitten, seconded by Baugh, that this PH-Zoning Ordinance be recommended to full council to the City Council, due back on 3/8/2022. 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. New Business - Other Items

6.a. Consider a request from Arturo Mendez to preliminarily subdivide 723 North Liberty Street

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 R-2
- North: Single family detached dwelling and duplex dwelling, zoned R-2
- East: Across North Liberty Street, single family detached dwellings, zoned R-2
- South: Residential use and duplex dwelling, zoned R-2
- West: Across alley, single family detached dwelling, zoned R-2

The applicant is requesting to preliminarily subdivide one parcel into two lots consisting of one +/- 8,519 square foot parcel with frontage on North Liberty Street, and one +/- 8,341 square foot parcel with frontage on a 15-foot-wide alley. This alley is referred to as Jackson Street because further north of the subject property it is a public street; however, in this area it is an alley. As described in the applicant’s letter, the subdivision will create a parcel for the existing single family detached dwelling located on the property and create a second parcel to allow for construction of a new single family detached dwelling. Because the proposed +/- 8,341 square foot parcel will front along the alley, the applicant is requesting a variance to Section 10-2-42(c) of the Subdivision Ordinance. Section 10-2-42(c) requires that all lots front on a public street; otherwise, this subdivision could have been approved through the Minor Subdivision process,

which is administratively reviewed and approved by staff.

Regarding utilities for the parcels, the existing single family detached dwelling is served by a 12-inch water line within North Liberty Street and a 6-inch sanitary sewer line within the alley. The plat indicates that a 10-foot-wide private water line easement will be provided along the southern side of the +/- 8,519 square foot parcel, which would contain the existing dwelling, to serve the proposed parcel that would front along the alley. With regard to sanitary sewer, the proposed +/- 8,341 square foot parcel will connect to sewer that is located within the alley. Because the existing dwelling's sewer is connected to the infrastructure in the alley, a 10-foot-wide private sanitary sewer easement will be provided on the southern boundary of the +/- 8,341 square foot parcel.

The applicant is aware that once it is determined how electric will be brought to the +/- 8,341 square foot parcel, either from 4th Street and the alley or from North Liberty Street, an easement may be necessary.

Staff recommends approval of the preliminary plat and variance as requested.

Chair Finnegan asked if there were any questions for staff.

Chair Finnegan said I remember that we were talking, in the last several years at one of these meetings, about accessory dwelling units off of alleys. I believe there was a concern from the Fire Department that they cannot get back in those alleys. Did the Fire Department have an opinion about this?

Ms. Banks said, as usual, the Fire Department reviews all of our applications as they come through. They did not have a concern with getting access to this parcel. There are some homes that already front on this portion of the alley.

Chair Finnegan said I am not raising that as a concern of mine, but it was a concern that I had heard it from the Fire Department before. I am glad to hear that they do not have objections to this.

Councilmember Dent said this strikes me as another chapter in the ongoing saga about alleys. Here is a case where an alley really is a street.

Ms. Banks said it is acting like a street. It is functioning as a street.

Commissioner Byrd asked if this becomes the frontage to a residence, this alley does become a street?

Ms. Banks said that by granting this variance, we are giving them permission to have their frontage on an alley. It will not change designation of the alley to a public street.

Chair Finnegan asked is this one of the few cases where the Planning Commission is the final word on this? Does this go to City Council?

Ms. Banks said because they are requesting a variance, it does have to go to City Council.

Commissioner Armstrong said I drove down this alley and it is narrow. Is there parking on it?

Ms. Banks said I do not believe that they allow parking on this alley. Portions of the alley are one way. I do not believe that they allow parking on either side of this area. Further up where it is a street, I think they do allow parking up there.

Ms. Dang said I do not recall seeing “No Parking” signs there, but if one were to park in the alley behind this parcel, you are effectively blocking the alley. It is one of those situations where there does not need to be a sign because you should not be parking there anyway. You would be blocking it.

