



# CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

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February 14, 2022

**TO THE MEMBERS OF CITY COUNCIL  
CITY OF HARRISONBURG, VIRGINIA**

**SUBJECT:**

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

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

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

**EXTRACT FROM MINUTES OF HARRISONBURG PLANNING COMMISSION  
MEETING HELD ON: January 12, 2022**

Chair Finnegan read the request and asked staff to review.

During the staff presentation, technical difficulties interrupted the meeting preventing the presentation from being heard by the public. After nine minutes, sound was restored. Ms. Dang restarted the presentation.

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

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

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

In 2018, another developer, Madison Lucy Realty LLC, requested to rezone the subject site and an adjacent parcel (totaling 5.7 +/- acres) addressed as 290, 294, and 298 Lucy Drive, from R-3, Medium Density Residential to R-5C, High Density Residential District Conditional, and for two special use permits to allow multi-family dwellings of more than 12 units per building and to allow retail stores, convenience shops, personal service establishments, business and professional offices, and restaurants (excluding drive-through facilities). Staff recommended approval of all three requests. Planning Commission recommended (6-0) denial of all three requests, and on October 1, 2018, City Council (5-0) denied all three requests. More information about these requests can be found at <https://harrisonburg-va.legistar.com/Calendar.aspx>.

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

#### *Comprehensive Plan Amendment*

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

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

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

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

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

The Commercial designation is then described as:

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

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

#### *Rezoning and Special Use Permit*

Before getting into the specifics of the rezoning and SUP requests, it is important to understand the uses and densities permitted by right on the subject site. The subject property is zoned, R-3, Medium Density Residential District. The R-3 district is intended for medium density residential

development and other uses intended to respect the residential character, which are aesthetically compatible with the district by means of architectural expression, landscaping, and restrained traffic flow. The R-3 district allows medical and professional offices by right as well as other non-residential uses. The R-3 district's by right residential uses include single-family detached dwellings, duplex dwellings, and attached townhouses of no more than eight units in a row within one structure. Among other SUPs, multiple-family dwellings of up to 12 units per building and personal service establishments may be requested.

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

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

With approval of a SUP to allow for multi-family units, the site could contain 68 units.

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

1. No parking lot (including travel lanes and drive aisles) shall be located between any building and Lucy Drive. A bus pull-off lane shall be exempt from this requirement.
2. The Property shall not contain residential units that have greater than three (3) bedrooms.

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

Note that the submitted conceptual layouts are not proffered.

Proffer #1 is intended to promote pedestrian friendly design by placing the buildings close to the street and prohibiting parking between the multiple-family buildings and Lucy Drive. Concentrating people and places along the public street creates an environment that is more accessible, interesting, and safer for pedestrians, which are designs and environments that staff promotes. The applicant has also proffered to construct new sidewalks and to dedicate right-of-way or a public sidewalk easement along the frontage of Lucy Drive during development (Proffer #5) and to add street trees between the sidewalk and buildings (Proffer #6), which will enhance the pedestrian environment.

Staff is very appreciative that the proposed development would consist of one, two, and three-bedroom units. Proffer #2 restricts the property to dwelling units with no more than three bedrooms. Proffer #3 establishes a minimum number of one-bedroom dwelling units at 10 percent of the total number of dwelling units on the property while also setting a maximum number of three-bedroom dwelling units at no more than 30 percent of the total number of dwelling units. Proffer #4 requires a playground on the property that shall be a minimum of 600 square feet in size and that would include a slide, swing, and climbing features.

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

In Proffer #8, the applicant has detailed that existing vegetation (trees and shrubbery) parallel and within 23 feet of the southern property line shall be maintained during construction and that if any vegetation is removed for construction of the property, then it shall be replaced with an equivalent planting and that trees replaced must be at least 6-feet in height at the time of planting. It should be understood that the applicant only intends to replace vegetation removed during construction and that the proffer does not require vegetation to be maintained in perpetuity. Staff has discussed with the applicant that in order to enforce this proffer that staff will require the engineered comprehensive site plan to illustrate where all trees and shrubbery exist within 23 feet of the entire length of the southern property line so that when construction is completed, zoning staff will use the engineered comprehensive site plan to verify that trees and shrubbery have been maintained and/or replaced. Additionally, it should be acknowledged that it appears the majority of vegetation between the proposed buildings on the subject site and the townhome buildings along Emerald Drive are located on the townhome properties and would not be disturbed by construction or are outside the 23-foot-wide area. Any vegetation outside of the 23-foot area could be removed during construction without being replaced. (See Exhibit B in attachments.)

Additionally, since publication of the Planning Commission agenda packet, staff is recommending a new condition between the subject site and townhome buildings along Emerald Drive:

When developed, the site shall include either a six foot (6') tall opaque fence or a minimum 10-foot landscaping buffer with trees or other plants installed and maintained with the intent to form a dense screen. The installed vegetation shall be 6-feet in height at the time of planting, installed at a minimum of 5-feet on center, and located along the southern boundary of the property.

