



**City of Harrisonburg, Virginia**  
**Department of Planning & Community Development**

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Building Inspections

Engineering

Planning & Zoning

October 1, 2018

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

**SUBJECT:** Public hearings to consider requests from Bluestone Land Company and Darrell R. Weaver with representatives Madison Lucy Realty, LLC and LeClairRyan, PLLC:

- To rezone two parcels from R-3, Medium Density Residential District to R-5C, High Density Residential District Conditional.
- For a special use permit to allow multi-family dwellings of more than 12 units per building in the R-5, High Density Residential District per Section 10-3-55.4 (1) of the Zoning Ordinance.
- For a special use permit to allow retail stores, convenience shops, personal service establishments, restaurants (excluding drive-through facilities), and business and professional offices in the R-5, High Density Residential District per Section 10-3-55.4 (4) of the Zoning Ordinance.

The first parcel containing 4.7 +/- acres is owned by Bluestone Land Company, is addressed as Lucy Drive, and is identified as tax map parcel 77-A-1. The second parcel containing 1.0 +/- acres and owned by Darrel R. Weaver, is addressed as 290, 294, and 298 Lucy Drive, and is identified as tax map parcel 77-A-2.

**EXTRACT FROM MINUTES OF HARRISONBURG PLANNING COMMISSION MEETING**  
**HELD ON:** August 8, 2018

Chair Way read the request and asked staff to review.

Ms. Dang said the Comprehensive Plan designates this area as Planned Business. This designation states that these areas are suitable for commercial development but need careful controls to ensure compatibility with adjacent land uses.

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: Across Deyerle Avenue, a senior living facility, zoned R-3

The applicant has submitted three separate applications. The first is to rezone two parcels together totaling 5.7 +/- acres from R-3, Medium Density Residential District to R-5C, High Density Residential District Conditional. Because the applicant would like to construct buildings with more than 12 multi-family units per building, the second request is for a special use permit (SUP) per Section 10-3-55.4 (1) of the Zoning Ordinance to allow multi-family dwellings of more than 12 units per building. (Note: Constructing multi-

family dwellings of not more than 12 units per building is a by right ability in the R-5 district.) The third and final application is a SUP request per Section 10-3-55.4 (4) of the Zoning Ordinance to allow retail stores, convenience shops, personal service establishments, business and professional offices, and restaurants (excluding drive-through facilities). If approved, this SUP allows the above noted non-residential uses either within a stand-alone building not exceeding a floorplate of 7,500 square feet or within the entire first floor of any building of any size that is considered a mixed-use building (having residential and non-residential uses).

If all of the requests made by the applicant are approved, Madison Realty LLC (who is currently under contract to purchase the properties) plans to construct three and four-story mixed-use buildings containing the allowable non-residential uses and multi-family residential units.

Before getting into the specifics of the requests, it is important to understand the uses and densities permitted by right on the subject site. The subject properties are 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: 41 single-family detached units, 31 duplexes (62 units), or 124 townhouse units, or any workable combination.
- 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, the site could contain 82 multi-family units.

If I may respond to some of the public comments received, it was not staff's intent to mislead anyone with information regarding the number of residential units that could be constructed on the site. As shown on the screen, staff has done a rough layout of townhome units on the site considering minimum lot dimension and setback requirements and assuming a private street, which is a variance request that has been historically approved by the City. We show that up to 88 townhome units could fit on this site.

In the 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 R-5 maximum by-right height is 52-feet with the ability to have four stories for multi-family structures and mixed-use buildings. While the applicant has not proffered restrictions on height or layout of the site, the applicant's conceptual site plans show three and four-story buildings. (See Exhibits B, C, and D.) Given the grades on the site, the highest elevation is on the east side of the property and the lowest elevation is about 30-feet lower on the west side of the property. Because of this, the top of the second floor of the easternmost building will be at approximately the same elevation as the top of the fourth floor of the westernmost building. (See Exhibit D.)

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 but excluding a bus pull-off lane) shall be located between any building and Lucy Drive.
- 2) The Property shall contain residential and non-residential uses. A minimum of 7,162 square feet of non-residential uses shall be contained on the first floor of buildings along the Lucy Drive side of the buildings. This does not preclude the property from adding non-residential uses up to the entire first floor of any building.
- 3) The calculated number of trips from the site (when evaluated using the ITE Trip Generation Manual) shall not exceed the maximum number of trips in the accepted traffic impact study authored by Timmons Group dated June 2018, revised July 2, 2018 (the "TIA study"). If increases in the number of trips are proposed, the Department of Public Works may require a new traffic impact study, and the property owner shall be responsible for implementing mitigations identified in the new traffic impact study.

After having seen the public comments included in the staff report, the applicant has offered a new 4<sup>th</sup> proffer:

- 1) The development will include a six-foot tall opaque fence along its southern boundary line.

Note that none of the submitted conceptual site plans are proffered.

Proffer #1 is intended to promote pedestrian friendly design by placing the buildings and commercial activity close to the street. Concentrating people and places along the public street creates an environment that is more accessible, interesting, and safer for pedestrians. The applicant will be required to construct new sidewalks along the frontage of Lucy Drive during development. There is existing sidewalk along Deyerle Avenue.

Proffer #2 is to ensure that the property includes non-residential uses and does not develop into a residential only site. The submitted conceptual site plan (Exhibit C) illustrates where non-residential uses are planned on the site adjacent to Lucy Drive. The green color illustrates that the easternmost and westernmost buildings are planned to contain non-residential uses. Site information provided by the applicant on the conceptual site plan describes planned retail and office uses. With the approved SUP, the non-residential uses could include any combination of retail stores, convenience shops, personal service establishments, restaurants (without drive throughs), and offices. Additionally, the second building from the west is shown to contain a fitness center for residents and a leasing office. This area is also illustrated in green and is planned to contain a façade that "looks like commercial façades."

As required by Section 10-3-118 of the Zoning Ordinance, since the allowable uses under the rezoning and SUPs met the threshold for the City to be able to review a traffic impact analysis (TIA), staff requested for traffic to be evaluated. The completed TIA assumed that the development would include 9,562 square feet of shopping center and 107 multi-family residential units. The Institute of Traffic Engineer's (ITE) Trip Generation Manual (a tool used nationally by transportation engineers) states that

shopping centers include neighborhood centers, community centers, regional centers, and super regional centers, and these centers could contain non-merchandising facilities, such as office buildings, movie theaters, restaurants, post offices, banks, health clubs, and recreational facilities (such as ice skating rinks or outdoor miniature golf courses). The applicant is aware that using a shopping center for the TIA sets the expectation that the property would contain a mixture of non-residential uses. If the non-residential uses in the future became predominately one use, such as all restaurants, and generated more calculated trips than a shopping center would using the ITE Trip Generation methodology, then this could cause proffer #3 to be utilized. Additionally, if more than 9,562 square feet of non-residential space was planned to be added in the future, it could also cause proffer #3 to be utilized. The Department of Public Works would determine if a new TIA would be required depending upon the amount and intensity of changes proposed.

With regard to minimum off-street parking, requirements are calculated based on uses and can be found in Article G of the Zoning Ordinance. In the conceptual site plans provided in Exhibits B and C, the applicant has shown a scenario in how they might organize parking spaces on the site. The applicant has indicated that they intend to use the ability granted by Section 10-3-26 (b) of the Zoning Ordinance to reduce the minimum required vehicular parking spaces on the site using shared parking calculations and to use the ability granted by Section 10-3-25 (1) to have up to 25 percent of the total parking provided designated as compact parking spaces. The applicant understands that parking requirements, among other details, would be reviewed by staff during the engineered comprehensive site plan phase of development to ensure that all regulations are met. For example, the developer will have to find a new location for the westernmost located dumpster that is shown near Deyerle Avenue in the conceptual site plans. Section 10-3-55.6 (d) requires for dumpsters to be screened and treated like accessory buildings and, in residential districts, accessory buildings are not permitted between a principal building and a public street.

