

MINUTES OF HARRISONBURG PLANNING COMMISSION

August 9, 2023

The Harrisonburg Planning Commission held its regular meeting on Wednesday, August 9, 2023, at 6:00 p.m. in the City Council Chambers, 409 South Main Street.

Members present: Chair Brent Finnegan; Heja Alsindi; Dr. Donna Armstrong; Richard Baugh; Vice Mayor Laura Dent and Vice Chair Adriel Byrd. Valerie Washington was absent.

Also present: Adam Fletcher, Director of Community Development; Thanh Dang, Deputy Director of Community Development; Wesley Russ, Deputy City Attorney; Meg Rupkey, Planner; and Anastasia Auguste, Administrative Specialist/Secretary.

Chair Finnegan called the meeting to order and said that there was a quorum with six members present.

Chair Finnegan asked if there were any corrections, comments, or a motion regarding the July 12, 2023 Planning Commission minutes.

Vice Chair Byrd moved to approve the June 12, 2023 Planning Commission meeting minutes.

Commissioner Baugh seconded the motion.

The motion to approve the July 12, 2023 Planning Commission minutes passed (6-0).

New Business – Public Hearings

Consider a request from Trustees Harrisonburg First Church of the Brethren for a special use permit for a child day care at 315 South Dogwood Drive

Chair Finnegan read the request and asked staff to review.

Ms. Rupkey said the applicant is requesting a special use permit (SUP) per Section 10-3-34 (1) of the Zoning Ordinance (ZO) to allow for a daycare center to be located within Harrisonburg First Church of the Brethren. The property is currently occupied by a church and is located at 315 South Dogwood Drive. The church is not the operator of the daycare but is letting the daycare locate within their facilities. Note that if the church was the operator, the SUP would not be required because in such situations the daycare is considered an extension of the church and an allowable use.

The daycare is planning to operate for 50 children in four classrooms in the church's new gymnasium wing. The daycare is planning to operate Monday to Friday from 7:30 am to 5:30 pm. The applicant is also planning provide a fence around a play area in the rear of the property. The church currently has sufficient parking to support both the church use and the daycare facility.

Land Use

The Comprehensive Plan designates this site as Low Density Residential and states:

These areas consist of single-family detached dwellings in and around well-established neighborhoods with a target density of around 4 dwelling units per acre. The low density residential areas are designed to maintain the character of existing neighborhoods. It should be understood that established neighborhoods in this designation could already be above 4 dwelling units per acre.

The property is adjacent to Westover Park and to existing neighborhoods. Staff does not have concerns that the proposed use will adversely affect the residential neighborhood.

Transportation and Traffic

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

Public Water and Sanitary Sewer

Staff has no concerns regarding water and sanitary sewer service availability for the proposed development. Recommendation

Recommendation

Staff recommends approval with the following condition:

1. If in the opinion of Planning Commission or City Council, the use becomes a nuisance, the special use permit can be recalled for further review, which could lead to the need for additional conditions, restrictions, or the revocation of the permit.

Chair Finnegan asked if there any questions for staff.

Vice Mayor Dent said you have already answered one of the questions I had walking through here, how many employees... so eight. Eight employees to fifty children; is that a reasonable ratio? Also are they permitted or licensed or will they be?

Ms. Rupkey said so, the applicant probably can speak more to this when she comes up, but they were talking about the amount of...there is a ratio for the amount of children based on their age with the adults that are needed. So, depending on the age of the classrooms they might have certain numbers of employees in each one.

Commissioner Baugh said like with the land use issue if it was the church operating it, they would be under exemption but otherwise they would have to be regulated. So, those ratios are going to be a part of their license.

Vice Mayor Dent said they would have to licensed not just registered because of the number of children.

Chair Finnegan asked if there were any other questions for staff? Hearing none, he opened the public hearing.

Julie Shank, the applicant, came forward to speak to this request. She said I have partnered with Harrisonburg First Church of the Brethren in hopes of giving the City of Harrisonburg and the surrounding areas another much needed option for childcare. I have talked to family after family that have heart wrenching stories trying to find safe reasonable care for their children. Some have been on waiting lists from the day they found out they were expecting and yet to get a phone call with an opening available. Some had to quit jobs that they loved to be with their children. Others had been forced to leave children with children so that they may continue to work to provide for their families. We wish we could help all families in need, but we all know that is impossible. By granting the special use permit, this would help to start to fulfill the childcare needs in our community. Thank you so much for considering our needs and the needs of the people of Harrisonburg and the surrounding areas.

Chair Finnegan thanked Ms. Shank and asked if there were any questions for the applicant.

Vice Mayor Dent said I will repeat that question to you as the applicant about the ratios and depending on age and the licensing.

Ms. Shank said our plan is that we are going to be religious exempt. We felt like in Harrisonburg there are several secular daycares, but we would like to be able to present our religious beliefs to the children and plant seeds to them. So, by doing that some of the issues are not required but one of the requirements still of religious exempt is ratio and that does not change if you are licensed or unlicensed.

Vice Mayor Dent said now what is the exempt from? From licensure?

Ms. Shank said you do not have to be licensed. You do have to follow certain guidelines that the state requires and one of them is ratio. Another one would be background checks for all employees or volunteers. Our employees would need to get a physical each year saying that they were capable of taking care of children, those kinds of things.

Vice Mayor Dent said I have a slight concern, I am not going to say it that way but, about the religious aspect and planting seeds, does that become discriminatory based on religion? Staff?

Mr. Fletcher said I am not quite sure what you mean.

Vice Mayor Dent said as in, would someone of a different religion be offended or not want to put their children there? What might the repercussions be?

Chair Finnegan said this is a private institution. So, in the same way that there are private Christian elementary schools, there are private Christian daycares.

Vice Mayor Dent said okay.

Ms. Shank said if I could just add that is kind of our feeling on it. We want to be very open to whoever would like to be part of us. No matter what their religion is or no religion, but we are

going to be very upfront that we are religious exempt, and this is our teachings and beliefs and then they know whether it fits for their family or not.

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

Chair Finnegan continued and said I will say that childcare is one of the two main issues identified by Valley Interfaith Action, formally Faith In Action, and is one thing they are really focusing on in the City and the County is the shortage of childcare for local families. Affordable for sure. It is a major need in our community.

Vice Chair Byrd said the property has enough parking and all that jazz to allow people to safely arrive and leave as they are dropping off and picking up their children. Therefore, I will make a motion to approve the special use permit with the added conditions.

Commissioner Baugh seconded the motion.

Chair Finnegan called for a roll call vote.

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

The motion to recommend approval of the special use permit passed (6-0). The recommendation will move forward to City Council on September 12, 2023.

Consider a request from Fast Lane Auto Tech LLC for a special use permit to allow manufacturing, processing and assembly operations at 80 Ashby Avenue.

Chair Finnegan read the request and asked staff to review.

Ms. Rupkey said in September 2014, a portion of the property was rezoned to B-2C from R-2. The proffers from the 2014 rezoning did not limit the uses to the property but were related to providing buffers and fencing. Per the proffers, the property is required to leave 10 feet of the existing vegetation, where the adjacent property is zoned residentially. In addition to the existing vegetation, the proffers also committed the property owner to plant and maintain evergreens within the 10-foot buffer. Proffers also require a 6-foot opaque fence along the same boundaries where the vegetation is required.

The applicant is requesting a special use permit (SUP) to allow for manufacturing, processing and assembly on a property that is zoned B-2 and B-2C. The property is currently occupied by Fast Lane Auto and is addressed as 80 Ashby Avenue. The applicant is proposing to convert two of the existing bays into a space for the manufacturing component for a dietary supplement business. The

proposed facility will primarily be a production center with mainly online sales and direct to store sales for brick-and-mortar stores.

Land Use

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

The Mixed Use category includes both existing and proposed areas for mixed use. Mixed Use areas shown on the Land Use Guide map are intended to combine residential and nonresidential 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.

Staff believes that the proposed use, with the appropriate SUP conditions, conforms with the Mixed Use area designation.

Staff recommends conditions to restrict the SUP to only be applicable for a dietary supplement manufacturing operation or a substantially similar operation, and to restrict the operation to no greater than 2,500 square feet of gross floor area. If in the future the operator wants to expand the use, a new SUP shall be applied for, reviewed, and approved.

As is already controlled by the Zoning Ordinance, this particular SUP limits the number of employees to no more than 15 people on a shift. The applicant is aware of this and is planning to have no more than two or three employees on a shift. For delivery to the property, most ingredients that are planned to be used will be delivered by smaller delivery trucks on a weekly or biweekly basis.

Transportation and Traffic

A traffic impact analysis (TIA) was not required for the SUP request.

Public Water and Sanitary Sewer

Staff has no concerns regarding water and sanitary sewer service availability for the proposed development.

Recommendation

Staff recommends approval of the SUP with the following conditions:

1. The special use permit shall only be applicable for a dietary supplement manufacturing operation or a substantially similar operation.
2. The special use permit shall be restricted to no greater than 2,500 square feet of gross floor area.
3. If in the opinion of Planning Commission or City Council, the use becomes a nuisance, the special use permit can be recalled for further review, which could lead to the need for additional conditions, restrictions, or the revocation of the permit.

Chair Finnegan asked if there any questions for staff.

Vice Mayor Dent said again, there is that odd phrase “substantially similar”, I raised that to Adam last night. If a future use comes up how and who determines what is substantially similar to a dietary supplement? How different does it have to be before it is not similar, I do not know.

Ms. Rupkey said it is up to our Zoning Administrator at the time to make that decision of what is substantially similar. We did have the applicant in their letter explain sort of what they are doing. Just manufacturing the supplements or...it is not giant manufacturing, but it is a similar scale of size. It is ultimately up to the Zoning Administrator.

Chair Finnegan said you could also argue on what is a nuisance. One person’s nuisance is another person saying it is okay. I think it is open to someone’s interpretation there.

Chair Finnegan then opened the public hearing and invited the applicant or applicant’s representative to speak to this request.

Hearing no public comment, he closed the public hearing and opened the request for discussion.

Commissioner Armstrong said who inspects the food producing type of manufacturing?

Ms. Rupkey said with discussions that I have had with them [the applicant], they were talking with the Department of Agriculture.

Chair Finnegan said in the applicant’s letter they did say that they were...I am operating on the assumption that they say dietary supplements, they are taking powder and putting it into capsules or something.

Ms. Rupkey said from what I understood, yes it is similar to...they want to be licensed by the GNC vitamin type stores to be able to provide products to them and then additional various other companies, like salons, to sell to.

Vice Mayor Dent said is there a retail operation here that is sold both online and to brick-and-mortar stores? It does not sound like they are going to be selling it right there.

Ms. Rupkey said from what I understand, there is not any of that coming in, but it is zoned B-2 so by right they could, but as far as I am aware it is primarily online sales.

Commissioner Alsindi said I was just trying to make a comment that the word manufacturing sometimes gives that kind of understanding that there will be bangs. It is in fact production and its more soft assembly line if I am not mistaken. Otherwise, it would not even be an issue for the neighborhood if it was manufacturing, it sounds heavy metal and putting together stuff. So, I think it is a light production line which is fine in my understanding.