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

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

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

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

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

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

As demonstrated in the Determination of Need for a Traffic Impact Analysis (TIA) (attached), the development is estimated to generate 51 additional trips in the PM peak hour and does not meet the 100-trip peak-hour threshold that gives City staff the ability to require a TIA. When a

development reaches or exceeds 100 trips in the peak hour, this threshold is what typically causes concern for traffic safety and delays and would require the need for a TIA study. Thus, a TIA study was not performed.

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

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

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

An additional component of this project is that the developer, as they describe in their letter, “intend to pursue Section 42 tax credits with general occupancy/family target population. The units would be targeted to households that meet the requirements for 30% AMI (area median income) up to 70% AMI. Simms Pointe would utilize income averaging, so the units will have an average AMI of no more than 60%. No market-rate units or student housing units will be included.” The Section 42 tax credit program is also commonly referred to as Low Income Housing Tax Credit program (LIHTC). The applicant also states that “[i]n applying for Section 42 tax credits, there are minimum design and amenity features that applicants include in order to produce a competitive development. As it currently stands, Simms Pointe will have a [sic] exterior walls consisting of 50% brick and 50% fiber cement board. There will be a community room of at least 750 square feet. There will also be a playground for children. The development will choose from a select few green building certifications including EarthCraft Gold, LEED green-building certification, or Enterprise Green Communities. There will be a full-time property manager and a fulltime

maintenance technician on-site.” While staff supports the applicant’s intent to pursue Section 42 tax credits, it must be acknowledged that the pursuit of tax credits, the average AMI for units, the appearance of exterior walls, and the green building certifications are not proffered. Should the rezoning and SUP get approved, but pursuit of Section 42 tax credits is unsuccessful, another developer could develop the site for multiple-family dwellings or any use allowed by right in the R-5 district so long as they comply with the Zoning Ordinance and the approved proffers.

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

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

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

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

Another component of the Housing Study places the subject site within Market Type A and notes that “priorities and policies that are appropriate to market Type A areas include an emphasis on increasing density through zoning changes, infill development and housing rehabilitation to maintain the quality of housing.” Staff believes that the proposal utilizes the recommendation by increasing density with the zoning change.

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

Chair Finnegan asked if there were any questions for staff.

Chair Finnegan said I spoke with someone at the HRHA board to ask why the applicant did not proffer the LIHTC Section 42 tax credits. I was informed that HRHA has not formally approved the bond because they are waiting on this process to continue the application with the bond.

Councilmember Dent asked how can proffer 11 “[d]welling units shall not be occupied by households that are made up of only full-time students” be regulated?

Ms. Dang said that from a zoning perspective it would be difficult to enforce, just like other occupancy regulations. We would look to the applicant to screen for students when they receive applications. I would suggest asking the applicant that question.

Mr. Fletcher said that LIHTC criteria do not allow tax credits for a student housing complex.

Chair Finnegan asked if it is legal to say “no students”? I assume they are not a protected class. Is that something that can be enforced by the law?

Mr. Russ said they are not a protected class. No Virginia communities have gone the route of attempting to control student housing. In New England there are a few cities and towns that have done that without issue. It could be a headache from an enforcement perspective, but without any legal issue. It should be legal and appropriate for us to accept it as a proffer if you are so inclined. You do not have to accept any proffer.

Chair Finnegan said there are certain communities that are 55 and older or you have to meet certain requirements.

Commissioner Baugh said the simple version is “we” cannot do it. The government cannot pass rules that way and impose it as an ordinance. In the terms of private covenants, you are right, you are not talking about a protected class. Your analogy to communities that target people in a specific age demographic is a good example. I think that you can do it. I think that what Mr. Russ is referring to is that you get back to that Dillon rule business. You cannot quote chapter and verse that says you can do it in Virginia, so you cannot do it. In New England, not so much.

Commissioner Whitten asked does this go far afield from our Comprehensive Plan? I want to hear from staff.

Mr. Fletcher said the staff report recommended in favor of the Land Use Guide change. We also point out specific things as our reasons for it. Our staff report speaks to that question.

Chair Finnegan said this is a Comprehensive Plan amendment. This is requesting a change to the Comprehensive Plan.

Commissioner Whitten said I am disagreeing with the change.

Commissioner Byrd asked do we review the Comprehensive Plan next year? Is it every five years?

Chair Finnegan said it is every five years, so it would be next year.

Ms. Dang said next November 2023, we would ask the Planning Commission to review and make a decision whether the Comprehensive Plan needs to be updated or amended.

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

Nick Surak, Senior Vice President of Development for the Woda Cooper Companies, spoke in support of the request. My colleagues Parker Zee and Bruce Watts are here as well. The student housing restrictions are a program requirement for LIHTC. It is a programmatic requirement that we cannot rent to full-time students. It comes along with the Federal tax credit. When someone applies, they are asked on their application whether they are a full-time or part-time student. If they are a full-time student, we will verify that with the university. If they are, they cannot be the primary leaseholder. Parents of a full-time student, if they are the primary lease holders, they can have a student as a member of their household. We cannot lease to full-time students as you would in a student housing development.