Staff encouraged the applicant to consider either protecting the existing vegetative buffer or creating a new buffer in the rear of the site between the site's parking lot and the townhomes on Emerald Drive. In a response letter, the applicant stated that that approximately 60 to 70 percent of the trees between the site and the townhomes are on the townhomes' properties and would not be disturbed by the development. The applicant went on to say that "[u]nfortunately, the trees on the subject property cannot be preserved because the entire area is needed for required on-site parking, and there are no options for off-site parking." While the applicant has illustrated on the conceptual site plan that landscape trees will be provided on the perimeter between the parking lot and townhomes, this has not been proffered. Note: Parking lot landscaping regulations in Section 10-3-30.1 of the Zoning Ordinance require a landscaping border not less than 10-ft. in width along public street right-of-way lines, and requires a landscaping border of not less than 10-ft. in width or a wall or fence of at least 3-ft. in height along all side and rear property lines. The conceptual site plan appears to illustrate a 10-ft. landscape border in the rear of the property.

After receiving public comments, the applicant expressed interest to staff in proffering to offer tree plantings to the Emerald Drive residents. However, the City cannot accept a proffer that would impact other properties. The applicant suggested that they would like to offer trees to the Emerald Drive property owners and could work directly with the property owners.

The Comprehensive Plan's Land Use Guide designates this site as Planned Business. This designation states that "these areas are suitable for commercial development but need careful controls to ensure compatibility with adjacent land uses." The site is surrounded by areas designated Medium Density Residential and Commercial. The Medium Density Residential designation states that "these areas are designated in areas near major thoroughfares or commercial areas. Most of these areas have been developed or are approved for development of a variety of housing types such as single-family, duplex, and in special circumstances, apartments. Depending on the specific site characteristics, densities in these

areas may range from 1 to 15 units per acre.” The Commercial designation states that “these areas include uses for retail, office, wholesale, or service functions. These areas are generally found along the City’s major travel corridors.” Staff believes that low to medium density housing at this site is not likely or practical as there is an increase in the intensity of commercial uses as you travel Lucy Drive from west to east to this site. With respect to the rezoning request, a mixed-use development such as this proposal could provide a transition from residential to commercial in two directions - from west to east and from south to north.

From a planning perspective, when one considers the subject site and the surrounding neighborhood, which is often associated to a quarter-mile radius around any particular site, the proposed rezoning and SUP allow for this project to blend well within the existing neighborhood. Within a quarter-mile radius from north to south, this area would transition from commercial, to mixed use, to medium density residential made up of townhomes and duplexes, to lesser density of single family detached homes. (See attached ¼-Mile Buffer Maps.) While the subject site on its own does not incorporate all of the ideals and characteristics of Traditional Neighborhood Design (TND) (although some are included), the overall neighborhood 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.

The City has experienced significant population growth in the last few decades from 30,707 people in 1990 to 54,698 people in 2017 (a 78 percent increase), and it is anticipated to continue an upward growth. The Weldon Cooper Center for Public Service projects Harrisonburg’s population to grow to 67,154 by 2030 and to 74,521 by 2040. Additionally, James Madison University’s (JMU) student population continues to grow. Data from the State Council of Higher Education for Virginia (SCHEV) reports that the total campus-based enrollment in Fall 2017 is 20,854 students and is projected to grow to 22,541 students in 2024. In knowing that the City’s population is expected to continue growing, which includes growth in the student population, the housing needs of the community must be planned for and anticipated. Mixed use developments along certain major thoroughfares and other busy streets in the City could provide the tool necessary to meet housing demands for future population growth and necessary economic development.

Over the past decade, new student housing complexes have opened in Rockingham County and have placed increased pressure and traffic on City streets as students drive longer distances to and from campus. The proposed development is located closer to campus than some of the newer, traditional student housing complexes and it is within commercial areas for shopping and entertainment. Sidewalks and bike lanes on Lucy Drive and Reservoir Street, as well as, available public transit service would provide residents with alternative transportation options to driving. While staff does not believe that more student housing is necessarily needed at this time, when developments that might house students are proposed, from a planning perspective we must evaluate the location and type of facility because having such facilities in appropriate locations may help the City achieve its overall goals such as lessening traffic on already traveled corridors and encouraging other projects to develop in a TND fashion.

Staff had expressed to the applicant that there appears to be a need in Harrisonburg for more one- and two-bedroom dwelling units for students and non-students. The majority of the proposed development’s multi-family units are planned to be 4-bedroom units. The applicant explained to staff that “[t]he residential floors of the buildings have been designed so that the two- and three-bedroom apartments can be converted into one-bedroom with den and two-bedroom with den apartments, respectively, in the event that the market calls for apartments with future bedrooms.” If the applicant develops the site this way, they could be better equipped to respond to changing market demands in the future.

Considering the details of the proffers submitted by the applicant, staff has no suggested conditions for either of the SUP applications. Staff recommends approval of the requests for the rezoning, and two special use permits as presented by the applicant.

However, before we open for public comment. It is unfortunate, but, due to an error made when we contacted all the adjacent property owners, we failed to catch owners within the condominiums that are across Lucy Drive. We sent notifications to their Condominium Owners Association, but did not pick up the individual owners. Because of that, our recommendation tonight is for this item to be tabled and be voted on at a later date. I apologize to the applicant that this has occurred. What we will have to do is re-advertise this item.

Mr. Fletcher said let me clarify a few things. We are recommending that the public hearing be opened and held tonight and that you continue the public hearing into the next month, so we do not have to re-advertise.

Chair Way asked so do not close the public hearing.

Mr. Fletcher said do not close the public hearing. If there is a silver lining in this, there is an opportunity here for the applicant to reach out to some of the residents.

Chair Way said did you notify the applicant about this.

Ms. Dang said yes, I have.

Mr. Fletcher said and there was some discussion regarding if the State Code requires this notification to the individual owners of a condominium. There is a provision in the State Code in two different sections, 12-2204 and 12-2206, that specifically says localities may adopt in their codes that we can just give notice to the Condominium Owner Association and not each individual unit, but our City Code does not do that. We have not granted ourselves that permission. It is a “may” option and we choose not to do that option in our code.

What Ms. Dang is showing you here is all those parcels that are highlighted in blue are the properties that we are required by law to notify. We have notified all of them and it is quite rare that we run into situations where we make a mistake in giving proper notice. It is in these odd situations where, when it shows up in our geographic information system (GIS) that those individual little sections, although are not fee simple properties, those are condominium units and condominium units act differently than townhome units. If there was a common area between the Emerald Drive townhome property owners, none of them would have received a notice, it only goes to the townhome association. That is a little quirk in the State Code that allows that to take place.

Just to clarify we are recommending that a public hearing be held, but that this body continue the public hearing, and then you can vote on it next month.

Chair Way asked what would happen if there were any changes to the application, can changes be made between now and then, like different proffers anything like that.

Mr. Fletcher said yes. If they submit any new proffers it would be stricter and they could be discussed next month, and you would not have to re-advertise again. But what we are doing here is we are extending it, we are not going to re-advertise but we are going to correct the notice situation.

Mrs. Fitzgerald said people could speak tonight and next time.

Mr. Fletcher said yes, they can.

Ms. Dang said and continue to submit their comments in writing as well.

Mrs. Whitten said then it will be delayed in going to Council.

Mr. Fletcher said that is correct. But we absolutely want to hear the public's input.

Chair Way asked if there were any questions for staff.

Mr. Colman said I do not know if we have all the comments, but we have received the emails. We are listening whether through the emails or here tonight. I assume there will be more emails as we stretch this another month.

Chair Way asked with the R-3 district as it is currently zoned, there is no requirement to put in any retail, commercial, non-residential things within that; they can just build townhomes, anything residential, right?

Ms. Dang said they can also build offices.

Chair Way asked but no mixed-uses, right?

Mr. Fletcher said you can do mixed-uses but they are not required to do mixed-uses. They can do what is being proposed this evening but at a lesser density. The density requirement is different.

Chair Way said with the R-5C proffer it is a bit closer to planned business, because it is getting some of the commercial there; it is not just residential.

Mr. Fletcher said the slide that Ms. Dang showed you that showed the potential 88 townhome lots that would require a variance to the subdivision regulations to allow some of those lots to not front the public street but as this body well knows, that variance has been historically approved, because almost every single townhome association in the City. Except for Emerald Drive and a few other townhome developments, all others have a variance to allow the lots not to front on a public street.