Vice Chair Byrd said I was thinking about what would be substantially similar and if for instance a particular not major, but it is still a chemical operation started to be considered, I would have concerns about whether that was still substantially similar to this use and therefore that language would come into view, in my view in the future if something like that were to occur. I feel that the conditions addressed any future concerns that may come up and then the body at that time can make that decision based what the community feels at that time. I would make a motion to recommend approval of the special use permit request with suggested conditions.

Vice Mayor Dent seconded the motion.

Chair Finnegan said I want to clarify before we take a vote. All of us are operating under the assumption that it is some sort of pill manufacturing, and it is not using caustic chemicals, this is our understanding because the applicant is not here. If it is not substantially similar to that and I think it could and should be revoked in the future.

Mr. Fletcher said again, I want to jump in because I am not really sure what you mean by caustic chemicals and what your concern might be. Anything that would be of a chemical nature would be regulated by the, I presume, the Department of Agriculture and Consumer Services. We do not have the details of every single production method they are using. So, at the time that they get their building permits and they have to put in whatever ventilation systems in all of those things for the building code, if there are questions that arise the Zoning Administrator would always interpret whether or not it still fits the special use permit category. This body never has to worry about interpretation, that is the responsibility of the Zoning Administrator. The concerns that you bring up made me question what you really meant by that.

Chair Finnegan said I think what I mean is right now we know that there is motor oil and loud drills and things like that happening in that building. They are manufacturing dietary supplements and I am under the assumption that they are not going to be noxious fumes and stuff coming out of there if they are just assembling, putting powder into pills and putting pills into bottles. That is the assumption that I am operating off of.

Vice Mayor Dent said my question and what I hear from Vice Chair Byrd is more of the substantially similar potential future operations. If they are still doing light processing and

manufacturing, what if it becomes a question of caustic chemicals and potential environmental hazards and the permits for the ventilation and such.

Mr. Fletcher said there are a lot of uses that require ventilation. Painting of vehicles, repair of vehicles, hair salons require ventilation systems, when the downtown brewery is making beer, you can smell it all throughout the downtown. Again, I just want to make sure I understand what you mean by that so that we have an understanding to what your concerns might be.

Vice Mayor Dent said for me it is just what would trigger the threshold of evaluation of whether future businesses substantially similar or if it needs to be revisited or limited somehow.

Mr. Fletcher said not to be repetitive, but the Zoning Administrator would make that call.

Commissioner Baugh said around here that would mean a complaint or something else that has brought it to....

Mr. Fletcher said sure, we have put it through significant review during the building permit review. There are a ton of things that the building division looks at and that zoning would look at. They will look at what the request is, what is the manufacturing production, all of those things.

Commissioner Baugh said once it is up and operating, there is a good chance, unless it came to our attention.

Mr. Fletcher said yeah, I mean when things come in for review and they are getting mechanical, and electrical permits and plumbing permits and all of these things, they are triggers that sort of bring to attention specific matters and then building inspections walk down the hall and say "hey hold up a second here zoning, let's talk about this."

Ms. Dang said condition one where it talks about the special use permit being applicable for a dietary supplement manufacturing operation or substantially similar operation, that is talking about the activity. They are manufacturing dietary supplements. Is a future activity similar to that, that is the first condition. The third one is, if it becomes a nuisance, I am hearing the discussion about caustic vapors and ventilation, whatever it might be, if it becomes a nuisance, we have the option to recall the permit and review it especially a use permit. It is not totally an interpretation just by the Zoning Administrator because condition number three says Planning Commission and Council can recall the special use permit to review it if there are ever concerns raised, complaints and what not.

Vice Chair Byrd said when I was bringing up my example, I was just using it to wrap my head around the first condition not so much to make it sound like a restrictive or definitive thing as into how this particular application. I was just saying that once it is up and running that dietary manufacturing process, if in the future it was to change drastically to what it no longer is into still a manufacturing process, these conditions enable me to go oh now I have a reason to...

Mr. Fletcher said I heard the fumes and the chemicals, and I mean there are lots of by right businesses that use a lot of those things.

Vice Mayor Dent said come to think of it, what Chair Finnegan raised that right next door are auto repair with oil and banging and fumes and what not, presumably this is part of the site planning and such but how would this manufacturing facility be shielded from that, they do not get the fumes as badly.

Mr. Fletcher said that is all taken care of during the building review.

Chair Finnegan called for a roll call vote.

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

The motion to recommend approval of the special use permit passed (6-0). The recommendation will move forward to City Council on September 12, 2023.

Consider a request from Harrisonburg Redevelopment and Housing Authority to rezone 11, 21, 31 Elon Rhodes Lane, 241 Commerce Drive, and 298 East Washington Street.

Consider a request from Harrisonburg Redevelopment and Housing Authority for a special use permit to allow multiple-family dwellings of no more than twelve (12) units per building at 11, 21, 31 Elon Rhodes Lane, 241 Commerce Drive, and 298 East Washington Street.

Chair Finnegan read the request and asked staff to review.

Ms. Dang said in August 2004, City Council approved a requested rezoning from the Harrisonburg Redevelopment and Housing Authority (HRHA) of four B-2 parcels (tax maps 41-Q-4, 4A, 6, and 7) totaling +/- 2.5-acres with specific proffers. One of the proffers noted that the development would be built substantially conforming to the submitted site layout. The corner parcel, made up of tax maps 41-Q-4 and 4A, was rezoned to B-2C with all business uses being restricted to 2,000 square feet in size and no business could operate vehicle repair or sales, general service or repair shops, or warehousing and other storage facilities. During the same 2004 rezoning, tax maps 41-Q-6 and 7 were rezoned to R-3C, Multiple Dwelling Residential Conditional (a district now often referred to as the “old R-3 district”).

After the above noted rezoning, the properties remained undeveloped. Then, in June 2013, HRHA requested rezoning tax map parcel 41-Q-6 from R-3C, Multiple Dwelling Residential District Conditional to R-3, Medium Density Residential District and a small portion of 41-Q-4 from B-2C to R-3, Medium Density Residential District, to create enough lot area to construct 30 multiple-family dwelling units. There were no proffers submitted. At this same time, HRHA requested two special use permits. The first was to allow multi-family dwellings of up to 12 units per building, which was (and still is) required when desiring to build multi-family units within the “new R-3

district.” The second SUP was to allow for the reduction of required parking spaces, which requires any area that would have been used for parking to remain as open space. City Council approved the rezoning request and also approved the two SUPs with the following conditions:

With regard to the SUP to allow multi-family family dwellings:

- No more than two (2) unrelated persons shall occupy any dwelling on the property, including the multi-family dwellings permitted by this special use permit.
- The special use permits shall be valid for five years from the date of approval by City Council.

Regarding the SUP to reduce required parking:

- The site shall provide not less than 60 percent of the required minimum amount of parking spaces.
- If, in the opinion of Planning Commission or City Council, the implementation of this special use permit becomes a nuisance, the permit can be recalled for further review, which could lead to the need for additional conditions, restrictions, or the revocation of the permit.
- The special use permits shall be valid for five years from the date of approval by City Council.
- In the event that they (the developer) are not able to get a transit stop on the property, they (the developer) must construct sidewalk or some equivalent pedestrian walkway out to East Washington Street.

Presently, the 2004-approved proffers related to the B-2C zoned portion of the subject rezoning site are still in effect. The R-3 zoned portion of the subject rezoning has no proffers but has two SUP conditions that remain in effect.

The applicant has submitted two separate applications. The first is to rezone three parcels totaling +/- 2.5- acres from R-3 and B-2C to R-5C. Because the applicant would like to construct new 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 more than 12 units per building in the R-5. (Note: Constructing multi-family dwellings with up to 12 units per building is a by right ability in the R-5 district.) The SUP is only applicable to the undeveloped portion. If both requests are approved, the applicant plans to construct a 16-unit multi-family building at the corner of Commerce Drive and East Washington Street, described herein as Commerce Village II.

If the subject rezoning is approved, it would supersede and replace the previously approved 2004 and 2013 rezonings and proffers, and it will void the 2013 SUPs and conditions for the existing Commerce Village development as those SUPs would no longer be necessary under the proposed R-5C zoning and submitted proffers and the requested SUP.

Know that if the rezoning is approved, it will increase the required minimum side yard setback on the adjacent parcel addressed as 296 East Washington Street and identified as 41-Q-3. This is because that property is zoned B-2, where the side and rear yard setbacks are different depending

upon the zoning district of adjacent parcels. The B-2 district regulations require a 10-foot side and rear yard setback when the adjacent parcels are not zoned residentially. However, when B-2 property boundaries abut residential districts, the side and rear yard setback increases to 30 feet and when structures on the B-2 property are taller than 35 feet, an additional foot of setback is required for each foot above 35 feet. Unless the structure located on 296 East Washington Street is already nonconforming to setback regulations, it will likely become nonconforming if the subject rezoning request is approved. Additionally, any new buildings or additions on that property will need to meet the increased minimum setback requirement.

Proffers

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

1. Occupancy is restricted to a family or no more than two (2) individuals per dwelling unit.
2. A minimum of 0.75 parking spaces per dwelling unit shall be provided.
3. On tax map parcels 41-Q-4 and 41-Q-4A, no parking lot (including travel lanes and drive aisles) shall be located between any building and public streets (Commerce Drive and East Washington Street).
4. There shall be no entrances on East Washington Street.
5. Future development on tax map parcel(s) 41-Q-4 and 41-Q-4A shall share an entrance with 41-Q-6, as generally depicted on Exhibit A (concept plan).
6. Internal private sidewalk connections shall be provided to public sidewalks along East Washington Street and Commerce Drive at the time of development of tax map parcel(s) 41-Q-4 and 41-Q-4A.

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 two individuals. This occupancy is essentially equivalent to the occupancy condition that City Council placed on the existing Commerce Village development back in 2013. Because they proffered a reduction in occupancy, Section 10-3-25 (7) of the ZO allows for reduced parking when occupancy is restricted at “1 space for each dwelling unit or as may be conditioned by the property owner at the time of rezoning”

Given this provision, the applicant has proffered to provide a minimum of 0.75 parking spaces per dwelling unit. The applicant’s letter describes that all apartment units will be one-bedroom units and they based the proffered occupancy on “careful evaluation of the parking needs and observed demand throughout the history of Commerce Village and beyond.” The applicant further stated that “the phase 1 units occupy less than 50% of the total allocated parking spaces, indicating that the original parking requirement for their specific needs proved excessive and does not align with the actual parking demand that has been observed on-site.”

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. 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.

Land Use

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

“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 multifamily buildings. Large scale developments, which include multi-family buildings are encouraged to include single-family detached and/or attached dwellings.”

Staff believes the rezoning and approving the SUP is in line with Comprehensive Plan. When considering all three parcels, the existing 30 units, and the planned 16 additional units, the development would equate to almost 18 units per acre, which is within the planned density for these parcels. Ultimately, however, the applicant plans to subdivide the property so that the existing 30 units are located on an approximate 1.9-acre parcel (equating to almost 16 units per acre) and positioning the planned 16 additional units on approximately 0.66-acres (which would equate to the planned 24 units per acre).

Transportation and Traffic

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

The Proffers section of this memorandum describes proffers that enhances pedestrian access and connectivity and proffers that restrict the number of entrances serving the property.