Since we started this conversation, we have decided on a reduction of the project size, closer to 80 units from the proposed 111. There are a few reasons for this. One of which is based around the LIHTC program. Virginia Housing has fewer resources this year for affordable housing than they would in past years. From a competitiveness and feasibility standpoint, that puts us in a different position as to how ambitious we can be for the development. We are looking at an 80 unit project now, so you can extrapolate from that what it means in terms of trip generation. It also means a more compact development on this site. One of the primary reasons that we are seeking to rezone is that the existing zone allows more than 80 units as a townhome product, but to do that you would be covering the whole site in pavement and buildings. If we can do a three-story development with two buildings, we can bring it closer to the street and reduce the impact to the neighbors to the south by shrinking the footprint of the site that is developed. We prefer to have controlled access buildings where there is one point of entry for residents or guests. All of our buildings have a keypad or key fob for access. Having two buildings where there is just one entrance in and out is better than having 80 townhomes from a security standpoint. It also offers better access for the residents to the amenities that we will have inside the buildings such as the community room, laundry facilities, exercise facilities. All those can be accessed from within the building. They would not have to go outside to a dedicated building that houses those things. Those are the primary

motivations for the rezone, to be able to pursue the building type that we think is most appropriate. I am happy to answer any questions that you may have.

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

Chair Finnegan asked if the request was going to change before it gets to City Council and be amended to 80 units? What we are signing off on is this request for 111 units.

Ms. Dang said there is a problem that we need to make the Commissioners aware of. The phone lines in the City are down. We will not be able to receive public comments.

Chair Finnegan said that does not seem acceptable to me. If we cannot have public comment, then I would hope that someone would make a motion to table this so that we can pick this up at a future time.

After some discussion, the Planning Commission and staff agreed to continue the discussion with the applicant. The Planning Commission would then keep the public hearing open, then continue the public hearing until the next time that the Planning Commission is able to meet.

Commissioner Armstrong said would you still have the same distribution of 10%, 60% and 30% with the reduction to 80 units?

Mr. Surak said yes.

Commissioner Armstrong asked what kind of rents would you be expecting for these different unit sizes?

Mr. Surak asked are you asking for the actual dollar figures or the AMI?

Commissioner Armstrong said the actual dollar figures, if you have them.

Mr. Surak said that these developments are offered at multiple income levels. The income is going to range from 30% to 80% AMI. Within that range, a one-bedroom would be starting at under \$300 per month and it would go to \$800 a month at the highest tier. A two-bedroom would start in the low \$300 and it could range up to about \$950 per month. A three-bedroom would start under \$400 per month and would go to just over \$1000 per month. That is all conditional on which AMI set-aside the lessee falls under.

Chair Finnegan said a lot of apartment developments call themselves affordable. This is actually affordable housing where voucher holders would be able to use public housing vouchers.

Mr. Surak said correct. The set-asides that I mentioned would be part of a recorded, restrictive covenant that would go with the property to ensure that affordability is there for the long term.

Commissioner Whitten said that one of the emails that we received included a comment that the person had visited a complex that is this same development company. It did not give a good

impression to this person. It looked very run down. I googled the company to take a look at the reviews they get. The reviews are not good.

Mr. Surak said that the reviews that tenants leave about any company, anonymously, on the internet, tend to be the most disgruntled tenants.

Commissioner Whitten said I understand that, but I saw very few positive reviews and almost all negative and there were a good number of them. That coupled with the comment from this person who took the time to drive over to Stanardsville to look at this development, and I have not done that, it sounded not like a stellar development. It did not sound appealing.

Mr. Surak said I would dispute that. The fact that we have consistently maintained a 95% level occupancy throughout the COVID crisis, and that is our standard, speaks to what it is that we offer and that we do retain tenants.

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

Mr. Surak asked if this is continued until the next hearing, what would be the schedule from there in terms of the hearing in City Council?

Mr. Fletcher said that final approval would be on March 22, 2022.

Mr. Surak said that would pose a problem in terms of the application for tax credits.

The Planning Commission and staff discussed options to accommodate the deadlines the applicant faces for the tax credit application. Staff will explore options and communicate the results.

Commissioner Whitten made a motion to continue the public hearing until the next Planning Commission meeting.

Commissioner Byrd seconded the motion.

Chair Finnegan called for a roll call vote.

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

The motion to continue the public hearing passed (7-0).

[Note: As described above, the three requests from Bluestone Land Company, Inc. with representatives Woda Cooper Development, Inc. were presented to Planning Commission and the

public hearings were opened. However, due to a localized outage with Comcast's services, members of the public were unable to call into the public comment phone line and Planning Commission tabled the requests until February 9, 2022.]