Chair Way asked if there were any more questions for staff. Hearing none, he opened the public hearing and asked if the applicant would like to speak regarding this request.

Lori Schweller, attorney with LeClairRyan representing Madison Lucy Realty LLC, said with me tonight is the principal, the applicant, Willie Lanier Jr., who is a graduate of JMU and former football player here. Also, I have with me tonight Craig Kotarski and Scott Dunn with the Timmons Group who can answer your engineering questions including any Traffic Impact Analysis (TIA) questions. I just want to get out of the way the procedural issue that we have. I did bring up with Ms. Dang that I thought State Law did permit you to notify only the unit owners association for the condominiums and I understand from Mr. Fletcher's analysis that your interpretation is that it needs to be in your code for that to work.

I do have some alternatives to offer. One would be based on my reading of the code that a hearing is certainly required for a zoning map amendment or a special use permit; but, at a City Council hearing. So, I read that as potentially opening a door to have that notice to the condominium unit owners prior to the City Council hearing and this hearing now and then that hearing at City Council, and those unit owners would have that opportunity to speak. Another alternative would be a joint hearing, so at the next City Council you all [Planning Commission] would be there as a joint hearing and then that notice would be for both bodies. Thank you for hearing those options.

As you know the property is a vacant property surrounded with commercial property to the north, east, west and residential property to the south. The property is currently zoned R-3 as is all this property to the south and then above it we have commercial in this whole district. Existing land use shows those same types of uses, university, commercial and residential below. In your current Comprehensive Plan, the Land Use Guide map does show the property as a planned business and segueing into the current Land Use Guide draft now under review it is limited commercial.

What we are proposing would be consistent with limited commercial which is described as suitable for commercial and professional offices and a less intensive approach than the commercial designation. It requires careful controls to ensure compatibility with adjacent land uses. Functional and aesthetic

integrity should be emphasized in review of applications, such as control of access, landscaping, buffering, parking setback, building mass, height and orientation.

As Ms. Dang indicated, this vacant parcel is a perfect transitional parcel from east to west and south to north of residential to commercial. Of course, we are requesting rezoning from R-3 to R-5 and we are requesting two special use permits to allow more than 12 units per building and to allow retail stores, business and professional offices, and other non-residential uses. This is the conceptual plan, as you have seen. Along Lucy Drive we are proposing an active modern storefront, so that pedestrians and traffic along Lucy Drive would be able to interact with this development and for that reason we are proposing a proffer of no parking lot between any building and Lucy Drive.

You have seen the stepping of the building, we are looking at the north exterior from Lucy Drive just to show how the building steps down and how you would have a mix of interest in surfaces and textures. Looking more closely at the western section of the development the current plan includes 3,453 square feet of retail and 3,709 square feet of office. So, when you look at the western most building you can see non-residential uses in front on Lucy Drive and then residential behind there. In the center you have a glass storefront look where you have a leasing office, the fitness area for the residents and further down a lobby. Our second proffer is to propose that with the mixed use you do have that interactive, active exciting walkable storefront along Lucy Drive, that would connect commercial and residential uses; also it would be a useful amenity not only for residents, but for those who work in the area and others who live in the area.

On the eastern section again, you have non-residential along the eastern most building and then open area behind. As Ms. Dang indicated, our third proffer would be that uses on this property would not be more intense than what we are proposing, unless a new TIA were done; because that TIA was done specifically for 9,562 square feet of shopping center and 107 units. As you know you have two retail revitalization zones in Harrisonburg, along South Main Street and the East Market Street retail zone. The site is right on the lower boundary, just south of the boundary of the East Market Street retail zone. Obviously, these zones are intended for increased development in these areas. We think that this development would support those goals on Lucy Drive and Deyerle Avenue.

I would like to take you on a little tour around the property to give you a sense of what it would look like. This is an aerial view from the northeast, so this is Lucy Drive here and we are looking at it from the northeast. This is the aerial view from the southeast, from the rear, so Lucy Drive is along the top. As you travel from the west along Lucy Drive eastward you can see you would have a glass front, there would be sidewalks and bike lanes. Then moving towards the middle of the site you will see in the center the fitness facility. There is a bus lane that would stop there and then the lobby moving toward the center. There would be a mixture of textures and colors on the building. And, then the western end of the development again, the sidewalk reaching to the end.

This is the view looking back along the entire development from the western end. Coming around to the rear of the building from the east, this is the parking lot and you can see the back of the commercial area, the glassed-in area. In the center again, the commercial there you can see a catwalk along the center, which I will show you from the front. That is the exit out to Lucy Drive, here is the entrance to the elevator, and there would be bicycle storage there, there will be bicycle storage on site both for residents and those visiting the non-residential uses. There will also be lockers for Amazon orders to be stored for the residents. This is looking south along the courtyard, there is a pool in the courtyard area. I wanted to show you that central glass connector, that catwalk on the second story, that I showed you from the back.

These are some pictures of some of the landscape plans. Currently a 10-foot landscaping buffer is planned along the back southern boundary. As we have been discussing we have heard concerns from the neighbors and the townhomes along Emerald Drive and some neighbors farther south about residents of



the development potentially walking through their neighborhood and other types of concerns. So, our fourth proffer would be to include a six-foot tall opaque fence along the southern boundary line. We did want to offer, and this would be done if desired by the neighbors to the south, to plant trees to fill in those areas where there are no existing trees. As you can see from this aerial, there are mature trees in the backyards of some of these townhome lots, some of these trees are on the subject property and then there are other trees to the east that are mature evergreens, again, on the townhome lots. So, obviously the trees would be planted wherever most logical to provide that infill, so that looking from the back of the townhomes toward the development you would have both the landscape buffer ending with the fence so you would not see through to the development. I am happy to take any questions you all may have.

Chair Way asked if anyone had any questions for the applicant.

Mr. Baugh said I have a question. You are proposing 107 units, is that correct?

Ms. Schweller said yes, that is correct.

Mr. Baugh said and at least a preference to these is tentatively four-bedroom units. My question is what is your best answer right now as to how many human beings you would expect to be living there. Is it as simple as four times 107; but, my guess is you would not have 107 four-bedroom units.

Ms. Schweller said there is a mix of one, two, three and four-bedroom units and so I can give you a number of beds, I think that would be best.

Mr. Baugh said yes that is fine.

Ms. Schweller said I would have to do the math on these, but you can see on the concept plan the breakdown of bedrooms and numbers of each.

Ms. Dang said I come up with 362.

Mr. Baugh said okay thanks.

Chair Way said one of the concerns we have been having from the neighbors is about the potentially large number of student population there. Can you speak to that at all?

Ms. Schweller said the reason why this proposal is before you is because the applicant has recognized the significant increase in your population and continuing increase in your student population. That student population is absorbing a lot of your new housing and so, we are seeing a need, not just for student housing, but a need for housing in Harrisonburg. This is not proposed as student housing, it is proposed as housing for citizens, workers, professionals, students, whoever needs housing. It is a very modern urban style that I think will fit very well in this area.

I have seen the concerns about students from other complexes entering into the neighborhood. As you know from visiting this area all the activity surrounding this parcel is to the north, east and west. There would be no reason for residents of this community to go south into these developments. They are not crossing through anything, in other words those residential neighborhoods are essentially cul-de-sac onto themselves they are not leading to other developments. We see this as a destination for those working in the area and certainly for the offices across the street, to the left, and the right, but just a beautiful corridor for those moving east and west. And, I should mention the applicant is very interested in contributing and helping the City to build sidewalks on Deyerle Avenue from Lucy Drive to University Boulevard. There are no sidewalks on either side of Deyerle Avenue from Lucy Drive up to University Boulevard.

Mr. Colman said that is a site plan requirement they would have to do it regardless. Anybody that develops it would have to do that.

Mr. Fletcher said what Ms. Schweller is talking about is northbound on Deyerle Avenue from Lucy Drive to University Boulevard, on the other side of the street entirely. It would be an offsite improvement that

they have already been discussing with the Department of Public Works, which they have been doing for a number of months. There is enough right-of-way there and the Department of Public Works is trying to determine which side of the street works best, because of entrances, utilities and all the infrastructural issues. This is not along the frontage, this is Deyerle Avenue all the way to University Boulevard.