Public Water and Sanitary Sewer

Staff has no concerns regarding water and sanitary sewer service availability for the proposed development.

Housing Study

The City's Comprehensive Housing Assessment and Market Study (Housing Study) places the subject site within Market Type B, which has "neighborhoods [that] are characterized by high income earning households, large volumes of housing sales and lower population growth." The Housing Study further notes that houses in these markets are quick to sell and that "[p]riorities and policies that are appropriate to Market Type B areas include the preservation of existing affordable housing while at the same time working to increase access to amenities."

Public Schools

The student generation attributed to the proposed 16 new residential units is estimated to be nine students. Based on the School Board's current adopted attendance boundaries, Spotswood Elementary School, Skyline Middle School, and Harrisonburg High School would serve the students residing in this development. Harrisonburg City Public Schools (HCPS) staff noted that schools are over capacity in many of the schools.

Recommendation

Staff recommends approval of both the rezoning and special use permit as submitted.

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

Jon Ernest, a landscape architect with Monteverde Engineering and Design Studio, came forward to speak to this request. He said I am here on behalf of the overall design team, which also includes local architects LDDBlueline, we are here representing Harrisonburg Redevelopment and Housing Authority and I want to step back and give a quick summary of what Thanh was speaking towards regarding the rezoning of the entire three parcels, the entirety of the property. If approved, the property would exceed the required density for the existing use. They are on Commerce Village I and therefore, with the boundary line adjustment, we needed an increased square footage to accommodate that density requirements, if approved. Just to summarize briefly what she [referring to Thanh] touched on. Also, she stated we are looking to rezone, it is approximately two and a half acres from B-2C as well as R-3 conditioned to this R-5 condition. I am available to answer any design planning related questions. Executive Director of HRHA, Michael Wong is here as well to speak on operational applicant specific questions if there are any.

Vice Mayor Dent said come to think of it this may be more for staff, so I apologize. I see under public schools "the student generation attributed is estimated to be nine students" well as far as I know that is not the clientele of Commerce Village for single bedroom mostly geared towards veterans, disabled people, affordable housing so that does not sound like it would generate students.

Ms. Dang said I agree with you. Know that these numbers from the public schools are just calculated off of a spreadsheet based on [unintelligible] numbered dwellings. That does not take into account is it college housing or if it is other types of housing. It is just based on data that they have gathered for their different school districts.

Vice Mayor Dent said I hope that does not throw any calculations off because this is not a student generating...

Chair Finnegan said what it makes me do is take that number less seriously the more I see it. Those numbers come from the schools; they are the ones handing over those calculations?

Mr. Fletcher said [inaudible] so much because what they are doing is, they have taken a deep dive study of how many students were generated out of the different types of housing units in each of the districts.

Ms. Dang said different housing units being single family detached...

Mr. Fletcher said duplexes, townhomes, multi-family so each school district has a different ratio because it is real world numbers based upon the students that are living in certain types of dwelling units. Yes, if you get into the details for things like this, they are not delineating, and they do not have enough data to tell you how many students might come out of a facility that helps folks in their life and these situations. I do trust the numbers just because I know how they studied the data, because it is real world data. It is where the students are living, and the types of units that they are living in.

Ms. Dang said if you remember the section was added at the request of Planning Commission. If you find it helpful, we will continue to include it and if you do not then please let us know.

Mr. Fletcher said we even questioned them, when we get the comments, we discuss all of this stuff. I even said to Thanh, there was a number that came in and I was like "this seems awfully high" and then she even explained "no, this is this and this is this" and I was like okay makes sense.

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

Michael Wong, Executive Director for the Harrisonburg Redevelopment and Housing Authority, came forward to speak to this request. He said I think it will be another benefit for the applicants for phase one. Within this proposed phase two, we will add an additional office space, not really an office space but a service space for residents, so we anticipate that residents from the Commerce Village may go over there to receive some types of services and activities. One of the activities that we do over at Commerce Village is the suitcase clinic for the homeless. One of the challenges I have is having treatment space, so we have established in the proposed development a office space for the nurses to able to do medical types of reviews and assessments. I would also say that Commerce Village was developed in 2016. It was the very first permanent supportive housing development in our community. It has been the only time that the population of Open Doors has decreased when Commerce Village was opened. The model of Commerce Village received the Governors Housing Conference Award for best affordable housing development. We feel like with Commerce Village II we can build a similar type of product with that level of quality. I am surprised, I understand that they do the study by bed types, but there is uniqueness with this facility and if you talk to any expert there is no exact science in regard to the number of generated students. It is not very truly data quality driven. But we are very excited about the opportunity to be able to provide another option for affordable housing for the residents in our community. Again, this is

targeted towards those that are experiencing homelessness and we just received notice from HUD [Housing and Urban Development] today of an award of 15 additional VASH [Veterans Affairs Supportive Housing] vouchers which is targeted for veterans that are homeless. We anticipate that at least eight of those vouchers at Commerce Village. When we did our analysis of homeless individuals last year, where we submitted our application for the additional vouchers, we identified seventeen homeless veterans in our local community, 33 within our continue of care. It would definitely meet a need with our community. The other eight units will target and working with our local continuing of care to take referrals for individuals that are partly homeless.

Chair Finnegan said in order to qualify to live here, you need to be a veteran?

Mr. Wong said or have a disability and have been referred from the centralized intake process of our continuing care.

Chair Finnegan asked if anyone would like to speak to this request. Hearing none, he closed the public hearing and opened the request for discussion.

Vice Mayor Dent said I for one am thrilled to see this coming back because as you may recall I was advocating for ARPA [American Rescue Plan Act] funding for this and that did not happen where we allocated a fund for the housing, 2 million dollars or so that applicants can apply to That is what we did for housing for ARPA as well as the homeless services center. Anyway, I am glad that HRHA is finding ways to make this happen.

Commissioner Armstrong said I strongly support this, partly because Commerce Village is really a nice development. It reminds me of community pushback from earlier in the year when the affordable housing project was proposed. Where there were a lot of perceptions that affordable housing looks really rundown, and it is really poorly maintained. This shows that is not necessarily true at all. This is really well done.

Chair Finnegan said I would second that sentiment. I think Commerce Village, there is a reason it won an award. I think expanding that and offering more housing options for folks who are veterans or have a disability is a positive.

Vice Chair Byrd said we are making a neighboring property nonconforming, and I see our need for housing to supersede that type of concern. Therefore, I make a motion to approve the rezoning.

Commissioner Armstrong seconded the motion.

Chair Finnegan called for a roll call vote.

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

The motion to recommend approval of the rezoning passed (6-0).

Vice Chair Byrd said I would like to make a motion to approve the special use permit as submitted with the conditions.

Commissioner Armstrong seconded the motion.

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

The motion to recommend approval of the special use permit passed (6-0). The recommendations will move forward to City Council on September 12, 2023.

Consider a request from Karwan K. Saeed to rezone 215 Pear Street

Chair Finnegan read the request and asked staff to review.

Ms. Rupkey said the applicant is requesting to rezone a +/- 27,000-square foot parcel from R-1, Single-Family Residential District to R-8C, Small Lot Residential District Conditional. The lot has an existing single- 2 family detached dwelling and is addressed as 215 Pear Street. While the applicant is proposing to subdivide the lot and build a single-family dwelling on the newly created parcel, if the property is rezoned, given the R-8 district's dimensional requirements, the site might be able to be further developed by subdividing the parcel into three single family home lots or two duplex parcels (by-right, a maximum total of four units).

Proffers

Since the day the agenda packet and staff reports were published, the applicant offered a new proffer (#2). The applicant has offered the following proffers (written verbatim):

1. There will be one entrance to the site to Pear Street and no other driveway will be allowed from Pear Street to the parcel.
2. The Owner/Applicant shall dedicate to the City, upon a subdivision that creates new lots or prior to issuance of any Certificate of Occupancy for a new dwelling, thirty feet (30') of right-of-way along the frontage of the property as measured from the centerline of the current Pear Street pavement for future right-of-way improvements.

While reviewing the application, staff had concerns about creating another entrance on this side of Pear Street from the existing parcel. We appreciate the applicant's willingness to prohibit no more than one entrance to the site. Note that if a new location is desired to enter the site, the property owner must close the existing entrance.

With proffer number 2, the applicant is proffering to provide right-of-way for future improvement to Pear Street. The future design of Pear Street as a whole is still an unknown and staff was comfortable with the applicant proffering only the right-of-way for future improvements.

Land Use

The Comprehensive Plan designates this site as Medium Density Mixed Residential and states:

These areas have been developed or are planned for small-lot single-family detached and single-family attached (duplexes and townhomes) neighborhoods, where commercial and service uses might be finely mixed within residential uses or located nearby along collector and arterial streets. Mixed-use buildings containing residential and nonresidential uses and multi-family dwellings could be appropriate under special circumstances. Attractive green and open spaces are important for these areas and should be incorporated. Open space development (also known as cluster development) is encouraged, which provides for grouping of residential properties on a development site to use the extra land for open space or recreation. Like the Low Density Mixed Residential designation, the intent is to have innovative residential building types and allow creative subdivision designs that promote neighborhood cohesiveness, walkability, connected street grids, community green spaces, and the protection of environmental resources or sensitive areas (i.e. trees and floodplains). Residential building types such as zero lot-line development should be considered as well as other new single-family residential forms. The gross density of development in these areas could be around 20 dwelling units per acre. 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.

In this particular case, staff believes the requested R-8 zoning district's allowable dwelling types and densities are consistent with the Medium Density Mixed Residential designation. By-right, the R-8 district would allow 15 units per acre for single family detached dwellings and 24 units per acre for duplex units. While staff believes that the proposed development and rezoning to the R-8 district conforms with the Comprehensive Plan, it should be known that staff also believes an ideal situation would be for the subject property to become, or be part of, a larger development.

Know also that the R-8 district's occupancy regulations are the same as the R-1 district's occupancy regulations. When the R-8 district was drafted, the proposed occupancy regulations were intentionally designed to mimic the R-1 and R-2 districts because the R-8 district was intended to promote family occupancy with higher unit density abilities. The occupancy regulations allow owner-occupied dwellings to be occupied by a family plus two individuals or a maximum of three individuals and nonowner-occupied dwellings can be occupied by a family plus one individual or a maximum of two individuals.

Transportation and Traffic

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

Staff had concerns about adding a second entrance to the site and suggested for the applicant to consider proffering a single entrance from Pear Street to the site. The applicant was already

planning to use the single entrance for the proposed development and provided the submitted proffer that limits the parcel to one entrance.

Public Water and Sanitary Sewer

Staff has no concerns regarding water and sanitary sewer service availability for the proposed development.

Housing Study

The City's Comprehensive Housing Assessment and Market Study (Housing Study) places the subject site within Market Type B, which has "neighborhoods [that] are characterized by high income earning households, large volumes of housing sales and lower population growth." The Housing Study further notes that houses in these markets are quick to sell and that "[p]riorities and policies that are appropriate to Market Type B areas include the preservation of existing affordable housing while at the same time working to increase access to amenities."