Chair Finnegan said there are some alleys in my neighborhood where there is parking accessible by the alley, particularly behind Collicello Avenue and Virginia Avenue. This is not one of those. There are some alleys where they are heavily parked on or off of, keeping the alley open creating a parking lot off of the alley.

Commissioner Whitten moved to recommend approval of the request.

Commissioner Byrd seconded the motion.

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 request passed (7-0). The recommendation will move forward to City Council on March 8, 2022.

This Action Item was recommended to full council.to the City Council due back on 3/8/2022

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

No: 0

7. Unfinished Business

Commissioner Whitten said I want, under new business, to propose an amendment to our bylaws. I think it is timely, to limit the length of our meetings. I did talk with Mr. Russ about this.

Mr. Russ said that it is something that we talked about at Planning Commission about a year ago. There are other communities that do it. After a certain number of applications, if you receive five applications and you set the limit at four, you automatically just set a second meeting. Or the chair in coordination with staff looks at the applications and decides if it going to take one meeting or if you need to split it up into two. There are any number of ways that we could do it if that was something that Planning Commission thought was necessary to avoid these lengthy meetings.

Chair Finnegan said there are also cities, where there are a lot of applications, they meet more than once a month. I would be in favor of it. The reason is, if we sit through a long meeting every once in a while, that is what we signed up for. The real issue is that we are not at our mental best after five or six hours of these meetings. I would be in favor of putting something in motion so that perhaps we could vote on something at the next meeting. I can try to work on this, or Commissioner Whitten if you can find where that would fit into the bylaws.

Commissioner Whitten said I would defer to Mr. Russ.

Mr. Russ said I think I understand the spirit. I would need more direction as to how we want to format it. Is that something that staff would want to decide and bring to you? Do any of you have preferences one way or another?

Chair Finnegan said I think that rezonings are often contentious and longer. A preliminary plat request... I do not know. There has to be some way. They are not one to one. Not every request...

Commissioner Baugh said I want to echo this. I am mindful, looking at the clock here, while we are feeling it tonight, almost more so than at the last meeting because had we not had the technical problems, we would still be in the public hearing right now. The issue took up plenty of time and was worthy of it. The one thing that I would throw out as food for thought and based on my knowledge of what other jurisdictions do, Of course, Mr. Russ is paid the big bucks to sort this out, but some of it may actually be in an ordinance. It may be that we cannot just vote and change our meeting times. In jurisdictions that do this more, I think there is more of a mindset of friendliness to the public that is coming forward with these things. In other words, if we lock in and say 'we are only going to meet once a month, but once we got seven agenda items, you just have to wait a month.' You potentially start creating a backlog or at least getting the reputation that we are always kicking things over, and they are getting stuck. For whatever it is worth, not that I am looking for another meeting to have to go to, I think I would like the idea to have the option of setting a second meeting in the month. It would be two instead of insisting that everyone get into one and getting in line and take your turn.

Chair Finnegan said I would certainly prefer a second meeting in the month, maybe spaced two weeks out, rather than being here for six hours. We are not at our best.

Commissioner Whitten said that is why I brought it up. We used to meet twice a month. Are you comfortable to have Mr. Russ work on crafting something?

Chair Finnegan said if you are looking for more direction. The only direction that I think we can give you is that we do not want to meet for six hours or more. However other cities do it that sounds good to you.

Mr. Russ said I will come up with a couple of options that do not create that backlog that leaves developers or applicants waiting.

Chair Finnegan said Commissioner Baugh's point is well taken. The flip side of that is, if you want to participate in one of these public hearings and you have something that you really want to say and it is 11:00 p.m., you are not going to stick around forever.

Commissioner Byrd said I noticed that, when the meetings get long, the issue is that we want to do something, but everyone thinks what can we do? Even for our first item tonight, the previous time, we were still in the conundrum of how to move that one item to another meeting. Are we thinking of a time limit?

Chair Finnegan said if Mr. Russ can give us a couple of options, then we can consider them.