Mr. Colman said but they are required to have sidewalk on the front of the development.

Mr. Fletcher said they will be required to construct sidewalk on Lucy Drive, yes.

Chair Way said one of the guidelines for limited commercial planned business is the concern about aesthetics and massing of the buildings and all those kinds of things. This is a question for your engineers, did you think about the height and how much that would impede views or block things from the neighborhood above the hill there on Emerald Drive? These are four story buildings. We have not seen iterations of what it looks like from above, rather than from the street there, have you considered that at all?

Ms. Schweller said the buildings are three and four stories depending on which building and the way you are looking. I think Mr. Lanier would be better to answer that question for you.

Willie Lanier Jr., of Madison Lucy Realty LLC, said regarding your question of heights, we have done extensive analysis on the requirements within the zoning designation to R-5 we are looking to obtain and we realized that with R-3 zoning we were at 30-feet in height. With R-5 zoning the maximum height would be 40-feet. Our building is a flat roof building that would hover in the mid 45-foot range accordingly, and as it steps down the hill it will maintain at least a maximum of that 45-foot range or so. We are approximately being able to say plus or minus five feet higher than the typical allowable townhome project.

Mr. Colman asked was there any analysis done from some of the streets above the property.

Mr. Lanier said we had looked at several studies regarding site view and we understand that Emerald Drive has fabulous views of the mountain range and across the campus. James Madison University sits in the low point and, as we all know, this part of town is in a high point. The eastern most point of the property is its highest point. Similar to the project going east to west, the Emerald Drive homes do follow east to west as well. All sight lines have been maintained, and the mountain range can be seen. We purposefully did that. We tried to accommodate the views by stair stepping the property so that we did not intrude any of the views currently there.

Chair Way asked any more questions.

Mrs. Whitten said I guess I would ask why when the staff of the City suggested meeting with the people that live there already, why did that not happen?

Mr. Lanier said there was a suggestion and we took that; we want to be very engaged. No doubt we have spent significant time with staff in trying to incorporate any and all concerns. I have been on the ground and I was unable to travel and to connect with the homeowner's association. But I did want to be able to speak with all parties that are interested and concerns and so forth. I can tell you from our commitment and effort that has been months in the making in terms of allowing myself to work with staff, have staff give me feedback, since they know the community and so forth. I am a graduate of James Madison University, I have spent time as a board member of the Duke Club, I am very intimate, as much as possible, in the City fabric here. So, I know these areas, I feel very connected to these communities and I am very sensitive to the requirements of trying to build. I do not want my inability to have scheduled the proper meeting with the homeowner's association to be looked at as negative; but I do understand the importance of connecting with any and every one that has a vested interest.

Mrs. Whitten said I appreciate your comments, I also would say the City staff in no way can speak for the residents. They can speak for concerns that might have come up, but that is a big missing piece for me.

Mr. Lanier said I do understand.

Chair Way asked if there were any more questions for the applicant.

Mr. Fletcher said there is one other piece that I would like to throw in there and it was not in the staff report, mainly because it is a site plan issue. We had talked with the applicants during some meetings about the common area, or “clubhouse” space within the building. In traditional townhome communities and multi-family complex communities you often have a clubhouse building or a common space for the property manager’s office or things like that. In those spaces there are often separate buildings and we have a parking calculation that is associated with that building; it is 1 parking space per 250 square feet of gross floor area. This type of development is new to us. The question being: Do the common and amenity spaces within this development have parking requirements?

We had discussed with the applicant as to whether or not that common space may need to be calculated into their parking, because they did not calculate it into it. We left it with them that we do not know yet, we have to figure out how to interpret the code. We talked internally amongst staff and there still has not yet been a determination made as to how to apply that code requirement in the Zoning Ordinance. Because, there are arguments to be made that it still needs to be calculated, so it can be captured. But at the same time there are arguments to be made that in these other complexes they are driving long distances, folks might not want to walk from one end, say like if you were at Copper Beach or Campus View or the Greens, that you did not want to walk from your home or unit up there. So, people are driving and parking their vehicles next to the building, in this case you do not have that, you will have internal walking, so we still have to make that determination.

I bring that up because it has a direct result in the number of units. If they are looking at 107 units they are accommodating parking for the 107 units. If they have to accommodate parking for the common area and the clubhouse space, which they could entirely close off to anybody outside of their facility which may help with our interpretation, but if they do have to count that area in the parking calculation, my assumption would be that they are going to drop the number of units to be able to make their parking work. I just wanted that out in the public realm, I wanted folks to understand, it is a later issue that has to be dealt with and, like I said, there still has not been a determination made yet as to how to apply that code section.

Mr. Lanier said we have the required number of parking spaces for the number of units that we have within the building. We matched up at the exact ratio, we do not have more than or less than the amount required.

I do want to point out a couple of things if possible. In analyzing the site as you heard earlier, there is a significant number of townhomes that could be constructed, that would also come with a significant number of bedrooms, so, in theory could have the same number of people spread out through the whole entire parcel. We have specifically analyzed several different options of what we thought would be the best for this site and in doing so we felt that an enclosed, elevator structure would be the best use of the land. It can control access, it can control activities, everything is internal, it can control noise, other components that townhome communities just cannot control.

With that being said, we have also, in working with staff, held the property up to Lucy Drive, so 60% to 70% of the building is on Lucy Drive. Therefore, most of the activity is on Lucy Drive and that also works to get whatever type of ambient noise that could radiate out is more on the Lucy Drive side, the major thoroughfare versus back near the tree line. When we did our analysis, we believed that this type of structure in this location, being a transition from commercial to residential made the most sense. In addition to that we are doing preventative operation that is conducive to a person who desires to have

more of a controlled living environment. When I say controlled living environment, consider something as simple as trash. We can offer valet trash services, every day at 9 p.m. You can place your receptacle outside your door and our people would pick up the trash and remove it, and get it off site. Therefore, we are trying to make sure we maintain a Class A building, some small little features like that will help us dictate the type of behavior that happens in our property. Also, realize that we will be having commercial tenants. Commercial tenants are going to have certain requirements from their leases and so that we must maintain a building that is conducive for a business.

By nature of the type of building that we have designed and what we are trying to accomplish comes with a certain type of responsibility to maintain the appropriate mixed-use type of project. I want it to be clear that we have diligently looked at many components of what this property would need to do, how it needs to perform, so that it could fit perfectly within an environment that is transitioning from commercial to residential, be mindful of the townhomes and other single-family homes nearby but also be able to maximize the best use of the site.

Chair Way asked if anyone would like to speak in favor or against this request.

Dr. Joanne Gabbin, Campbell Street, said I probably would not be able to stay through the whole thing, but I am speaking for the applicant. I am his English teacher, I came to see how well he presented and I must tell Mr. Lanier you presented quite well. I am very impressed with his proposal. I have been in Harrisonburg now for 33 years. When I came here as a JMU professor I did not realize I was going to be here this long. I have seen a lot of growth in Harrisonburg and just based on the presentation that I have heard today, I am really impressed with how this could help. Those of you who live in Old Town, you know that we need places like this for our students and for other people who are coming into the area. It seems to be necessary, I wanted to say that on his behalf. I taught him many years ago and he is very impressive and very committed. Thank you for this opportunity.

Paul Clancey, 261 Emerald Drive, said I was born in this town in 1948, my wife and I both have degrees from JMU, 19 years as faculty in JMU, and past president of Harrisonburg Fire Department, Fire Company Number 1. My opposition to the development is both personal as a homeowner and resident, and as a representative of the other members of the Emerald Estates III Home Owners Association (HOA).

Referencing the City Code 10-3-55.6 (e) (3) – Other Regulations, I believe you have gotten there on some of it. The applicant has demonstrated that the proposed multiple-family development's design is compatible with adjacent existing and planned single-family, duplex and townhouse development. Compatibility may be achieved through architectural design, site planning, landscaping and/or other measures that ensure that views from adjacent single-family, duplex, and townhouse development and public streets are not dominated by large buildings, mechanical/electrical and utility equipment, service/refuse functions and parking lots or garages.