Public Schools

The student generation attributed to the applicant's proposed one single family residential unit is estimated to be one student. Based on the School Board's current adopted attendance boundaries, Bluestone Elementary School, Thomas Harrison Middle School, and Harrisonburg High School would serve the students residing in this development. Harrisonburg City Public Schools (HCPS) staff noted that schools are over capacity in many of the schools.

Recommendation

Staff recommends approval of the rezoning.

Chair Finnegan asked if there any questions for staff.

Vice Chair Byrd said staff said that they would prefer it to be connected to a larger development. Is that due to...because when I look at the map I see two mark off sections behind existing properties.

Ms. Rupkey said [referring to the map] these two right here?

Vice Chair Byrd said yes.

Chair Finnegan said right along the City-County line.

Vice Chair Byrd said is that thought because that area exists?

Ms. Rupkey said with the amount of lot size that they have, it could be a larger development than just one additional single-family house, but that is what they are wanting to do.

Vice Chair Byrd said is that area behind there owned by other people?

Ms. Rupkey said yes, it is.

Chair Finnegan said how would those properties be accessed? Just to follow up on Vice Chair's comment. Like if those are owned by other people maybe that is a problem that is not created by this rezoning, but it is a question of what is the access for that.

Ms. Rupkey said West Mosby Road is a frontage on this property right behind it and then [referencing to the map] for this property right here there is an access point right here that I believe has an access easement to get to this. I am not 100% sure on who has the access to that property, but privately they can work out access easements.

Mr. Fletcher said to not sound too critical, but it is for the private property owner to figure out how they have access. There could be private access easements along there. It may even be part of the property owned by the church because what you are seeing there that blue line designates where the City-County boundary is and what we are not showing are County parcel boundaries and just because it might look like a small parcel in the City it could be a much larger piece of property that crosses the jurisdictional boundary. To answer your question about what does staff really mean when we are talking about we hope that it is part of a bigger plan of development, when you have parcels like this, especially in an area that was definitely a part of the County back in 1983, when you start to just break up each individual parcel, it makes it difficult for connectivity, for access onto a public street,.. rather than having multiple entrances for every single parcel you want just one controlled access. Sometimes you will hear us talk about instead of fronting on, let's say collector streets, which I believe Pear Street is, to have a public street intersection off of Pear Street and then those parcels are then fronting on interior neighborhoods streets. So, their rear yards end up being adjacent to Pear Street. In a perfect world scenario if we had all this undeveloped land and the City owned all the property, you would be laying out street networks, all this kind of stuff, but you just do not get the perfect world scenario. As much as we want to continue to create opportunities to increase density, it would be lovely if someone were able to come in there and acquire multiple parcels. You could do a much larger grander plan of development and that is what we are getting at. To add a little bit more context, when you think of spaces like Foley Road and Ridgeville Lane where each individual parcel that was created out in the County is densifying on its own and we try to have interconnectivity and we cannot always get those private property owners to work together.

Chair Finnegan said maybe this is a discussion for...I do not know where this discussion belongs. Something we did talk about on the site tour yesterday was if it was possible...I will just say it would be nice to have easements to address exactly what you are talking about so that these things could interconnect. I am thinking of Smith Avenue where you have a lot of pipe stem access so you have a lot of properties behind properties but there is no street for that second row and there are shared driveways and oddly shaped lots that the driveway goes up.

Vice Mayor Dent said not to mention a street that does not meet...

Chair Finnegan asked if there were any more questions for staff. Hearing none, he opened the public hearing.

Wshiar Saeed, applicant's representative, came forward to speak to this request. He said we are trying to build a single-family home on that lot. We are trying to share the same driveway. We will

not make any other driveway; we will not create any traffic. It will be like everything is normal and there is so much space. Behind us there is the church, there are no houses behind us. We will not build anything like that, just a single family how with one entrance, that is it. If we get approved, we will try to start in January. Thank you.

Vice Mayor Dent said if you could just bring up the slide, the ariel view maybe. Since there really was not a conceptual, I am trying to get a sense of where you would put the house. I see there are two additional buildings, would you take those down and put it in the back?

Mr. Saeed said we would remove this; it is a garage. We are going to remove this unit too [pointing on the screen to a second structure] and build a house between these two units [referring to the structures to be removed].

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

Vice Chair Byrd said even though we may be seeing another rezoning for a property across the street, we have rezoned things before the large projects. So, I will not put much weight onto any concerns if that. With the two proffers presented, I see the current concerns about the future development of Pear Street to be taken care of. We will deal with any other future concerns about other areas in the future I assume. I would be in favor of this rezoning request with the proffers.

Chair Finnegan said we did not foresee R-8 as being this popular when this use was created in 2019. We have seen a lot of R-8 lately which is good note for when we revise the Zoning Ordinance.

Commissioner Armstrong made a motion to approve.

Vice Chair Byrd seconded the motion.

Chair Finnegan called for a roll call vote.

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

The motion to recommend approval of the rezoning request passed (6-0). The recommendation will move forward to City Council on September 12, 2023.

Consider a request from Daniel W. and Nancy R. Brubaker Trustees and Bluestone Land Company; D&N LLC to rezone 210, 280, and 290 West Mosby Road

Consider a request from Daniel W. and Nancy R. Brubaker Trustees and Bluestone Land Company; D&N LLC for a special use permit to allow multiple-family buildings greater than four (4) stories in height and/or fifty-two (52) feet in height at 210, 290, and 280 West Mosby Road

Consider a request from Daniel W. and Nancy R. Brubaker Trustees and Bluestone Land Company; D&N LLC for a special use permit per Section 10-3-55.4 (1) to allow multiple-family dwellings of no more than twelve (12) units per building for 210, 290, and 280 West Mosby Road

Chair Finnegan read the request and asked staff to review.

Ms. Dang said in February 1999, City Council approved a rezoning of +/- 24.83 acres identified as tax map parcel 7-C2. The request was to rezone +/- 21.62 acres from R-1, Single Family Residential District to R-2C, Residential District Conditional and rezone +/- 3.21 acres from R-1, Single Family Residential District to B-2C, General Business District Conditional.

The proffers for the R-2C zoned area included (written verbatim):

1. Any dwellings permitted by right in the R-1 Single-Family Residential District.
2. Single-family dwelling units with limitations as required by area and dimensional regulations set forth in R-2 regulations.
3. Accessory buildings and uses clearly incidental to above.

The proffers for the B-2C zoned section included (written verbatim):

1. Governmental, business and professional offices, and financial institutions.
2. Accessory buildings and uses customarily incidental to above listed uses.

The intent with the above proffers was to be able to construct a higher density detached single family home neighborhood utilizing the allowable smaller lot sizes of the R-2 district while permitting the noted nonresidential uses along a portion of the property's West Mosby Road frontage and at the intersection with Pear Street.

The current request is associated with a portion of the R-2C-zoned land, all of the B-2C-zoned area, and a portion of a separate parcel zoned R-2 with frontage along West Mosby Road.

The applicant has submitted three separate applications. The first is a rezoning request for portions of two parcels totaling +/- 12-acres from R-2, R-2C, and B-2C, to R-5C. The second application for the same area is for a special use permit (SUP) to allow multiple-family dwellings of more than twelve (12) units per building per Section 10-3-55.4 (1) in the R-5 district. The third application for the same acreage is a SUP to allow multiple-family buildings to be greater than four (4) stories and 52 feet in height Per Section 10-3-55.4 (2) in the R-5 district. (Note: Constructing multi-family dwellings of up to 12 units per building is a by right ability in the R-5 district.) If the requests are approved, the applicant plans to construct an "affordable residential community serving seniors and potentially workforce and other citizens qualifying for affordable housing options." The project would not exceed 164 multi-family dwelling units.

Proffers

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

1. The number of dwelling units on the property shall not exceed 164 units.
2. The property shall not contain dwelling units that have more than three (3) bedrooms. None of the dwelling units shall be rented on a “per bedroom” basis other than one-bedroom units designed for that purpose. At least 25% of the total units will be one bedrooms.
3. A minimum of 82 units will be age-restricted, in that at least one member of each household must be aged 55 or older and will comply with applicable laws and regulations relating to age restricted housing.
4. A minimum of 1.35 parking spaces per dwelling unit shall be provided. Occupancy shall be limited to a family or no more than three (3) unrelated persons per dwelling unit.
5. Solar panels shall be installed and maintained on a minimum of 10,000 sf of building roof area as measured from the outside perimeter of the solar installation area (and not panel surface area).
6. A minimum of two (2) “Level 2” (equivalent or better technology at the time of construction) electric vehicle charging stations at the property shall be installed prior to project completion and thereafter maintained in operating condition.
7. An easement shall be granted for a bus shelter at a location acceptable to Harrisonburg Department of Public Transportation (HDPT). A concrete pad will be constructed within the agreed easement location to HDPT’s bus shelter design specifications. HDPT will install the bus shelter on the pad provided.
8. Amenities Proffer shall include a minimum of 1,500 sq feet of installed and maintained outdoor amenity area space, to potentially include community amenity and recreational areas such as a dog run, gazebo, koi pond, picnic pavilion. The location and specific amenity type may be changed or relocated relative to final site plan approval and resident mix. A community clubhouse will also be constructed containing a minimum of 2500 sq. ft. Both the clubhouse and outdoor amenity areas proffered shall be completed and opened no later than the issuance of the 100th Certificate of Occupancy for residential units on the property.
9. The north side of Mosby Road will be improved and widened for the length of the full property frontage as generally shown on the Concept Plan. These improvements shall contain the following mitigations subject to final site plan approval of the final engineered design:
 - A. The north travel lane of West Mosby Road will be widened to include an eighteen-foot (18’) width of pavement from centerline exclusive of curb and gutter and turn lane.

B. Curb and gutter will be provided along the north travel lane of West Mosby Road along the entire property frontage.

C. A two-foot (2') green strip will be provided between the curb and gutter and sidewalk along the north side of the West Mosby Road frontage. Consideration by the City Public Works Department will be given during site planning to allow a sidewalk to be installed adjacent to curbing in sections where topographic hardship can be demonstrated.

D. A minimum five-foot (5') sidewalk will be provided along the north side of the West Mosby Road street frontage.

E. Public Right-of-Way or a Pedestrian sidewalk easement will be dedicated or granted to a point six inches (0.5') behind the installed sidewalk along the north side of West Mosby Road.

F. A one hundred foot (100') right turn lane with one hundred foot (100') taper will be provided serving the primary project entrance as shown on the Concept Plan.

10. A vegetated screen shall be provided and maintained along the common property line with Tax Parcel # 007-C-6 as generally depicted on the Concept Plan. The screen shall include a single row of evergreen trees planted approximately ten (10) feet apart. Trees shall be a minimum of six (6) feet tall at time of planting.

11. The Owner/Applicant shall participate in a Small Area Transportation Study in accordance with the Small Area Transportation Study Agreement submitted as part of the rezoning application.

12. A 10' wide minimum gated emergency only access will be provided from Pear Street into the development to provide a second means of egress. The access shall be installed to standards required to support full size fire engine weight. The final location of the emergency only access will be at a location acceptable to the Harrisonburg Fire Department.

13. The entrance to the Project from Mosby Road shall be installed at the location shown on the Concept Plan. The entrance dual roadway and roundabout shown on the Concept Plan shall be dedicated to the City for public use upon completion of full installation, final coat paving, inspection and acceptance by City Public Works for inclusion in the City's public street network.