**EXTRACT FROM MINUTES OF HARRISONBURG PLANNING COMMISSION MEETING HELD ON: February 9, 2022**

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

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

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

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

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

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

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

#### *Comprehensive Plan Amendment*

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

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

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

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

The Comprehensive Plan describes the Medium Density Residential designation as:

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

The Commercial designation is then described as:

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

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

#### *Rezoning and Special Use Permit*

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

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

- Residential uses:

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

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

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

15. No parking lot (including travel lanes and drive aisles) shall be located between any building and Lucy Drive. A bus pull-off lane shall be exempt from this requirement.
16. The Property shall not contain residential units that have greater than three (3) bedrooms.
17. The one-bedroom dwelling units on the Property shall make up at least 10% of the total dwelling units on the Property. The three-bedroom dwelling units on the Property shall make up no more than 30% of the total dwelling units on the Property.
18. The Property shall contain a playground for use by residents. The playground shall be a minimum of 600 square feet and shall include a slide, a swing, and climbing features.
19. A sidewalk shall be constructed along Lucy Drive for the length of the Property. Additionally, the property owner will dedicate right-of-way or a public sidewalk easement to be located a minimum of 0.5-ft behind the sidewalk.
20. A minimum of 16 deciduous trees or a minimum 26 small/ornamental deciduous trees shall be planted and maintained between the sidewalk and the building(s). At the time of planting, tree sizes shall meet the minimum size requirements defined in the Zoning Ordinance.

21. No building shall exceed three (3) stories in height.
22. The existing vegetation (trees and shrubbery) parallel to and within 23 feet of the southern property line shall be maintained to provide a vegetative buffer between adjacent residential uses and uses on the subject site. If any vegetation needs to be removed for construction of the property, it shall be replaced with an equivalent planting. Trees that are replaced must be at least 6 feet in height at the time of planting.
23. Dwelling units may be occupied by single family or no more than three (3) unrelated persons. Exceptions may be made in instances when complying with this occupancy standard would result in violation of Title 42 of the U.S. Code, Chapter 45 – Fair Housing.
24. A minimum of 1.5 parking spaces per dwelling unit shall be provided.
25. Dwelling units shall not be occupied by households that are made up of only full-time students.
26. The development shall be served by only one entrance. This entrance shall align with either Pro Pointe Lane or the entrance serving tax map parcel 77-K-6.
27. A bus pull-off, concrete pad, and easement for a bus shelter shall be provided at a location acceptable to Harrisonburg Department of Public Transportation (HDPT). The bus pull-off and concrete pad shall be constructed to HDPT's specifications.
  
28. Exterior lighting of the site shall be designed so that light is not directed off the site and the light source is shielded from direct offsite viewing. Light fixtures in parking areas shall not exceed fifteen (15) feet in height.

Note that the submitted conceptual layout is not proffered.

Proffer #1 is intended to promote pedestrian friendly design by placing the buildings close to the street and prohibiting parking between the multiple-family buildings and Lucy Drive. Concentrating people and places along the public street creates an environment that is more accessible, interesting, and safer for pedestrians, which are designs and environments that staff promotes. The applicant has also proffered to construct new sidewalks and to dedicate right-of-way or a public sidewalk easement along the frontage of Lucy Drive during development (Proffer #5) and to add street trees between the sidewalk and buildings (Proffer #6), which will enhance the pedestrian environment.

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

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

Within the current R-3, Medium Density Residential District, uses may be three stories, where the maximum height is 35-feet for single-family dwellings and duplexes, and 40-feet for townhouses, multi-family buildings, and other uses. The requested R-5 district's maximum by-right height is

52 feet with the ability to have four stories for multi-family structures and mixed-use buildings. While not proffering a specific height, the applicant has proffered that no building shall exceed three stories (Proffer #7).

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

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

When developed, the site shall include either a six foot (6') tall opaque fence or a minimum 10-foot landscaping buffer with trees or other plants installed and maintained with the intent to form a dense screen. The installed vegetation shall be six feet in height at the time of planting, installed at a minimum of five feet on center, and located along the southern boundary of the property.

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

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

Proffer #11 is intended to address community concerns that the multiple-family dwellings would become off-campus housing for college students. While college-aged students could live here,

Proffer #11 would prohibit dwellings from being occupied by households made up of only full-time students.

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

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

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

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

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

From a design and site layout perspective, staff likes the applicant's proposal to mass buildings close to the public street with off-street parking relegated behind buildings and to create multi-family structures with more than 12-dwelling units per building. As previously stated, staff believes that massing buildings close to the public street with parking behind the buildings creates an environment that is more accessible, interesting, and safer for pedestrians. Therefore, staff supports the SUP request to allow multi-family dwellings of more than 12 units per building. While the subject site on its own does not incorporate all of the ideals and characteristics of Traditional Neighborhood Development (TND), the overall neighborhood together would incorporate some of those characteristics such as: having a neighborhood that allows residents to

work, shop, and carry out many of life's other activities; allowing residents to walk, ride a bicycle, or take transit for many trips between home, work, shopping, and school; and having a variety of housing types provided at a range of densities with heterogeneous mixes of residences. Staff believes that the proposed rezoning and SUP allow for this project to blend well within the existing neighborhood and serve as a transition between Commercial and Medium Density Residential areas. Furthermore, generally adding more one-, two-, and three-bedroom residential units to the market will benefit the community's need for more housing and for people who want to live in the City.