Dealing with not dominated by large buildings. This is the first time I have seen a ground level view of the proposed or planned structure. The structure will dominate due to its height and proximity to the street. It does not mesh with the existing structures at all. It would be a monstrosity in our R-3 neighborhood and even in the areas designated B-2 on the west side of Lucy Drive. I do not see in the packet anything that represents what this development is going to look like from street level. Things have happened and I wrote this probably three or four days ago and additions have been made to the packet.

Exhibit B and C show the pool area and buildings on both sides of the pool to be approximately 85 feet from some of our homes. Not our property line (and the number I found repeatedly) for height was 46' 6". That would be an imposing wall (possibly with windows) when viewed from your bedroom or kitchen windows. What is going to be the true height after HVAC and other machinery is placed on the roof and a

wall or structure is added to conceal the machinery? The area I am speaking about being so close to the residences is the pool area.

Exhibit B and C show the dumpsters located approximately 70 feet from some of our homes (Rear Decks, BBQ's and Hot Tubs). Not our property line. Our homes. This is your refuse and it needs to be near your buildings with all its unattractive aspects. (Smell, leakage, over flow, rodents and noise both using and emptying). The wind prevails from the southwest so any smell or failure to contain will end up in our backyard. These exhibits also show a generator located approximately 70 feet from some of our homes. Not our property line; our homes.

The parking lot is active 365 days a year 24 hours a day, when you add residence and commercial applications. A 342-space parking lot with cars would be a dominant feature. The security lights (I did not find any reference to security lights or specifications) reflecting off the cars would brightly illuminate the rear and inside of our homes. At 342 spaces the consensus is that this is not anywhere near sufficient parking and the overflow will attempt to park in Shenandoah Women's Health parking lot or on Emerald Drive, which already has a severely stressed parking situation.

The intersection of Lucy Drive and Evelyn Byrd Avenue is an intersection I routinely go out of my way to avoid. The other end of Lucy Drive intersects with Reservoir Street, which is another street I work to avoid due to massive traffic stoppages at certain times of the day due to the developments of Charleston Townes, Copper Beech, and the Retreat at Harrisonburg utilizing Reservoir Street to access JMU Campus, the mall area, and downtown Harrisonburg.

The buffer/barrier between our residence and retail shop, as I understand it they have proffered some kind of a barrier. At the time I saw this site plan I did not see a barrier. The applicant has stated that approximately 60 to 70 percent of the trees between the site and the townhomes are on the townhomes property and would not be disturbed by the development. Utilizing the 'ALTS/NSPS Land Title Survey' as reference and physically observing and counting. Behind Emerald Estate III there are 15 trees on the residences side of the property line (6 against the residences and 55 trees on the developments side of the property line. Only 30% of the trees will be retained behind Emerald Estates III. I see no other buffer and we do not want events such as John Gira related in his letter to happen on our property near our children and grandchildren.

I see little or no consideration for the present homeowners and occupants of Emerald Drive by the developers. Zero communication from the developers. It appears from the information I have that the developers are requesting rezoning and special use permits to relieve them of all restrictions regarding the use of the property. Except that drive throughs are prohibited.

The transition zone spoken of by the developers is already in place on the west side of Lucy Drive. The developers are also attempting to convince us that student occupation will be minimal. It is my experience that professional people do not live with 3 other unrelated people in a 4-bedroom apartment or an apartment of any kind. Students will.

When my wife and I purchased 261 Emerald Drive 11 years ago as our retirement home we looked throughout the city and county at many possibilities. 261 had the most going for it. We did not expect the field behind the association to remain empty. The beginnings of a line of professional and medical offices was already established along Evelyn Byrd Avenue. Shortly after moving here Shenandoah Women's Healthcare and The Spa at Shenandoah built their offices behind our home at 240 Lucy Drive. Our property lines touch and our buildings are within approximately 100 feet of each other. We are appreciative of them as great neighbors. We were hoping the trend would continue.

We have no problem if the development contained any of the residential or non-residential uses outlined in R-3 zoning. We wish to preserve a quality of life while understanding all things change in an empty field. When we purchased our home, it came with the promise of R-3 zoning from the City of

Harrisonburg. This promise did not include retail stores, convenience shops, personal service establishments, restaurants and business and professional offices or the asphalt desert next to my back yard.

A no vote does not deny the developers use of their property. Many things may be built under R-3 guidelines. I urge you to vote NO to the rezoning and 2 special use requests.

Chair Way said Mr. Clancey let me clarify one thing. Are you speaking as a representative of your HOA with a lot of these comments here or are these your personal comments?

Mr. Clancey said it is a mixture. I have some of the residents' comments in here, so it is a combination. My opposition to the development is both personal as a homeowner and resident, and as a representative of the other members of the HOA.

Chair Way said I just want to make sure we have what your role is here, but to also make sure there is time for everyone else as well. If you captured a lot of what other people were saying hopefully we can be expeditious in getting through as many people as possible. Thank you for your thoughtful input here.

Abe Shearer, 297 Emerald Drive, said I hate to disagree with Dr. Gabbin because normally I just think that she is absolutely right on everything and I am sure Mr. Lanier is an awesome guy. But I disagree with this proposal in its entirety.

Before addressing the actual proposal, I want to draw attention to something from staff's report. In their report they note that this land could technically be 124 townhomes by-right. Now I know that just tonight a few minutes ago they offered some alternate perspective. It is just not simply true that amount of density is possible there and this premise is both misleading and is a significant oversight. I assume the purpose of pointing that out is to suggest that if this project isn't approved, the same density can be achieved otherwise, and Mr. Lanier kind of insinuated that a few moments ago, but that is not true. So, this notion that our concerns about high density are unfounded, are unfounded.

This ignores building regulations, and/or practical constraints for things like streets, sidewalks, landscaping, storm water retention, amenities, and more. For student housing, the number of bedrooms is arguably far more meaningful as a metric. For perspective, this project proposes 64 bedrooms per acre as stands. Without proffers, which is also the case right now, this is a very light proffered project, it could technically be as high as 96 bedrooms per acre after the rezoning.

For perspective, 865 East at the top of Port Road is less than 50 beds per acre, more than twice the density. Townhouses, on the other hand, have much lower density due to any number of constraints. Charleston Townes has 528 beds on 13.5 acres, 39 beds per acre. The Pointe has 264 beds and is on 8.1 acres, 32.6 beds per acre. So, suggesting the developer could build 124 units by-right (87 bedrooms per acre on R-3 by the way), or nearly three times the density of average R-3 townhouse development in the city, is demonstrably false and not at all a reasonable comparison. It cannot be practically achieved. That is why the developer is asking to rezone this property. And it's unfortunate that staff has used this rationale without presenting adequate context.

Now, to address the actual development, virtually every aspect of it conflicts with the goals, objectives, and strategies of the Comprehensive Plan. We are all familiar with the Comprehensive Plan, I spent four years behind there and the first question we would always ask is what does the Land Use Guide say and what does the Comprehensive Plan say, because that is our plan for how we plan for the City.

I am not at all opposed to mixed use development, in fact, I like it quite a lot. In an urban setting, I hope that city planners continue to encourage it. Urban Exchange, Ice House, Livery, 865 East, Keezell Building, others, and hopefully more to come – all located in urban, walkable, live-work-play settings. Hopefully we continue to do that and all of them are located in walkable, live-work play setting. Lucy Drive is none of those.

This project is in no way a good fit for this location, nor is it supported by the Comprehensive Plan we rely on for guidance. Speaking of the Comprehensive Plan it designates this area Planned Business as you know and even the new draft update, that you are all currently looking at shows this land as Limited Commercial. This project is very clearly not consistent with the City's plans; a pretty important litmus test. That's not the worst part; if you hear nothing else from my ramblings here tonight hear this; the City should follow its own guidance in Strategy 3.4.1 in the Comp Plan (Chapter 6), which explicitly states that the City will grant approval of "new high density multi-family development for only select areas, as recommended by the Land Use Guide."