14. The installed roundabout shall maintain a minimum of two hundred twenty-five feet (225') of entrance separation from Mosby Road (measured from the edge of the westbound travel lane on Mosby Road to the outer edge of the inscribed circle diameter (Yield Line) of the roundabout. The 225' entrance separation shall be maintained for access management purposes on any future public street connections to the roundabout.

15. The Owner/Applicant shall dedicate to the City upon request up to thirty feet (30') of right-of-way along the Pear Street Project (Phase I) frontage as measured from the centerline of the current Pear Street pavement for future right-of-way improvements.

16. No less than one (1) large deciduous tree shall be planted and maintained for every fifty (50) linear feet of parcel public street frontage where trees are not required by parking lot landscaping regulations (Section 10-3-30.1(1) of the Zoning Ordinance). Trees shall be planted within 10 feet of public street rights-of-way. At the time of planting, tree sizes shall meet the requirements as defined in Section 10-3-24 of the Zoning Ordinance.

Note that the concept plan is not proffered.

While most of the proffers are self-explanatory, staff offers additional information on Proffers #4 and #8. Proffer # 1 is addressed in the Land Use section, and Proffers 7, 9, 11, 13, and 15 is addressed in the Transportation and Traffic section.

Regarding Proffer #4, the R-5 district allows by right dwellings to be occupied by a family or not more than four unrelated persons. Proffer #4 reduces the allowable occupancy of dwelling units to either a family or not more than three unrelated persons. Section 10-3-25 (7) of the ZO requires one off-street parking space to be provided for each dwelling unit when occupancy is restricted. 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 1.35 off-street parking spaces per unit.

Regarding Proffer #8, the applicant has proffered a minimum of 1,500 square feet of installed and maintained outdoor amenity area space and a community clubhouse containing a minimum of 2,500 square feet. Staff asked the applicant if they would consider increasing the size of the outdoor amenity area as well as the location specifics of the amenity spaces in relation to the building locations. The applicant explained they are still working on the scope, design, and financing for the project and did not want to overcommit.

Land Use

The Comprehensive Plan designates this site as Medium Density Mixed Residential and states:

These areas have been developed or are planned for small-lot single-family detached and single-family attached (duplexes and townhomes) neighborhoods, where commercial and service uses might be finely mixed within residential uses or located nearby along collector and arterial streets. Mixed-use buildings containing residential and nonresidential uses and multi-family dwellings could be appropriate under special circumstances. Attractive green and open spaces are important for these areas and should be incorporated. Open space development (also known as cluster development) is encouraged, which provides for grouping of residential properties on a development site to use the extra land for open space or recreation. Like the Low Density Mixed Residential designation, the intent is to have innovative residential building types and allow creative subdivision designs that promote neighborhood cohesiveness, walkability, connected street grids, community green spaces, and the protection of environmental resources or sensitive areas (i.e. trees and floodplains). Residential building types such as zero lot-line development should be considered as well as other new single-family residential forms. The gross density of development in these

areas could be around 20 dwelling units per acre. 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.

Proffer #1 restricts the maximum number of dwellings on the property to 164 units, which is about 13 dwelling units per acre and within the planned density for the Medium Density Mixed Residential designation of around 20 dwelling units per acre.

Transportation and Traffic

The Determination of Need for a Traffic Impact Analysis (TIA) form (“TIA determination form”) for the proposed rezoning is attached. The TIA determination form indicated that the proposed 164-unit project would not generate 100 or more new peak hour trips, which is the threshold for staff to require a Traffic Impact Analysis (TIA).

Know that when the applicant first initiated discussions about this project, they presented a plan that would have rezoned around 28-acres of property. (Reference the Rezoning Area Map included within the application and supporting documents.) Rezoning all 28-acres would have exceeded the 100 new peak hour trips threshold and would have required a TIA study. A TIA study takes months to complete, and the applicant would likely have missed the early Spring 2024 low-income housing tax credits (LIHTC) tax credit application deadlines. Therefore, the subject request is only for 12 of the 28-acres (“Phase 1”) so that the applicant can meet the LIHTC deadlines. Staff understands, however, that the applicant is planning to purchase all 28 acres even though they are only requesting to rezone 12 acres at this time. In knowing a much larger plan of development is anticipated, staff raised concerns about not completing a TIA for all 28-acres prior to any rezoning of this area as it would result in not identifying the overall, planned development’s full impact on the City’s transportation network. Not completing a TIA would not identify needed mitigations and would result in missed opportunities for the applicant to proffer street and transportation improvements, which could then place the burden of responsibility on the City.

In the past few years, there have been several rezonings for new housing developments in this area of the City and Rockingham County, such as Cobblers Valley and Zephyr Hill/s, and there are additional developments anticipated between South High Street and South Main Street that are adding to, and will add to, significant traffic to the existing street network. In believing the existing street network is inadequate to handle all the new development, staff would like to complete a Small Area Transportation Study that would consider the transportation network wholistically by examining anticipated development and land use changes; examining the existing street network and determining general locations for new entrances and new public streets through currently vacant lands; and to understand improvements needed to existing streets, intersections, and traffic signalization. In Proffer #11, the applicant has proffered that they will participate in a Small Area Transportation Study in accordance with the Small Area Transportation Study Agreement submitted as part of the rezoning application. As part of the agreement, the applicant is committing to make a \$25,000 cash contribution to the City to defray the cost of the Small Area Transportation Study.

Regarding Proffer #7, a concrete pad will be constructed and an easement would be dedicated for a bus shelter at a location acceptable to the Harrisonburg Department of Public Transportation

(HDPT). It is anticipated that the bus shelter will be located in the southbound direction of the new street between West Mosby Road and the roundabout illustrated in the Concept Plan. The exact location will be determined during the engineered comprehensive site plan phase of the project. HDPT will provide and install the bus shelter. During review of the applications, city staff asked the applicant if they would be willing to proffer constructing a bus pull off. The applicant responded that it is too hard to commit to a bus pull off at this time, but they would be willing to consider it during the engineered comprehensive site plan phase.

Regarding Proffer #9, the applicant has proffered a variety of infrastructure improvements along the north side of West Mosby Road to be completed with the project. In Proffer #13, the applicant has proffered the construction and dedication of a new public street between West Mosby Road and the roundabout as illustrated in the Concept Plan. City staff and the applicant envision that future streets or entrances will connect to this roundabout to serve future development in the surrounding area.

In Proffer #15, the applicant has proffered to dedicate, upon request from the City, up to 30 feet of public street right-of-way along the Pear Street frontage as measured from the centerline of the current Pear Street. While staff is appreciative of this, staff suggested the applicant also consider proffering to construct sidewalk along the Pear Street frontage between West Mosby Road and Ruby Drive. This sidewalk would enhance the City's sidewalk network and serve the residents on the west side of Pear Street, including the manufactured/mobile home park off Ruby Drive and the developed and future phases of Cobblers Valley and Zephyr Hill. The applicant responded that they are wary of the extra expense and its impact to the housing project and highlighted the other infrastructure related proffers they have committed to already. While staff would like to promote the interconnectivity of the City's sidewalk network in this area, staff understands the applicant's hesitations and the fact that constructing sidewalk adds expense to the overall housing cost.

Public Water and Sanitary Sewer

City staff has advised the application that available downstream sanitary sewer capacity may be inadequate for the proposed use and must be evaluated during a Preliminary Engineering Report prior to the engineered comprehensive site plan submittal.

Housing Study

The City's Comprehensive Housing Assessment and Market Study (Housing Study) places the subject site within Market Type B, which has "neighborhoods [that] are characterized by high income earning households, large volumes of housing sales and lower population growth." The Housing Study further notes that houses in these markets are quick to sell and that "[p]riorities and policies that are appropriate to Market Type B areas include the preservation of existing affordable housing while at the same time working to increase access to amenities."

The developer intends to seek support from low-income housing tax credits (LIHTC). LIHTC rentals generally provide affordability for 30 years and typically target households at 60% AMI. In Harrisonburg, there are currently 410 units of LIHTC housing. Sixty units at Lineweaver Annex serve elderly and/or disabled households; this is the only LIHTC senior housing in the City. Bluestone Town Center is zoned for up to 450 multi-family LIHTC units, to be phased over several years, with some senior units planned though not proffered.

Public Schools

The student generation attributed to the proposed 164 new residential units is estimated to be 26 students. Based on the School Board's current adopted attendance boundaries, Bluestone Elementary School, Thomas Harrison Middle School, and Harrisonburg High School would serve the students residing in this development. Harrisonburg City Public Schools (HCPS) staff noted that schools are over capacity in many of the schools.

Recommendation

While staff had hoped for additional details regarding amenity space and for more consideration to provide sidewalk along or near Pear Street, staff believes the overall advantages of the proposed project could be beneficial for individuals and families that want to reside in the City. The project's density fits within the range planned for this area and the proposed multi-family would be consistent with existing townhomes and multi-family units located along West Mosby Road and along Mosby Court. Staff recommends approval of the rezoning and both special use permits as submitted.

Chair Finnegan asked if there any questions for staff.

Vice Mayor Dent said not so much a question as an amused comment, and you saw it some of the pictures there, that there were signs for candidates for County School Board or Board of Supervisors or something I thought, "Wait, what? Am I in the County now?" It is within the County line but just on the edge so that was just an interesting observation, anybody can put a sign anywhere. Seems to imply that it is in the County, but maybe it is just on the way to right outside in the County.

Chair Finnegan said right now Mosby is one lane in each direction. I do not know if there are any future plans or is this on like a 20-year cycle within the next 10 or 20 years... Public Works would like to widen this?

Ms. Dang said I apologize I cannot remember the specific details, but yes, road improvements are foreseen on this portion of West Mosby Road. I recall bike lanes were discussed when we had the rezoning for 130 West Mosby Road where they were proposing townhomes. The answer is yes, improvements are proposed here for widening, bike lanes, and sidewalks.

Chair Finnegan said let's just say this either does not get approved or does not get built for one reason, it does not get the Low-Income Housing Tax Credit (LIHTC) taxes... There is still just a lot of development happening in the County with people using these roads. I mean I do not think that this is going to make or break that road, but I do think that it is clear that there is more growth happening on this side of town and in the County, just outside of the City.

Commissioner Armstrong said I would have seconded that. I was glad that you are thinking ahead about the traffic impact analysis because with that one lane in each direction, there is a lot of heavier traffic, especially at commuter times, and where there is a left turn lane or there is a middle turning lane that turns into a left turn lane people are driving there at full speed. It is getting a

little.. and it does the feed into South Main? I am going to second that, it needs some forward thinking.

Mr. Fletcher said our Master Transportation Plan identifies a road that would alleviate some of the traffic. It does not specifically identify the immediate improvements that would be completed along Mosby Road. Standard improvements, like Ms. Dang was referring to, widening if and where necessary sidewalk, curb, and gutter all of those sorts of things. As there are sections of Mosby Road that do not have them, but in our transportation plan, if you look at the map, you will see that there is a road identified that runs, it is almost northbound it is like north west northbound, and it would be in coordination with VDOT and the County because a lot of that road would be in the County and it would connect all the way over to Route 42 on the south. I mean, it is that far, but it would alleviate some of the traffic anyway because then it is also then connecting down towards, I believe it would be, in that section, Baxter Drive. East Kaylor and there is a Baxter and the next one up... You kind of have to see it to know what I am referring to, but it is the south of the City, which then connects you to 11, South Main Street. It is in that section. It is SW3 in our Master Transportation Plan which is the identification number. It does not identify specific improvements like we do for other streets for a third lane, a center turn lane, things like that.