An additional component of this project is that the developer, as they describe in their letter, "intend[s] to pursue Section 42 tax credits with general occupancy/family target population. The units would be targeted to households that meet the requirements for 30% AMI (area median income) up to 70% AMI. Simms Pointe would utilize income averaging, so the units will have an average AMI of no more than 60%. No market-rate units or student housing units will be included." The Section 42 tax credit program is also commonly referred to as Low Income Housing Tax Credit program (LIHTC). The applicant also states that "[i]n applying for Section 42 tax credits, there are minimum design and amenity features that applicants include in order to produce a competitive development. As it currently stands, Simms Pointe will have a [sic] exterior walls consisting of 50% brick and 50% fiber cement board. There will be a community room of at least 750 square feet. There will also be a playground for children. The development will choose from a select few green building certifications including EarthCraft Gold, LEED green-building certification, or Enterprise Green Communities. There will be a full-time property manager and a fulltime maintenance technician on-site." While staff supports the applicant's intent to pursue Section 42 tax credits, it must be acknowledged that the pursuit of tax credits, the average AMI for units, the appearance of exterior walls, and the green building certifications are not proffered. Should the rezoning and SUP get approved, but pursuit of Section 42 tax credits is unsuccessful, another developer could develop the site for multiple-family dwellings or any use allowed by right in the R-5 district so long as they comply with the Zoning Ordinance and the approved proffers.

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

- "There are significantly more households than units in the 0-30% AMI tier. This tier includes most student households (including dependent and independent students), persons needing supportive housing, elderly households, and other household types that are non-student, non-elderly households.
- The vast majority of rental units are naturally occurring affordable housing, meaning that the unit is affordable to a household earning up to 80% AMI without public subsidy; 81% of all rental units are affordable to households with incomes up to 80% AMI.

- Because there are many more households with incomes above 80% AMI but few available for this income tier, these higher income households occupy rental units that cost less, therefore increasing competition among lower income households for the affordable units.
- The vacancy rate is low; CHAS [Comprehensive Housing Affordability Strategy] data identified that only 2% of rental units were vacant.”

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

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

Another component of the Housing Study places the subject site within Market Type A and notes that “priorities and policies that are appropriate to market Type A areas include an emphasis on increasing density through zoning changes, infill development and housing rehabilitation to maintain the quality of housing.” Staff believes that the proposal utilizes the recommendation by increasing density with the zoning change.

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

Chair Finnegan asked if there were any questions for staff.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

In terms of our approach to property management, this proposed development will have full-time, 40 hours a week, maintenance staff and a property manager. It is our practice to inspect all units monthly by the property manager and maintenance technician in all of our properties. This is to ensure that basic housekeeping is being done and to identify any potential maintenance issues. It is not uncommon for tenants to have minor things that they have not reported to us. It could be as simple as toilets running, but it needs to be fixed and this is how we discover it. I would like to point out that one of the complaints was that we visit their unit every month. Every property is subject to a full inspection by our professional team every year. That includes our head of

maintenance and our head of property management. We are also subject to inspections by Virginia Housing as well as our tax credit investors. I want to emphasize that we want to be good neighbors. We want to hear from people. If they spot something that they think is out of place, or needs our attention, we are always happy to hear it because we cannot fix something that we are not aware of if we do not catch them first.

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

Chair Finnegan asked if there any questions for the applicant.

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

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

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

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

Commissioner Whitten asked how do you make that assumption?

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

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

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

Commissioner Whitten asked will you have any other recreational facilities?

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

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

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

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

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

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

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

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

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

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

Ms. Dang said that what we have been promoting, as you have seen in other applications, is for applicants to move the buildings to the front of the street instead of putting a parking lot between the road with the sidewalk on one side and the building being separated from the street frontage. When people are walking along Lucy Drive, they are not walking along an asphalt parking lot. They might have more visual interest with the buildings closer to them, as well as the street trees which the applicant proffered.

Councilmember Dent said I grabbed a screenshot of the new layout of the 80 units. That answers one of my questions about how that layout would look. It looks like you omitted the wings that turned away from the street. I had wanted to suggest that you plant more trees throughout the parking lot to cut down on the heat island effect and to give more sheltering from the light and

noise to the neighbors. It looks like you have addressed that in the parking lot mock-up that I see here. I think I see what is probably the playground in the middle of the back and then what looks like a loop track.

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

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

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

Ms. Dang said that it is not proffered.