When I bought my home, I did so with a good idea of what could be built in my back yard under R-3. An R-5 high density student housing/retail shopping development didn't cross my mind. Nor has it ever crossed the City's mind, until now. If planners never thought this would be a good idea in the past, as evidence in the Comprehensive Plan, then what has changed, why now? Candidly, I am still scratching my head trying to determine what would have influenced planning staff to recommend in favor of something so clearly at odds with the City's own objectives.

Finally, let's also be clear about what this proposal is. Contrary to what the developer's attorney said in yesterday's paper about this being intended for young professionals, come on, we are all reasonably smart people. Of course, this is student housing. As noted in staff's report, "the majority of the proposed development's multi-family units are planned to be 4-bedroom units." I'm a young professional and I am not aware of any young professionals that cohabitate in groups of 4-bedroom apartments. College students do though.

In closing, approving this re-zoning would obviously permit a significantly denser residential use than what the developer can currently build. Then, on top of that, it is being suggested that adding even more density with retail and commercial uses too, somehow magically creates a seamless transition. No. It permits a shockingly more intensive use than is currently permitted, thereby making it even more at odds with the Comprehensive Plan, and this site's intended use in this case. Please review this request carefully, and I ask that you not support it. Not only is this not sound planning, but caving to an out of town developer and compromising our own principles so he can make a fleeting few dollars is just not fair to Harrisonburg residents who live here. Thank you for taking the time to listen.

Chair Way said before we move on to the next person here in one moment, I want to give staff a chance to address some of those concerns either now or towards the end of the public hearing.

Ms. Dang said on specific items, because I feel like some of those points we addressed in the presentation.

Chair Way asked you feel like you have addressed them. I just want to make sure to give you a chance.

Ms. Dang said if there are any question I am happy to answer them.

Mrs. Fitzgerald said I think it is typical that we have that kind of context presented rather often and I think it is sort of an understanding among all members that is not a realistic calculation and that nobody is saying they are going to do that. It is a mathematical hypothetical thing with no other considerations, someone could maybe do this. But, we all, I think, understand the context that is presented.

Mrs. Whitten said what you are saying is we all understand.

Mrs. Fitzgerald said correct.

Mrs. Whitten said we all understand, but you all [addressing the public] do not understand that. I think it is important to bring it up.

Mrs. Fitzgerald said we are not fooled in any kind of way about this. We hear that regularly in a lot of different kinds of presentations.

Mr. Fletcher said the only thing I would add is the 88 townhome lots that were displayed on the screen earlier, I think it is reasonable, I think it achievable. I mean you can even see in some of the lot layouts it does not take any consideration all the land that is in it and townhome units can be four-bedrooms, four people in R-3, so that is 352.

Chair Way said I just wanted to give you all time to address any direct concerns of what you raised. I want to make sure you had opportunity.

Mr. Colman said we are in the midst of the Comprehensive Plan review and we have been on it for the past year and we have had public meetings, lots of public meetings, and people do not show up until there is an issue. Here is your property and I wish you would have been here before this to say we do not want this to change into anything else, just an R-3 zoning. I am not saying that it is going to change, but what I am saying is that I hope that more people realize the property here could change. Make sure that your wants or opinions are voiced to the City, so when we are planning we integrate what the public has to say about the City. It is not just our plan, it is your plan, and this is your opportunity to speak as well. But, that is what concerns me the fact that we are going from R-3 to R-5 and also given that we did not touch this area, we left it the way it was.

Leslie Falconi, 249 Blue Stone Hills Drive, said I am a resident of the Blue Stone Hills area. I would like to start my remarks by quoting from page 4 of what I believe is the most recent memo to the Planning Commission from the Department of Planning and Community Development. And I quote, "this designation states that these areas are suitable for commercial development but need careful controls to ensure compatibility with adjacent land uses." And may I add that this same verbiage is repeated again on page 6 of this same memo.

Ladies and gentlemen that is exactly why we are here this evening, in protest to this rezoning of the lots located at Deyerle Avenue and Lucy Drive from R-3 Medium Density to R-5C High Density. We the residents of this area totally believe that the project site and building will not be compatible with the adjacent land uses.

First of all, in my opinion there is a tremendous defect in the planning of this high-density R-5C zoned, 4 stories 107 unit, possible 4 persons per unit apartment building. The obvious defect from its inception is the lack of parking even just for all the tenants of the building. What is planned are 342 parking spaces. If all 107 units are full of 4 unrelated persons that then translates into 428 parked cars just for the building's tenants. Therefore, we are short 86 parking places for tenants. No mention has been made of a guest lot, which we all know is required especially should this turn out to be for a student housing project and in general for any other type of apartment building with 4 unrelated persons to a unit. Everyone has friends or family or business associates that will require parking as well. Let us then assume that an additional 50 parking spaces are required to accommodate this need. And now, what about parking for the many various restaurants and perhaps retail shops etcetera, that are going to be built on the ground level. Would we not need to consider at least 100 parking places for them as well? Therefore, in my calculations we are already short roughly 236 parking places, where then will these people park. The answer is, all over the place and especially throughout our existing neighborhoods.

Now on to my second point the massive amount of increased traffic that will overtake these small side streets that currently are only controlled by a stop sign or two. Charleston Townes is a student housing project that is 100% full for this upcoming school year and is located on Lucy Drive and currently you might as well say spills 576 cars onto Lucy Drive and then Reservoir Street. When school is in session, this area even with the recently added traffic light onto Reservoir Street, becomes a bottleneck. Now added to this bottleneck, should this rezoning be approved, there would possibly be another 428 cars generating further back up onto Lucy Drive and adjacent streets. Currently on Chestnut Ridge Drive there are several large student housing complexes that generate roughly 2,000 cars onto Chestnut Ridge Drive,



Reservoir Street, Route 33, and Blue Stone Hills Drive, which then lead back to Deyerle Avenue and Lucy Drive.

The Townes at Bluestone, which are single-family townhomes located on Blue Stone Hills Drive and Deyerle Avenue, which are still being built as we speak, but also have already many permanent owners living there. The total number of these homes currently built is 100 with 2 parking places per unit so another 200 cars milling around the Deyerle Avenue and Lucy Drive area and more to come. I have not even talked about all the new housing on Reservoir Street mainly the Retreat, which houses 700 some students once again all coming out into this same traffic pattern and another new complex just down from the Retreat that I do not even know the name of yet, again on Reservoir Street.

There currently is an abundance of new student housing that has not even been completed yet. Once again may I quote from this same memo page 5 and I quote “additionally James Madison University’s student population continues to grow. Data from the State Council of Higher Education for Virginia reports that the total campus based enrollment in the fall of 2017 is 20,854 students and is projected to grow to 22,541 students in 2024.” To break down these numbers, that means that in 7 years the student population will increase by 1,687 students and that translates to an additional 241 students per year. I ask you, is this a tremendous amount of increase that requires so much new student housing, do we not have plenty of new units already on the horizon scheduled to open soon? Not all of the present complexes are full for next year and there is plenty of student housing available and soon opening that does give students lots of choices as to where and how they would like to live.

In closing, all of us in this Blue Stone Hills area who have purchased or built houses in the last two decades, we all have known that one day something was going to be built on this property that was zoned R-3. We moved into this area knowing full well this would happen and we were fine with this. Yes, build a strip mall, build offices, doctor offices, a restaurant or even townhouses and or duplexes, all of this is just fine and what we would expect to see in this neighborhood. What we did not expect was for the zoning to be changed out from under us and a high-rise building housing 3, 4, 5 unrelated individuals much less a possible student housing project which brings along with it its own unique set of problems. We never thought this could happen and many would not have purchased in this area had they known this. This high-rise building, which would tower above all existing buildings in the area, with its lack of parking and tremendous increase in traffic violates what is stated in your Comprehensive Plan Land Use Guide that says “these areas are suitable for commercial development but need careful controls to ensure compatibility with adjacent land use.”

Currently from Route 33 to Reservoir Street heading through Evelyn Byrd Avenue or University Boulevard, which connects to Lucy Drive or Neff Avenue, there is only one 4 story tall building that is the Fairfield Marriott Hotel, which is surrounded by commercial buildings. I beg you, please consider the controls to this compatibility with adjacent land use, do not just think about the increased taxes and revenue that would be generated for the City. Consider your tax paying customers and our quality of life. Thank you for your time and consideration to my remarks. I have a copy of my remarks to give to staff and, we did a quick petition in the neighborhood and within just a few hours we were able to get 100 signatures of everybody who is opposing the changing of the zoning, I will submit this as part of the minutes as well.