Chair Finnegan asked if there were any other questions for staff. Hearing none, he opened the public hearing.

Todd Rhea, land use attorney at Clark & Bradshaw and representing the applicant, came forward to speak to the request. He said I hate taking things out order, but I do want to address the Mosby Road improvements that you all just brought up and discussed and I think some of the detail might be missed in some of the proffers. There are a lot of proffers obviously and a lot of detail. I have worked on both City and County projects in this area over the last two or three years. One pertinent issue is there is a proffered right turn lane off of Mosby onto Pear. That was proffered in connection with a County's rezoning requirement called Zephyr Hills. I believe that site plan has been approved in part of the bonded improvements for that County site plan that is the installation of this turn lane off of Mosby. A second important aspect of this and in discussions with Public Works. We have had a lot of discussions in connection with this project with Mr. Hartman's department was this applicant is proffering an additional three feet of pavement over and above what I believe our Design [and Construction] Standards Manual Requirements to accommodate the installation of a bike lane along Mosby, which is a long stretch of this frontage. We have not ignored those details. That additional Mosby transportation improvement was another reason why we did some of what we thought were reasonable tradeoffs with the immediate improvement of Pear Street, pending the completion of the small area study which all have heard about. With that said let me just continue with my more formal presentation. I have represented the Searles Foundation, this well qualified applicant, through the lengthy design and planning process for this exciting new project and I am pleased to present it to you this evening. Here with me tonight are Mark Slack and Phillip Searles on behalf of the applicant the Beverly J. Searles Foundation, Carl Snyder with Valley Engineering, Valley has served as our design civil engineer and traffic consultant through our application process and John Bowman is here on behalf of the property owner, the Brubaker Family, who still live on a portion of this property. The Foundation is a qualified, not for profit corporation located in Georgia and focused on providing affordable housing. Searles has a long history of affordable housing development experience with well over

a dozen current affordable housing projects constructed and operated in part with housing tax credits. The City does not have to gamble with whether this applicant has the resources, commitment or experience to successfully bring a large housing community to life. As staff has thoroughly covered in its report and presentation, the applicant requests a R-5C, High Density Residential District rezoning approval with two special use permits requests for height and unit per building allowances. The portion of the subject property being rezoned contains 12 acres designated as Medium Density Mixed Residential on the City's Future Land Use Map contained in the Comprehensive Plan. The proposed rezoning and special use permit requests would allow for the development of this currently vacant 12 acres into an affordable residential community serving seniors and potentially workforce and other affordable housing citizen options. The development will address many of the housing concerns detailed in the City's recent housing study. I outlined those in detail in our letter of justification filed with the rezoning and in your packets. The proposed community is fully compatible with the target densities in the Medium Density Mixed Residential District of up to 20 units per acre. The densities here are actually functionally higher than stated due to the three acres in front which is a common entrance area that will not only be used for the 12 acres being rezoned today, but as a common entrance of stormwater management area for the balance of the Brubaker property as it develops in the future. That area down by Mosby being at the bottom of the hill, the house sitting higher up on the hill so that is where the water from this property largely runs. It is indicated the developer intends to install a variety of age specific on-site amenities for residents. The community would benefit from full time professional property management. This is not a build it and leave it type of community. The developers are voluntarily committed to sustainable futures within the community by proffering the installation of solar panels to power its amenity areas and EV charging stations for resident use. They also will provide convenient bike and e-bike parking and storage onsite to allow residents to conveniently access bike options. As indicated, the property is located generally at the intersection West Mosby Road and Pear Street. The surrounding properties include the Millwood Townhome and Condominium Communities and Mosby Heights affordable housing apartment community. Numerous retail options are located in walking distance along South Main Street which intersects Mosby Road about a quarter mile east of the proposed community. These shopping amenities are easily accessible to pedestrian and bike trips with existing connecting sidewalks along the south side of Mosby Road. Having been involved in some of the newer projects along Mosby, I can say from first-hand experience, going out there on an almost daily basis that those communities and folks do walk down and utilize those sidewalks to get to Sharp Shopper, Kline's, and Subway, so it is pretty convenient. The exciting new aspect of the current project is that it will serve as a catalyst for further improvement of Mosby Road in this corridor. Facilitating improvements and widening the north side of Mosby along its full frontage. Again, we are not only proffering to widen and improve the area we are requesting for rezoning; we are taking care of the full frontage up front with this phase one development. Again, showing good faith that we are not trying to avoid TIA requirements or avoid making improvements to Mosby. We do recognize that is an important corridor in the City. The subject property is also located along the end of City bus transit route number four and a new transit stop is proffered to be installed on the subject property. That will serve not only public transportation but also City school buses. Finally, getting back to the transportation study issue, the applicant has worked diligently with Mr. Hartman's department on a larger long-term vision for transportation integration in this growing corridor bounded generally by South Main Street, Mosby and Pear, the Erickson/Stone Spring bypass and Route 42. The applicant is contributing significant funds toward and participating in

near turn Small Area Transportation Study for this area of the City. We believe this document will be of great value as a long-term long time mobile transportation planning asset and tool. It is important because this is out a nexus of City and County developments and road map work. Having a wider study, not only for this project, but for other projects that are almost certain to come up in this corridor. The City will have a really good baseline for which to evaluate these projects from a transportation basis. Our team looks forward to your positive consideration of our proposal to City Council. We have sincerely appreciated the ability to work closely with City staff, Public Works, and Ms. Webb's housing coordination office on the details of this project to bring a unified proposal forward which squarely hits both the land use and affordable housing targets established by the City. The applicant team has done its homework. We are here and available this evening to address concerns. If the Commission has specific questions, and I am sure that you might, we welcome you to direct them us. We are confident that we can dive into the details. This is not a superficial proposal and should be able to answer any concerns that either the Commission or the public raise this evening. With that, I will thank you all for your time and consideration.

Vice Mayor Dent said a couple things, since there is a minimum of 82 units for age restricted and the height is sort of...special use permits for greater than four stories and so will there be elevators in the building for ADA compliance.

Mr. Rhea said yes there will. One reason for our special use permit for height is the sloping nature of this site and the age-old question of where we are measuring front of buildings from for that elevation. They are not going to be much higher than 52 feet, but we just needed a little bit more leeway due to that sloping topography across the site.

Vice Mayor Dent said you know I am going to ask this, thank you for the solar panels, that is on the amenities, so it is behind the meter of where the property and manager, not individual?

Mr. Rhea said that is correct. When we looked with the Friendly City Solar Program and multifamily housing breaking it up and being separately metered for apartments is not yet to the point where it can be efficiently done. I think that time is coming but currently I think all we can proffer would be to have those panels to power the owner's meter for common areas at the site.

Vice Mayor Dent said the third thing about the EV chargers again, you know it says minimum of two-level twos, now I am wondering, I know you have them proffered, but as you know it is a good idea to build out the infrastructure before you pave on top of it. So, I would imagine stubbing out for charger ready for when the [unintelligible] would be ready to install for more of them in the future.

Mr. Rhea said those comments are well received and these are not the fast chargers like you would get at a service station they are for resident use so they are much easier to expand upon from an infrastructure standpoint than others, from with the layperson calls the high voltage ones that can charge your car in under an hour.

Vice Mayor Dent said I am sure there is a huge difference.

Mr. Rhea said there is a big difference. These are like overnight charging stations for the most part.

Vice Mayor Dent said sure, that makes sense for residents, but you do not need to build it out beforehand necessarily?

Mr. Rhea said again, the build out in connection with expanding overnight chargers is almost like putting things in your garage level. It does not have the type of things you would need to put in. A large service station with those Tesla chargers or the level four or level three, whatever the next level of commercial charging is.

Chair Finnegan said I do not know that there is currently, I was actually out at the mobile home park this past weekend taking part in a door knocking and listening to community members as a part of something for Valley Interfaith Action and we were talking about transportation issues in this area, this property is right adjacent that is in the County, but they were saying Mosby Road is not safe to walk on and the closest bus stop is very far away. Currently, the bus does not come through there, at least that is my understanding talking to those local residents.

Mr. Rhea said it comes to Mosby Heights, I think that is the end of Route Four right now, which is across the street from this property. The mobile home community is in the County and it has been there for a long time. It is over the line. When Cobblers Valley was developed, they actually did not have any access to public water for fire suppression in there, so it was a little bit of an issue and that has now been provided. They were able to tap in for a hydrant in that park. So, that area is improving. Not to get too caught in the weeds or ahead of things outside of this project, but one thing the small area study is going to look at is moving people from the County Pear Street area developments across and through this site getting them over to Mosby. That might be along existing Pear, that might bisect this site, there could be some additional improvements beyond the City/County line and some sort of coordination because Pear Street goes a little bit past to the church, but it does not go all the way back to the trailer park. Those are all things in the thought process and in consideration. Again, this project is a good catalyst for that. It will set a model for a large chunk of the northside of Mosby. The southside, if they can get to the City, does have good walkable access down Mosby to get to South Main.

Commissioner Armstrong said I just want to speak in support of having your amenities space not really close to your residential areas because for a public health standpoint it is healthier to encourage some small walks to an amenities space. Particularly there is a senior component, it is actually attractive that way.

Mr. Rhea said that is a great point Commissioner Armstrong. Again, this is kind of like parking requirements in that if you spread out amenity spaces and you put them across on the other side of a parking area, then you have conflicts with people walking to access those spaces. The nice thing about this applicant is they have a lot of history to draw upon with other successful affordable senior communities. So, they are pretty well versed in how to maximize their resident enjoyment of those amenity spaces.

Chair Finnegan said walking is good for your health as long as you do not get hit by a car.

Vice Mayor Dent said one other thing, I have noticed that the parking is sort of along Mosby Road but is the topography and are their screenings and such that we typically encourage traditional neighborhood development with the buildings fronting the streets and parking behind, but this is a whole different case?

Mr. Rhea said we looked at that and talked about that with staff on this site. Again, this is really topography driven on this site. The City does have parking lot screening requirements for landscaping and the applicant did proffer street trees along both frontages that would mature over time. The way those parking lots are oriented for this particular site, while the buildings are not pulled down into that corner is topography related.

Vice Mayor Dent said it does, to Commissioner Armstrong's point, make them more coherent buildings plus amenities that are walkable within it.

Mr. Rhea said sort of within the courtyard, almost to the building?

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

Chair Finnegan continued and said I have got to say this is the most proffers that I have seen.

Vice Chair Byrd said with all of these proffers I am noticing a lot of attempts to address some of the concerns that we would have concerning Pear and Mosby. In light of that, I would be in favor of this rezoning. I will make a motion to approve the rezoning.

Vice Mayor Dent seconded the motion.