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

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

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

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

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

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

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

The Comprehensive Plan is a long-term vision for the community and a guidepost for policy and decision-making. The first page states, it is "the central organizing umbrella under which other plans, regulations and initiatives exist, intended to provide guidance and land use regulations, including Zoning and Subdivision Ordinances." An extreme division from the Plan will have a chilling effect on people who wish to buy and invest in real estate in the community. Granting this

request would fundamentally change the character of the Bluestone community and professional offices in the area. Adding high-density, residential units will create more congestion, noise, and light pollution where traffic is currently moderate. It would decrease the desirability and lower the value of homes and businesses in the area. There are alternate properties in Harrisonburg including commercial property that can be rezoned without creating such a disruption. Virginia Code Section 15.2-2223 Comprehensive Plans to be proposed and adopted section A states that:

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

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

I will now address the PowerPoint that you should have in front of you. Mr. Surak already addressed slide three, the 1.07 rating. In our opinion, that is a red flag for any company on this BBB website. I would also like to address some complaints from tenants of Woda Cooper properties. We have Tom M, Patricia R and Brittney H, and I will quote from their comments: “noisy environment;” “overstepped boundaries;” “lack of management at properties;” “no compassion for the disabled;” “don’t bother calling corporate, they make you feel like you’re in trouble.” Slide five, we go to Audubon Crossing in Dayton Ohio, the Federal lawsuit was filed just recently on January 14, 2022 alleging disability discrimination at this property. Mr. Surak addressed the water drainage issue. It drains into an adjacent parcel. At Friedman Point in Hopewell, there are public health hazards, trash areas not maintained, spills on the driveway. Again, at Friedman Point, trash blowing into adjacent properties. More BBB complaints from Iamsunshine717 and Kim L: “their people are not very friendly;” “maintenance does not do a good job my door that they finally replaced after 3 years;” “completely ignores residents’ complaints;” “harassed me for years over my emotional support dogs;” “you do not want to live in a Woda owned property... they do not care about you.”

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

Again, and you all have the deck here, in Norfolk, Virginia, maintenance and debris issues, public health hazards, trash, fire risks. Back to Newport News, the efflorescence that Mr. Surak mentioned earlier, and the definition of that. Slide 16 quotes from Russ W and Miss Nancy, “Woda

Property management ignores their mission statement. We felt entitled to a safe and secure neighborhood. Woda ignores this.” “allowing people to stack debris, shoes, giveaways, new my hallway and in common areas.”

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

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

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

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

Jeff Tyrell, 89 Bluestone Hills Drive, called in opposition to the request. I am concerned that the Woda Corporation has not shown that they can adequately manage this site. There are a lot of complaints that we have listed. Those are just the ones that were raised to the level of the BBB. It makes it difficult for us to understand if they could handle it correctly. Because this is a more isolated location, it will be difficult for them to share the resources from other local facilities when the maintenance is needed. One manager, 40 hours a week, and a small maintenance team is unlikely to be able to provide and manage the whole system.

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

Leslie Falconi, Bluestone Hills Drive, called in opposition to the request. Good evening staff and Planning Commission. I respectfully ask you, how would you feel if all of a sudden the rules, regulations, laws, zoning ordinances, everything that has been in place for the last many years in your neighborhood, if all of a sudden, with the drop of a single decision, all of this was dramatically changed? Would you want that for yourself and your neighbors? This is why the Bluestone Hills Neighborhood has become so vocal and almost unanimous in our opposition to this proposal. I believe the City planners have two obligations: one to the current citizens and residents and one to the less fortunate, may I say even disenfranchised residents who do not have a voice and do need housing. However, I also feel that you have an obligation to not destroy what has been carefully planned out and has been working well in favor of another group where you must first overturn all

of the current and existing planning just to accommodate their request. This would be an unprecedented decision that would then set a new precedent allowing for all other neighborhoods to make changes to their existing zoning and regulations. For example, for a prospective new homeowner, looking to buy and establish their family in a specific area, what assurance would they then have that everything would remain the same? Or do we not know anything anymore? Do we live in a City where everything is subject to change? We want to be able to count on new high-density multi-family residential for only select areas and careful controls to ensure compatibility with adjacent land use. That gives us confidence to trust that our City planners will look after our interests. No one can really fault an out-of-town developer looking to further their process and their mission statement. After all, this is the American way. But should that be at the expense of all others drastically impacting their daily lives forever? This is what you have to decide tonight. In conclusion, we believe and have shown you that we have uncovered numerous and varied code violations and landlord-tenant violations and a lack of proper management, all the issues that impact the quality of life for the new tenants that would be occupying said buildings should this proposal be approved and move forward. Thank you for your time and consideration.