Mr. Fletcher said Ms. Falconi if you could email a digital copy of your remarks that would be much appreciated for the minutes.

Ms. Falconi said okay.

Graham Mott, 297 Blue Stone Hills Drive, said I just wanted to add some data to what was presented here. You may be aware of the James Madison University 10-year Master Plan. In this Master Plan,

which was submitted, developed and finalized in 2017, just a few months ago, it states that, as it was mentioned early on, that in the next 10 years through 2027 there was a plan for an additional 3,200 students over and above the current student population. However, it also states emphatically that on campus there will be an additional 3,800 beds built. So in the next 10 years through 2027 there is going to be more available beds than is already in Harrisonburg. There is no need, less need for new student housing in our neighborhood and other neighborhoods through 2027.

John Newman, 259 Blue Stone Hills Drive, said my wife could not be here today, so I speak for my wife and myself. I will keep my remarks short, I do not have a prepared speech, but before this closure I want to talk about my own personal situation and then I will offer a few more remarks after that. My wife and I came to Harrisonburg around 2000 and we decided this was the place we wanted to retire. She is a retired disabled veteran and I am a 21-year veteran, Army, Intelligence.

I was in the University of Maryland Honors College at the time and commuting from here to there. While I was doing that we bought a townhouse and for three years we watched and waited to see where would we want our retirement home to be and we ended up purchasing a lot. I am happy to hear that we are going to do this in two stages, so what I would like to do is blow this image up for you and have it available next time and we could get somebody there from the perspective builder regarding what exactly is going to be built. I am right in the middle of the best view you have. We thought about moving out and we decided not to at one point. So, Funkhouser Realtors looked at our house and said you have \$150,000 more value on that home because of the view that you have, so, we are actually personally, selfishly, concerned about that. Maybe selfish is not a bad thing, but I have other concerns I want to talk about, I just wanted to put that on the table first. We are living on a fixed income and we really want to stay here for the rest of our lives.

Now, I am not a policeman although I know a lot of them around town well. I am not a traffic control expert, I am none of those things. I just live in this neighborhood and I have watched what has happened for the last 15 years. I am interested in knowing have we ever done an environmental impact study for this, does that happen?

Mr. Fletcher said no and it would not be required.

Mr. Newman said okay, well as a person who likes the environment and has been watching what is happening, I am telling you it is important. All the habitat for all the animal life around here has been steadily declining for a long time. Our yards are full of deer, they do not know where to go. Where we live on our street we cannot even plant flowers or shrubs anymore they are gone by the time they pop up. We do not even try anymore. The groundhog situation is out of control, I do not know whether this even matters to the City of Harrisonburg, but the animal life and the environment do matter to me, so, I thought I would bring it up. I figured it is something we should be thinking about, we are losing our habitat here.

I wanted to mention that the developer said that there was no reason for anybody to go into the cul-de-sac up there where we live, wrong. Ms. Falconi mentioned the new housing that is behind us, along Chestnut Ridge. The students go through to be with their fellow students and friends all the time and this will obviously cause that to increase. We get a lot of traffic coming down 40 to 50 miles an hour and there are little kids playing on the street, we never had that a few years ago. That is a problem we worry about, as I would say pedestrian safety and bicycling safety everywhere around. We have new bicycle lanes that have been made and I have seen more traffic accidents at all three of the intersections that open to Lucy Drive, maybe it is not as bad as other places in Harrisonburg, but it sure is a whole lot more than I have ever seen it. I think that is a concern for me. I think given the fact that a lot of the previous speakers who are against this proposal, which I am at least at the present time. We never expected this either, we know of course that lot would get developed at some point, but this is something we never anticipated.

I just found out about this about 72 hours ago. I want to say also before I left to work for Maryland I started here in Harrisonburg with JMU Athletics. I am a yoga instructor, I have been for 14 years. I have trained a dozen JMU Athletic teams in yoga for four years. And a lot of the seniors on that football team that won that National Championship and that Lacrosse team I trained them in yoga, but I got burned out. So, I transitioned to academics, I am a Political Science Professor at JMU. I am fully invested in this community; my wife helps poor people who cannot get insurance. We are part of Harrisonburg now, we have been here I am not an alien from some other place. I love this town, I love JMU, I love football, but you will see more of me in the future.

Lynn Lucatoro, 323 Emerald Drive, said I am another JMU professor. I bring a different perspective. I own two rental properties on Emerald Drive that would back up to this property. I live in the County. We have been here 20 years. I said to my husband, let us get some rental properties to get some income and this is the street I want it on. I have driven all over Harrisonburg in my 20 years here, I bought student housing on Bradley Drive in Camden Townes, but I want to own every townhouse on Emerald Drive because that is the jewel of the City. It is so appropriately named. You have mixed families, you have retired people that get out and walk their dogs or talk to the young professional that are living on this street. They walk their dogs freely at night at 11 o'clock. We rented to his sister who felt safe to jog down to Valley Fitness on Lucy Drive and come back at night. This is a very special area in Harrisonburg. This is a special community, people pick up packages that get delivered and hold it until the person comes home. They will let their kids play in their neighboring yard. Yeah, we get a little mad sometimes when they do not pick up their dog poop, but you have that every now and then, but it is a great street. I just urge the Council to really look at what is best for your community. I am not in admissions at JMU, but the word that I got this year was a shock, the numbers this year were down 75 students from what was projected. They are not meeting their yearly quota. But it is a shock to them. R-3 is a great thing and if we really want this mixed neighborhood, can you stick to your planning?

Jordan Bowman, 2189 Deyerle Avenue, said I do not need to repeat a lot of what you guys have heard today about how this is inconsistent with the Comprehensive Plan, I think you all probably get that. I want to repeat one thing that Mr. Shearer said just sort of in passing, which is that the proffers on this rezoning are very minimal. This is a mixture of four-story and three-story buildings and they have proffered a six-foot opaque fence, whatever that means. You have heard a lot of reaction from the folks in the audience about this specific site plans that they have seen, the amount of parking, but what could go in there if you recommend and Council approves this rezoning could be much worse than the site plans you have seen. There is no protection here, even to keep it at that could be a much higher density, things could move around other than there being the minimal requirements of what is in that zoning district and a six-foot opaque fence, that scares me a lot and I just wanted to reiterate that.

Marsha Felter, 301 Blue Stone Hills Drive, said the only thing I want to say is I drove all around up to University Drive, Market Street over to Reservoir Street and in that whole area there is only one four-story building which is the Marriott Fairfield on Medical Avenue. I do not see how a four-story complex is compatible with what is existing in that whole area. That is a very large area which is all business and one four-story building.

Melanie Shoffner, 328 Emerald Drive, said I just moved here; I came here this past year. I absolutely agree that you need more housing in Harrisonburg, because I had a horrible time finding a house to buy. You do not need more apartments, you need more homes. Single-family homes are exceptionally hard to find here and the ones that are able to find do not suit a semi-young professional without a family. You have plenty of multi-million-dollar homes if I wanted five bedrooms and four bathrooms. But to find a home that suits young, that suits small, that is very difficult and that is one of the reasons Emerald Drive is such a great place.

The whole area offers that type of housing to people who need smaller homes that are relatively affordable. But it is worth it to be here and it is worth it because I like the way you have thought about the planning that happens in this City. I am way impressed in people who could come up and site chapter and verse of planning. They have said a lot of things that obviously everybody here agrees with. The one thing that I would stress is that you have a plan and it suits. I think it is rather disingenuous of the developer and the lawyer who is representing the developer to call what they are trying to create a transition or a buffer. That is not a transition, that is a stop that then creates a zone that is more high density, that is more high traffic and that serves to separate.

Right now, your lack of sidewalks in Harrisonburg is quite problematic, I agree you need more of them. Because I love to walk and I would easily walk to where I live down to different business and restaurants and other places. I could walk to my dentist, I can walk to my OB/GYN, I can walk to my GP, it is great. But I can do that because I am in an area that values a residential area that transitions into commercial. What they decided to create is not a transition, it stops that transition. Puts up a literal wall with four stories. I would question their architectural design is somewhat the style of 1970s brutalism. You have pretty buildings around continue that as well, that is not one of them.