Chair Finnegan said I will say, whenever someone says we are doing affordable housing I am like "is it though?" I do see that. This is a LIHTC project and so in my book you are allowed to say that, but not that it is open to interpretation. Like most communities in the US, we need affordable housing. So, I would be in favor of this.

Chair Finnegan called for a roll call vote.

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

The motion to recommend approval of the rezoning request passed (6-0).

Vice Chair Byrd said I would like to make a motion concerning 4g, the special use permit.

Vice Mayor Dent seconded the motion.

Chair Finnegan called for a roll call vote.

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

The motion to recommend approval of the first special use permit request passed (6-0).

Vice Chair Byrd said I would like to make another motion to approve the special use permit, which is more than 12 units.

Commissioner Armstrong seconded the motion.

Chair Finnegan called for a roll call vote.

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

The motion to recommend approval of the second special use permit request passed (6-0). The three recommendations will move forward to City Council on September 12, 2023.

Consider a request from Mark Daniel Williams and Andrea Jane Williams to rezone 1205 Hillcrest Drive

Chair Finnegan read the request and asked staff to review.

Ms. Rupkey said the applicant is requesting to rezone a +/- 8,712-square foot parcel from R-1, Single-Family Residential District to R-8C, Small Lot Residential District Conditional. The lot has a single-family detached dwelling and is addressed as 1205 Hillcrest Drive and is on the corner of Hillcrest Drive and East Fairview Avenue. The parcel is nonconforming to the R-1 district's area and dimensional regulations because the parcel is less than the required 10,000 square feet of lot area and the lot's width is less than 80 feet wide.

The applicant is proposing to build a porch that will wrap around portions of the dwelling. In a letter submitted by the applicant, the applicant explains the benefits of the new porch, including improved ingress and egress into the home, the ability to fix a drainage issue in the front yard with the porch addition, and to improve the aesthetic of the home and "allow for improved community

and socialization between neighbors.” To achieve this, the porch requires a footprint that encroaches into the front yard setback of the R-1 district.

Proffers

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

1. More than one dwelling is prohibited.
2. The minimum front yard setback along Hillcrest Drive shall be 20 feet.

Note that the submitted conceptual layout is not proffered.

Regarding proffer #1, in the R-8 district, duplexes are allowed by right and given the lot area and dimensions of the property, a duplex (two dwelling units) could be constructed. If the rezoning is approved, although the R-8 district dimensional regulations would allow the property to be further subdivided, since the applicant has proffered to prohibit more than one dwelling on the property, subdividing the property would not grant permission to build another dwelling on any newly created parcel. The submitted proffer essentially limits the subject area to only contain one dwelling unit.

Regarding proffer #2, the R-8 dimensional regulations allows for a 10-foot minimum front yard setback. Because the parcel is a corner parcel, that same setback is permissible for both public street frontages. Given the established, built environment, and the orientation of the existing structures along this side of Hillcrest Drive, staff was concerned that a 10-foot setback allowed by the R-8 district along Hillcrest Drive would allow the single-family structure to be too close to the street. In response, the applicant has proffered that the minimum setback along Hillcrest Drive shall be 20-feet. The minimum setback along East Fairview Avenue would be 10-ft. as allowed by the R-8 district.

Note that any special use permit approved by City Council would still be permissible.

Land Use

The Comprehensive Plan designates this site as Low Density Residential and states:

These areas consist of single-family detached dwellings in and around well-established neighborhoods with a target density of around 4 dwelling units per acre. The low density residential areas are designed to maintain the character of existing neighborhoods. It should be understood that established neighborhoods in this designation could already be above 4 dwelling units per acre.

With the submitted proffers, both the allowed dwelling type (single-family detached dwelling) and density (at about 4 dwelling units per acre) conforms with the Low Density Residential designation.

Know also that the R-8 district’s occupancy regulations are the same as the R-1 district’s occupancy regulations. When the R-8 district was drafted, the proposed occupancy regulations were intentionally designed to mimic the R-1 and R-2 districts because the R-8 district was intended to promote family occupancy with higher unit density abilities. The occupancy

regulations allow owner-occupied dwellings to be occupied by a family plus two individuals or a maximum of three individuals and nonowner-occupied dwellings can be occupied by a family plus one individual or a maximum of two individuals.

The existing property meets the lot depth requirements but is nonconforming to R-1 lot area requirements and is about 20 feet less in width than the minimum required 80-foot lot width. Recently, staff discussed whether it is appropriate and best practice to rezone an R-1-zoned, buildable property to the R-8 district to alleviate setbacks to construct a larger building. The R-8 district was created in 2019 to provide more flexibility for developers to create more housing opportunities by establishing smaller lots for more dwelling units. Ultimately, staff concluded that on a case-by-case basis and with appropriate proffers, rezoning a lot in an established neighborhood to R-8 should not have major adverse effects on the surrounding properties nor defeat the overall purpose and intent of the R-8 district. While not exactly the same, this request is similar to last month's rezoning request at 361 Franklin Street, where the R-8 district was requested to assist with the buildable area and setbacks on an undeveloped R-1 parcel.

Transportation and Traffic

A traffic impact analysis (TIA) was not required for the rezoning request.

Public Water and Sanitary Sewer

Staff has no concerns regarding water and sanitary sewer service availability for the proposed development.

Housing Study

The City's Comprehensive Housing Assessment and Market Study (Housing Study) places the subject site within Market Type B, which has "neighborhoods [that] are characterized by high income earning households, large volumes of housing sales and lower population growth." The Housing Study further notes that houses in these markets are quick to sell and that "[p]riorities and policies that are appropriate to Market Type B areas include the preservation of existing affordable housing while at the same time working to increase access to amenities."

Public Schools

Rezoning this property to R-8 will not change the estimated student generation because the property currently has one single-family detached dwelling, and the proffers restrict the property to have only one single-family detached dwelling.

Recommendation

Staff recommends approval of the rezoning.

Chair Finnegan asked if there any questions for staff.

Vice Mayor Dent said again, not exactly a question but the same comment I made about the similar 361 Franklin Street, that it is really bizarre that we keep using R-8, which is intended for higher density, just to establish smaller setbacks for R-1. We need to address that in the zoning rewrite. To me it seems like the wrong tool, using a hammer when you needed a screwdriver. We will address that when the time comes.

Chair Finnegan said we just saw this last month. Is it fair to say that it is increasing the density? It is reducing the requirements for setbacks.

Ms. Rupkey said depending on the proffers that they provide. For this one, it is keeping it a single-family residence, but as it is kind of described the R-1 lot size is 10,000 square feet whereas the R-8 is smaller than that at 2,800 square feet. It could in theory have more density off of it.

Mr. Fletcher said can you ask your question again? What was your specific question?

Chair Finnegan said Adam, you like splitting hairs on this language. When we talk about density per acre, yes if they are all zoned R-1 it is a lower density per acre, but R-8 is still intended for single family, duplexes not high density.

Mr. Fletcher said R-1 is your most standard Euclidean suburban, residential zoning. 10,000 square foot of lot size, 30-foot setback in the front, 25 in the rear and 10 on both sides. That is four units max and sometimes you do not even get four units an acre based upon that infrastructure and those things. R-8 was designed with the intent to create flexibility. So, you are going to increase density if you go to a straight R-8 because you immediately get significant decrease in required lot size from 10,000 to 2,800. You are immediately getting flexibility in dimensional requirements. So, you do not have to have 80 feet of lot width. You do not have to have 100 feet of lot depth. It is not entirely unheard of to rezone properties to take advantage of other districts' guidelines. Over the years, and I know Mr. Baugh has been around for a number of years and experienced this, where people rezone properties from R-1 to either R-2 or R-3 because they specifically want the density abilities that the lot allows but then they are still meeting setback regulations. You could look all over the City and find these. I would agree that I was not anticipating that this would be an outcome. I do not think it is something that gives us any ill feelings towards because I think as we continue to analyze our future ordinance, we may be heading in this direction if you all approve it. There are always surprising things that people can find ways to take advantage of the new zoning districts but when you think back at all the R-8 rezonings, yes we have had recent smaller ones, we have had multiple R-8 rezonings that have taken advantage of the reduced size for townhomes, I mean we have Pleasant Hill Townhomes that is going through the Engineered Comprehensive Site Plan, the one on Vine Street. They are out there. I can think of developments that have said "we want the R-3 density, but we are only going to build single family homes" and somebody might say "well, why are you doing that? Just build R-1." Well, it is because you can increase density and I think there is even some setback related to that.

Chair Finnegan said there are a lot of these that we see that increases the number of units per building. These are the things worth considering. You could make the same argument to Vice Mayor's point about using the screwdriver when you need a hammer, we have done a lot of residential rezonings recently to...on paper it does not make sense to zone something as residential as business, but it does if you are after certain kinds of setbacks.

Mr. Fletcher said even when the new Zoning Ordinance is completed, you are still going to be looking at rezonings and special use permits. I mean, it is going to happen because people are going to want to do things on the property that the zoning does not currently allow. It is not like all of these issues are going to disappear because if we do these proactive rezonings and we preemptively rezone the whole city, someone is going to have an idea with a property that is not the zoning that they have.

Commissioner Baugh said the other category I think of that has had some of this is R-5. We have a lot of R-5 properties were developed a certain number of those over the years that are not high density properties. They are R-5's because the property owners wanted to do something and that was the only zoning category that we had that would make it work. Again, since we are all looking at the zoning rewrite, I think that is the point here which is not that you are going to eliminate it, but the striped down version is when you take a quick look at R-8 what you are thinking of was how do we get an extra dwelling in the space kind of thing. Now, we are looking at two in a row where it has been used for not that. We are able to decide if we like that or not, but I agree with the Vice Mayor it is certainly at least worth noting as we go forward with the Zoning Ordinance rewrite that you can just deal with some of these setback issues and flexibility as part of your zoning categories, but maybe not. Maybe there is somewhere in there that we can deal with this because I think that is a part of it. If it feels like people are coming in having issues with setbacks, in some respects, just saying can we find a zoning category that they fit in whether in terms of the big picture that fits in with what is around it. May not be the most elegant solution. I also say I think that with R-1's and the R-2's it would be hard to make an argument that R-8 is not consistent with that. The B-2 maybe be a little different.

Vice Chair Byrd said the BZA is not being kind to anyone in R-1 thinking about changing their variances therefore changing their setbacks to account for any exterior changes to their housing. If they want to cover their porches or anything like that, we have seen multiple of those. We do not see hardships, but in the requirements, we do see that the City is pointing out that sometimes some of the conditions are met. So, I just want to make sure that you all were aware that the BZA would be sending all of these R-1 residents who want these changes to their setbacks away from us [referring to the BZA] and back to us [referring to the Planning Commission]. You might see the rezoning anyway because they just cannot get them through an appeal.

Mr. Fletcher said I would add too that R-8 is extremely flexible. If you build in R-1, let us say you want to build a rear addition, in the setback in R-1 on the rear of the single family dwelling it is 25 feet, but in R-2 it is 20 and maybe you only needed the extra five feet. You are not going to get a BZA variance for that, you should not. So, then you could say I will just rezone to R-2 get the extra five feet, well now, no I will rezone to R-8 because now I will get an extra 10 feet.