Paul Clancey, 261 Emerald Drive, called in opposition to the request. My wife and I have lived here for 14 years. We are calling to urge you to vote no to the three Comprehensive Land changes as requested by Woda Cooper Development Incorporated. There are numerous allowable by-right uses for the property which is zoned R-3 presently. We share a property line with a by-right use, which is not residential. Our bedroom windows are approximately 110 feet from the Shenandoah Women's Health Care Center Spa employee entrance. They are great neighbors. If high-density residential is allowed, increased pedestrian traffic will follow, factors that should be considered if this were allowed. The sidewalks in the neighborhood are fragmented and incomplete. There are no crosswalks. There are no pedestrian safety signals. To walk to two of the closest grocery stores, the intersection of Lucy Drive, a three-lane road, and Evelyn Byrd Avenue, a four-lane road must be negotiated. There are no signals. There are no sidewalks. Our property line is approximately 60 feet from my rear deck. The property line would be shared by 290 Lucy Drive, which is part of the tax map parcel 77-A-1. A quotation found under proffer #14 states, and we just saw it this afternoon, "[n]ote that the submitted conceptual layout is not proffered." What would be the real end result? We urge you to uphold the Comprehensive Plan. It is well thought out. It mixes residential and non-residential uses to our satisfaction. Please vote no to the three requests. Thank you.

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

Jeff Lucatorto, 323 and 295 Emerald Drive, called in opposition to the request. My son lives on Emerald Drive. My sister lives on Emerald Drive. I love Emerald Drive. Thank you for the time here. I just want to say that we all know that successful low-income housing is tough. I think

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

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

Lorna Nichols, 180 Diamond Court, called in opposition to the request. The first thing that I will mention is that in the DNR, Mr. Surak stated that Woda Cooper has no ongoing maintenance issues. Tonight, he pursued that same line of thinking. I know at least a couple. At City View Place, in Richmond, which our citizens vetting group visited on January 18th, and again on February 5th, there is an electrical code violation that was existent on about more than a dozen of the balconies or porches. It was the same on February 5th. Regarding Freeman Point in Hopewell, that Mr. Surak spoke of tonight, we visited and have pictures of that location yesterday. We first noted it on January 18th. Yesterday, February 8th, there was no change. Water was still being pumped out. Instead of running on the adjacent property, it is running on their property now and down the drive. I feel very strongly about these issues. I believe Mr. Surak stated tonight that it was taken care of

within 24 hours, that is not the case. About the playground, an approximate 7 yards by 10 yards playground is certainly for toddlers only. That is quite small. I was wondering if staff and Planning Commission had run the number of residents who could live at the proposed Simms Pointe. How highly dense will this parcel be? Three unrelated adults can live in each unit and this is next to impossible to enforce if another adult starts living there. Also, an application used by quite a few other Woda section 42 properties has nine lines to list the number of people who can be living in the units, meaning that there can be the three unrelated adults and up to six minors. That is how I read it. If an average of five people live in each apartment, with 80 apartments there would be 400 people on this 4.7 acre parcel. That would be approximately 85 people per acre. I would ask you to please consider the noise, parking and traffic impact of this many people adjacent to the Emerald townhomes and duplexes. I strongly oppose all three requests. Thank you.

John Sloane, 174 Diamond Court, called in opposition to the request. I am calling to oppose the rezoning of the property for a multitude of reasons, but first and foremost is the reason presented today on this call. The company representative, when asked specifically, what about these other properties, the multitude of other properties, that are available in Harrisonburg, with the right zoning, he stated, very simply, for money. He did not say for the safety and security of the citizens already living in Harrisonburg. He did not even say for the safety or security of the potential people living in his building. He said, I believe, that more funds were available if they chose this location, meaning profit for the company, a company not in Harrisonburg. They are not even located in Virginia. I believe he said that the bottom line, price of the property, was more appealing to the company. Once again, money. In exchange, they are asking for the property to be rezoned, completely ignoring the previous Planning Commission, all to better the bottom line and profitability of the company. That is why I am respectfully asking you to oppose. Thank you very much.

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

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

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

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

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

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

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

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

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

“This proposal is incompatible with the current zoning, and it conflicts with the character of the neighborhood.” That was a comment that we heard a lot. Changes to zoning happen very frequently in cities and counties all over the US. At one point, the hill that these houses were located on was a forested hill. I went back and looked up old newspaper articles about this area. On November 18, 1992 in the DNR, there was a story about opposition to Bluestone Land requesting a change for 16 acres of land behind Skyline Village Plaza Shopping Center to provide greater flexibility for developing the land. They were rezoning it from residential to commercial. That did go through and there was opposition to that at that time. Changes happen to zoning.

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

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

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

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

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

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

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

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

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

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

Chair Finnegan said I think it is important to have that kind of perspective and context for this. You did not mention names. I will. It is the Northeast Neighborhood that we are talking about. When I have spoken with members of the Northeast Neighborhood Association, that was the concern. That we are putting all of this affordable housing, subsidized housing, in the Northeast Neighborhood. We need to do our due diligence to make sure that we are not doing that because I do not think that it leads towards equity, particularly when we are about to open a second high school and you are going to draw district lines. Who goes to what high school? If you have higher income folks over here, lower income folks over here, that is not equity. That is something that we need to take into consideration. Something to point out also is that Planning Commission and City Council do not get to decide who files these requests or the locations of the requests for development. The only thing that this body or City Council can do is say yes or no to the requests. We can suggest conditions for City Council to consider. Anyone watching at home, the City did not select this site and then say an applicant should apply for this site. This is private landowners and developers. That is the situation that we have before us.