8. Public Comment

None.

9. Report of Secretary & Committees

9.a. Proactive Code Enforcement (On Hold)

On hold.

9.b. Rockingham County Planning Commission Liaison Report

Commissioner Whitten said I did not attend because COVID numbers were high, but I got the minutes emailed to me. They had one rezoning request 0.2 miles east from the overpass of I-81 at exit 240 in Mt. Crawford. The request was to go from B1-C, General Business-Conditional, to BXC, Business Interchange Conditional. Two different tracts, one 45.96 acres and one 51.95 acres. The request followed the Comprehensive Plan. It was reviewed and recommended for approval by staff. It was 5-0 vote in favor. It is supposed to make it more palatable as an interchange.

They had an ordinance amendment that was staff generated. It was more housekeeping in regard

to handicap accessible parking spaces to make the ordinance that they already had comply with ADA. That also was 5-0 in favor.

9.c. Board of Zoning Appeals Report

Commissioner Orndoff said there was a BZA meeting on Monday to hear an appeal from the owner of 222 Campbell Street regarding the lack of continuous occupancy. He was hoping to retain his non-conforming status, but he was unable to prove that occurred. The Board voted against him, and he lost his non-conforming status. He has to conform with regulations of the district in which he resides.

9.d. City Council Report

Councilmember Dent said the first was the 217 Franklin Street accessory dwelling short-term rental. While Planning Commission voted 4-3 to deny, City Council unanimously approved it. Councilmember Jones said this is one of the easiest ones. I relayed a couple of the concerns that were raised here about taking a long term rental off the market and raising property values. I also relayed my opinion that it is their right whether they rent it out long term or not.

Next was the cultured marble manufacturing on Pleasant Valley Road passed. It was unanimous. I raised the question about the parking being excessive. Adam had something to say about that.

Mr. Fletcher said it is unmarked. There is a high probability that there will not be a parking issue, but if they run into a situation, we will do like we do with anybody else, which is brainstorm with them as to how they can meet those requirements if that comes up.

Councilmember Dent said things got interesting with Our Community Place (OCP) on Reservoir Street. I relayed Commissioner Whitten's concern that they should get the parking agreement in writing. It came out that Tim Cummings who is with OCP had gotten an agreement in writing that day. We debated it and ultimately passed it in good faith that they would bring us the agreement in writing.

10. Other Matters

Capital Improvement Plan Update

Mr. Fletcher said that a memo was included in your packet. Review the CIP. If you have questions, submit them to me. Call me up if you want to verbally talk about anything. If you want to submit official comments for the record, email those to me by February 25, 2022. That will allow me time to communicate with other folks throughout the City and get you written responses.

Councilmember Dent said she had some general comments about the CIP. My first question about it was where is the solar? As I did with the Downtown Master Plan, with the electronic version, the first thing I did was search for solar and got zero hits. With the Master Plan, they can just sprinkle solar because it is aspirational. The CIP is different because you have to have a concrete project in mind, and you cannot just bring those up. Discussions are underway as to

how, in the future, to incorporate sustainability, renewable energy, electric vehicles, those kinds of issues that we are moving forward on into the CIP planning process. By this year, it is already set and too late to go back and add it.

11. Adjournment

The meeting adjourned at 11:41 p.m.

NOTE TO PUBLIC

In accordance with the Emergency Resolution to effectuate temporary changes in certain deadlines and to modify public meeting and public hearing practices and procedures to address continuity of operations associated with pandemic disaster, adopted on January 11, 2022, the public will not be able to physically attend the Planning Commission meeting.

However, a phone line will be live where residents will be allowed to call in and speak with Planning Commission during the Public Hearings and the Public Comments portion of the 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

Community members also may provide comment prior to the meeting by emailing:
Thanh.Dang@harrisonburgva.gov.

Community members will be able to watch the meeting live on:

- The City's website, <https://www.harrisonburgva.gov/agendas>
- Public Education Government Channel 3