Commissioner Baugh said as long as you are on that axis, I think the rezonings to R-8 from R-1 or R-2, I have arguably been consistent with R-8 whereas the back and forth between one and two, maybe not so much. That I think is starting to look like spot zoning if you start

doing that.

Chair Finnegan said another way to address it is to reduce the setbacks for R-1 in the zoning ordinance. Make that more flexible.

Vice Chair Byrd said on that though, are you going to keep the 10,000? That just makes the house bigger if you reduce the setbacks for R-1.

Ms. Dang said sorry, I do not understand.

Chair Finnegan said you are saying if we reduce the setbacks for R-1...

Mr. Fletcher said the buildable area just gets bigger.

Chair Finnegan said which is what we heard last month was wanting to increase the footprint of a house, but still keep it a single-family house.

Chair Finnegan asked if there were any more questions for staff. Hearing none, he opened the public hearing.

Mark Daniel Williams, applicant and resident at 1205 Hillcrest Drive, came forward regarding the request. He said thank you guys for your time. Thank you for your consideration in this matter. Thank you, Thanh and Meg, for all you have done, meeting with me and dealing with me. There is a lot less proffers in this proffer statement than the last, so it is a little easier to read. So, my wife and I moved here less than two years ago. I took a job at the hospital and we kind of bought a house on Facetime in a neighborhood we did not know and lucked out, we love the neighborhood. The house, we have put a lot of work in it. The City has been amazing to us. It has become home very quickly. We have poured our heart and soul into this house. Lived in it for the last two years while having our first child. Part of that when we were meeting with our contractors, we had drainage issues in the basement. We brought it up with our immediate neighbors, talking about a porch addition and just kind of getting back to that porch-front neighborhood where you all spend time on the front porches while kids play in the front yards. Come to find out with the uniqueness of our lot with sitting on the very constricted corner that we do sit on that you could not even build our house as it is today in a sense. That led to many meetings and that is where we are now. My wife and I really believe wholeheartedly in this and it is something that would allow us flexibility with our home. It would allow us to fix multiple issues. We have a friend that is in a wheelchair full time. Also, on top of that, we have a child now and getting in and out is not easy with a child. If you park on any side of our home, either Hillcrest, Fairview, or even our driveway you will have steps going into our home in any of those ways. Part of the goal with this project is to eliminate steps in at least one direction so that we can be able to go directly into the home. That is one advantage to this major advantage of this projects. I think that is really all I have got to say.

Chair Finnegan asked if there were any questions for the applicant. Hearing none he asked if there was anyone that would like to speak to this request. Hearing none, he closed the public hearing and opened the request for discussion.

Vice Chair Byrd said I would definitely be in favor of this because I hate having to send people away at the BZA. Since this avenue exists, I think we should give the citizens the opportunity to take advantage of it.

Vice Mayor Dent said I agree. The applicant had to be subjected to our very wonky discussion about R-8's and zoning requirements and such. In general, yes, we support this. Just trying to find the cleaner way to make it more feasible.

Commissioner Armstrong said I make a motion to approve with the proffers.

Vice Chair Byrd seconded the motion.

Chair Finnegan called for a roll call vote.

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

The motion to recommend approval of rezoning request passed (6-0). The recommendation will move forward to City Council on September 12, 2023.

New Business – Other Items

Consider a request from Bailey Family Farms LLC per Section 7-2-4 of the City Code for the City of Harrisonburg to provide water service onto property located at 59 Bank Church Road within Rockingham County.

Chair Finnegan read the request and asked staff to review.

Ms. Dang said individuals owning property located outside the City of Harrisonburg may request to connect to the City's water and sewer system. Per Section 7-2-4 (b) of the City Code, connection requests for all uses located outside City limits, other than residential uses involving fewer than ten units, shall be reviewed by Planning Commission and then forwarded to City Council for final approval or rejection. This request is for a non-residential connection; thus, Planning Commission review and City Council approval is required.

The subject property is located at 59 Bank Church Road in Rockingham County. The property is approximately 2.75-miles west of the City limits near the intersection of US Route 33 (Rawley Pike) and VA Route 734 (Bank Church Road). City water lines carrying raw and treated water run throughout Route 33 West, passing the subject property, as they travel to and from Rawley Springs.

The application describes that the requested water service will be used as the primary water source for a new poultry house.

Attached with the application materials is a letter from the Department of Public Utilities' Engineering Manager dated June 13, 2023, offering their technical approval of the request and explains that the applicant is aware they are responsible for acquiring permissions to cross neighboring properties and a state-maintained road. Given that the applicant will not be extending public mains further into the County, but rather tapping into the existing facilities that bypass near the subject parcel, staff has no concerns from a land use planning perspective and recommends in favor of the request.

Chair Finnegan asked if there any questions for staff.

Chair Finnegan said this seems relatively straightforward. I will ask, how big is this poultry operation? Is there an estimate for how many gallons of water they would be pulling?

Ms. Dang said it is in the Technical Report, I do not know the number off the top of my head.

Mr. Fletcher said 50 gallons per day.

Vice Mayor Dent said I see you swapped the primary and main.

Mr. Fletcher said that was not us that is from Public Utilities.

Chair Finnegan said they are just talking about pulling 50 gallons a day.

Commissioner Baugh said I move approval of the request for water usage as presented.

Vice Chair Byrd seconded the motion.

Chair Finnegan called for a roll call vote.

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

The motion to recommend approval of the request passed (6-0). The recommendation will move forward to City Council on September 12, 2023.

Unfinished Business

None.

Public Comment

None.

Report of Secretary & Committees

Rockingham County Planning Commission Liaison Report

Vice Chair Byrd said I had a number of things that are rezoning from R-2 to A-2. That property was R-2 but was being used to raise horses and goats, they went out and looked and say that it was being used to raise horses and goats and therefore they approved it. They had a citizen generated ordinance amendment to amend the max area allowed for a village center. All of these locations were further away from the City so I have to write them all down. They increased the area from 20% to 50%. They had a rezoning from a proposed County development in A-2 it was rezoned to R-4.

Chair Finnegan said R-4, so Medium Density.

Vice Chair Byrd said right. Basically, trees and stuff that they are going to cut down. Many spoke in favor of it, in the public, and people were surprised that there was not opposition, it was approved. Then they had an amendment for a R-5 master plan because they have the look at master plans like we have to look at master plans.

Chair Finnegan stated that he had the next County meeting.

Board of Zoning Appeals Report

Vice Chair Byrd said once again we saw a variance request in the R-1 area for a covered porch and that was also denied as the one in the previous meeting was. That had some interesting slight, too close... Whereas five feet could make all the difference in a location. More interesting one was the variance request for 260 Franklin Street. They have an issue of the properties fronting two streets. The other one was Bruce and when I went back and looked, I went "okay I can see why it is still treated as a front facing street." The issue is with most residents on Franklin, it is like a glorified alley and so they wanted to put a garage there, but we were hesitant. That was denied as well. I did want to bring it to your attention that Bruce has a lot of residents there, I still need to look at it a third time just to make sure I am understanding the other side, but there are a lot of nonconforming garages close to the street so I could see how other residents will think they should also have it. In that particular neighborhood, related to that particular street, you might see people bring that as a concern to the City. We were not even sure what avenue that could be. I do not know if that type of situation is repeated in multiple places in the City, even though there are multiple places where there are properties that are facing two streets.

Commissioner Baugh said I think that situation on Bruce, where you have those old garages on the line, is unique to that street.

Mr. Fletcher said if not encroaching.

Commissioner Baugh continued there has been some history there including that anything that we would do to encourage people to be driving cars up and down, for all purposes an alley, would be...let us not do that. Some people have bought the property, they have access to the back of their property based on however it was when they bought it. What to do with that has come up a number of times over the years. It goes both ways.

Vice Chair Byrd said that was one of my concerns which is why I voted against it. I was wondering what the City's position on that particular street is. I told them that I would bring it to you.

City Council Report

Vice Mayor Dent said short version is we approved everything unanimously with varying degrees of enthusiasm. The slightly longer version is some of the Council members freaked out about how much was coming from Planning Commission that we had to have two meetings. The whole reason we broke it up was so that each meeting would be relatively light we just have to do it twice. Fortunately, they changed it to dinner at 5:30 meet at 6:00 and it also came out we could not do these public hearings. I said we do not even want Adam to give his presentation before the official meeting because we want people to hear that. All we could really do was hear the presentations about the regular items. All we can do is hear about regular items, even those we have to wait and vote on in the public meeting. It was a good attempt at an adaptation that was maybe more than we needed but at least when we see a big workload come in.... Broad Street and Wolfe Street I kind of recapped the discussion about sidewalks. I said that I was tempted to vote against it just for a back to the drawing board because we really want the sidewalks and Council Member Fleming made the interesting point that back to the drawing board means time is money, and that is not a good message unless it is really needed. There was a case, like the Vine Street one, where it really worked that they took it back to the drawing board. The applicant was saying they were willing to have ongoing discussions about the sidewalks. To quote Commissioner Alsindi the cost, what about the value to the property, to the community, and we have a community value of a walkable community. Smithland Road, that was good. Some discussion about the tie ins to potential future developments, because it is a small part of a huge potential development that was already approved but not built for R-7. 361 Franklin Street the weirdness match of R-8 with setbacks, I did make the comment that we should revisit the zoning if we are force fitting the R-8 just for setbacks instead of for increased density. Liz Webb said she heard that one the radio and she really appreciated that I said that. I was proposing maybe we have a low-density low setbacks variation when we get to the zoning rewrite. Then there was South Liberty Street former DNR building, we approved that. I brought up the question about if Lauf there or if they were locating in a different location. They are staying there. There was also the question again about what constitutes manufacturing, they will just be assembling not making parts. Also, there was the Manufactory [Collective] on South High Street and there was conversation about what a great model that is for arts and business. And that was good and fine.

Other Matters

Review Summary of next month's applications

Ms. Dang said emailed to you all and a copy also printed out and left in front of your seats here this evening you will see a list of seven applications. They are for four sites including the Port Republic Road one that was not heard this evening. There are two Zoning Ordinance amendments that staff plans to bring to you all, those are City applications. We recommend having one meeting for all of these public hearing items. If you recall, I sent out a save the date for the September 19th meeting which is the second meeting of the month to invite Ross Weaver from Wetlands Watch to come.

Chair Finnegan said thank you. We have four sites, one of which we have already done the site tour for, we would not do that again would we?

Ms. Dang said it is up to you all based on what new information that you see.

Chair Finnegan said items four and five are not associated with a particular site. It is always hard to know when there is going to be a lot of community interest in an item. I would have thought West Mosby Road, there would be a lot of people here speaking about it and that is not the case, it is always hard to predict. We did get some folks the last time, the Cooperative Sober Living Residence, we did get some folks.

Vice Chair Byrd said one way to consider this, we have been concerned about whether the meeting would go past three hours. I do not think... Even if one or two were slightly or seriously contentious that the other items...we felt at the time after we have heard feedback that week leading up to it just to reorder how they are presented just so we can get through the ones that would not be as contentious to us first.

Chair Finnegan said I agree. I am in favor of going with staff's recommendation for one meeting for this. There are two meeting next month, but the September 19 meeting, we are not hearing requests.

The meeting adjourned at 8:28 p.m.

Brent Finnegan, Chair

Anastasia Auguste, Secretary