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

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

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

Chair Finnegan said in addition to some of the comments made, I do think that there are concerns... There was a question, "do you want this in your neighborhood?" from several people who emailed and also someone who called. In my neighborhood, we have a nighttime homeless shelter at our former neighborhood grocery store. Every morning and every evening, dozens of people who have no housing at all, walk by my house and right by houses that have been vacant for decades. I believe it was Mr. Bricker who asked in an email, if I would want public housing in my neighborhood. Yes, I would. If a development like this comes while I am on Planning Commission, I will vote for it in my neighborhood. I want to be clear that we are not singling out this neighborhood. We need affordable housing all over the City.

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

developed acreage by zone in the City. R-5 has available 57 acres in the City at 2.5 percent total for the City. The goal in the Comprehensive Plan was to bring this up to three percent, not for the vacant, but to bring R-5 development up to three percent. It does show 57 acres vacant.

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

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

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

Mr. Fletcher said that the zoning districts do not dictate the cost of housing, affordability or things like that. It is about the types of units. R-3 zoning allows, by-right, single-family detached dwellings, duplexes and townhomes. I do want to point out that most of our townhome communities in the City often receive a Subdivision Ordinance variance to deviate from the requirement that every lot front on a public street because to meet a higher density, they receive that variance so they end up running on private streets. Places like Liberty Square, Avalon Woods, Townes at Bluestone, Charleston Townes, all received that variance because they front on a private street. Multi-family is permitted by SUP in the R-3, back before 2010 it used to be by-right. What we are talking about here is two things, they wanted the opportunity to have the number of units for their density and to allow more than 12 units per building. In the R-3 district you can only have 12 units per building. It is out-of-date and that is why we are doing the Zoning Ordinance rewrite. We want to modernize that. We want to take away some of those prohibitions and create more flexibility in design which is what we are drafting right now. There is not a zoning district that says this is where units that “affordable” can go.

Commissioner Byrd said we are discussing because a particular applicant is suggesting that some of their units are going to be affordable housing. As we have discussed with most of the changes, the change holds regardless of who the property owner is. It stays with the parcel. I have not heard any good arguments about why R-3 is a problem in this location. I was keeping in mind, the parcels near Blue Ridge Drive where we had a big discussion about that. That was zoned something that a lot of people in the discussion felt that would never be built the way that it was currently zoned. I felt more comfortable changing that zoning despite how long it had been designated as that zone in the Comprehensive Plan. This situation is odd. Someone had already presented, in the year that

they were reviewing the Comprehensive Plan and that application was rejected for whatever the reasons were. They likely heard people's concerns. Then you approve the Comprehensive Plan, knowing where that area is. We get another application and, of course, the current residents in that general area have their concerns. I did also read a lot of people's emails, but I want to stay focused on my point at this moment. I did not hear from the applicant. I did not hear in the presentation. I have yet to hear, maybe someone has a good argument, about what is so different now. Just saying, now we have the Housing Study. You needed the Housing Study just to confirm the anecdotal evidence that people were operating on anyway that there was a need for housing. You just did not have a study so you could say "now we know for sure." If I was just considering that, I would still feel uncertain about agreeing to change the zoning. We also did something last month that is going to have a significant change on the City. That is our change to the B-2 for residential. It will be time before we see the effect of that. It makes me question reviewing anything that is near commercial areas because now I cannot assume commercial areas are simply commercial. In light of those things, I would not feel comfortable voting in favor of changing the zoning.

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

Also, I always thought that our public hearing was the vetting process for applicants, in response to the caller who asked, "what is the vetting process?" This is the vetting process, then it goes to City Council, and we do this again. It goes through the process twice. If you really do not like someone, you can air your grievances twice. In this case, some people will get thrice maybe.

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

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

and I will include this in my comments about the CIP next month, can and should be doing better at traffic calming measures to slow down traffic in residential neighborhoods. It has become a real problem in neighborhoods across the City.

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

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

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

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

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

Councilmember Dent seconded the motion.

Chair Finnegan called for a roll call vote.

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

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

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

Commissioner Orndoff seconded the motion.

Chair Finnegan called for a roll call vote.

Commissioner Armstrong	No
Commissioner Baugh	Aye
Commissioner Byrd	No

Councilmember Dent	Aye
Commissioner Orndoff	Aye
Commissioner Whitten	No
Chair Finnegan	Aye

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

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

Commissioner Baugh seconded the motion.

Chair Finnegan called for a roll call vote.

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

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