But you have it zoned R-3 and you should allow for that to continue, like everyone else said there is no way an empty field is going to sit here very long, not the way that the City is growing. But having it continue what is already there, that sort of nice commercial that has a very clear demarcation of what the hours are and who the people are that are going to be using it. Fits more into the plan of what we have and what we are expecting as we live in a residential area that transitions into commercial. We are all tired, but it means enough for us to be here to encourage you to keep doing what we are doing, because it suits so well the area that we live in.

Chair Way asked if the applicant would like to come up and respond to any concerns that may have come up.

Mr. Lanier said I appreciate all the comments this evening and we have taken diligent notes regarding all the concerns and comments. I would like to point out a couple of things so you can understand our view in presenting this type of project. Just for a clarification, we saw at least the Fairfield Inn, as well as the Residence Inn, being four stories, with the Residence Inn being a significant tall building because of the high pitch roof it that has on it. You have at least two properties nearby.

We understand the growing needs of the community and the reason that we have bike storage designed in our property for up to almost 130 bicycles throughout the building, not inside the unit, but on the ground floor easily accessible to where people could get on their bike and go, because we are interested in continuing the bike lanes that have been put on Lucy Drive. We are trying to make a transportation oriented development as much as possible in a town like Harrisonburg. We updated the bus stop, trying to encourage tenants the ability to have a pedestrian involvement where they can walk, get to services, where they can ride a bike, they have a bus stop right in front of the building.

The location allows for the use of commercial activities relatively easy, compared to some of the newer projects out in the County on Reservoir Street. Where you have to have a vehicle because you are pretty much removed from the capacity to experience the retail district in and around the mall area. So, we were mindful in the way this property would work. One thing, I also wanted to comment on, is that our desire is to try to create a project that would transition from a real intensive commercial area in the north, transition to a medium use of residential to the south. That was just the term that felt that made sense and I apologize for it, if I used the wrong word there.

I do believe that this City, your areas, your neighborhoods are special. I want you to understand that our goal and our desire is to try to be complementary. I do believe that without the City requirement and/or asking we are trying to determine how we can make the area more pedestrian friendly. If that is sidewalks

from Lucy Drive to University Boulevard on Deyerle Avenue, so be it. One thing regarding the design of the property, we are trying to create a building that had many uses and a building that can attract many people. We have four structures connected by short catwalks and within those structures we can program the building to have different objectives in terms of graduate students, mid-20-year old's, or 30somethings, working people. We can program the building to have areas for students and so forth. We can program the building to have families, we understand when we look at traditional student housing you have properties that have 600 to 700 students with no desire to program a building to where it would attract someone higher or a different age group.

I want it to be clear that we understand that this building is being constructed so that it can be flexible in who it attracts. That is something that has been part of my mission on day one. I want to say in closing, I and my team thank you for your input and I want you to understand from me directly, the best that I can tell you is that our goal is to be complimentary as much as possible through this process. I thank you and the Planning Commission for working with us this evening.

Ms. Falconi asked where are the people going to park that are attending the restaurant, the shops and the guests visiting the residents.

Mr. Lanier said fantastic question. I need to clarify, we are trying to get away from business as usual, a bunch of people in a bunch of cars. We are giving rental incentives for people to not have a car. There are a lot of people that do not have vehicles and the way those people function is to find housing that would be closer to their jobs, housing that provides the opportunity to ride a bike a short distance or housing that allows them to get a bus within a five or ten-minute bus drive. The concept is that there are people who do not wish to have cars. So how do they live? They need to find something closer that will meet their needs. I want to say within the proffering that we have done, the building cannot accommodate the type of heavy commercial uses that would draw significant traffic, because of our proffers and the building type we cannot have a restaurant that can be a full-service restaurant. The most extent of the type of food service would be something more along the lines of a coffee or sandwich shop.

Chair Way said whatever we talk about here the developer must follow the parking minimums that are laid out in the City regulations.

Mr. Lanier said but it should be known that the type of commercial use is being proffered down to where it cannot have activities that generate much higher vehicle trips, per hour, per day and so forth. We have purposely done that in trying to not impact the community anymore with the retail or the commercial space.

Chair Way [addressing audience members speaking out and the applicant responding to audience members] said we are getting to the back and forth at this point and I suggest a couple of things. Number one, I encourage the applicant and/or applicant's representative to do what should have been done, like Commissioner Whitten mentioned at the beginning, speak to the neighbors, speak to the neighborhood associations, speak to the community, address these questions as they come up. Consider some of the things that have been brought up here tonight, the notion that the proffers are being somewhat minimal at the moment. Number two, I encourage the residents in the area as these questions come up, to get in touch with City staff, to get in touch with the applicant about these things, to get in touch with us so we put them in our agenda as well. We cannot get into it, we cannot create things here right now. We can use this month productively while the public hearing is still open to address some of these concerns.

Mr. Mott asked in the first place why is the Commission even considering rezoning this area. And to this gentleman why can you not build under the ordinances of the R-3 as it exists today?

Chair Way said this is a question for them to work out and talk about. I think that is a bigger question. We do not speak for the representative, we control the process here, we understand the question and we

have the same question as well. We have to move on here. Again, I would encourage that dialogue between the groups and try to get some clarity in some of these questions here.

Mr. Baugh said anybody who wants to ask for a rezoning anywhere, that is a matter of going through a process and paying a fee. We would extend that courtesy to anyone that properly fills out an application, whether you happen to like it or not. That answers that question.

Chair Way said we are going to keep the public hearing open, but move on to the next item of business. Is there anything more we want to talk about? Do we have to state a tabling motion here?

Mr. Fletcher said there can be a consideration made by this group. I do not know if you are going to continue to have conversation or if the public wants to leave yet.

Chair Way said I think we are going to suspend discussion right now.

Mr. Fletcher said I think you can probably state in the affirmative that you are continuing the public hearing until next month and we will appropriately notify the folks that were not notified.

Chair Way said we are continuing the public hearing for this request and it will come back next month at Planning Commission on September 12<sup>th</sup>, 2018 where the discussion will continue and again hopefully come to some sort of conclusion about a recommendation.

#### **EXTRACT FROM MINUTES OF HARRISONBURG PLANNING COMMISSION MEETING HELD ON: September 12, 2018**

Chair Way said under Unfinished Business we have one item which is continued from Planning Commission's meeting last month. He then read the request and asked staff for a review.

Ms. Dang said On August 8, 2018, Planning Commission held a public hearing for the three requests (a rezoning and two SUPs) to allow for the mixed use development along Lucy Drive. At that time, the applicant's submitted proffers were (written verbatim):

- 4) No parking lot (including travel lanes and drive aisles but excluding a bus pull-off lane) shall be located between any building and Lucy Drive.
- 5) The Property shall contain residential and non-residential uses. A minimum of 7,162 square feet of non-residential uses shall be contained on the first floor of buildings along the Lucy Drive side of the buildings. This does not preclude the property from adding non-residential uses up to the entire first floor of any building.
- 6) The calculated number of trips from the site (when evaluated using the ITE Trip Generation Manual) shall not exceed the maximum number of trips in the accepted traffic impact study authored by Timmons Group dated June 2018, revised July 2, 2018 (the "TIA study"). If increases in the number of trips are proposed, the Department of Public Works may require a new traffic impact study, and the property owner shall be responsible for implementing mitigations identified in the new traffic impact study.

That day, the applicant submitted a fourth proffer:

- 7) The development will include a six-foot tall opaque fence along its southern boundary line.

Although the submitted conceptual site layout and building elevation provided at that time were not proffered, the conceptual layout provided one depiction of what the site could look like.

Unfortunately, City staff made an error regarding the required adjoining property owner public hearing mailing notifications. Although staff sent notifications to all adjoining property owners, staff failed to send notice to individual condominium owners on parcels owned by condominium associations (there were two such parcels). Planning Commission accepted staff's recommendation to hold the public hearing

at the August 8, 2018 meeting and to continue the public hearing to the September 12, 2018 meeting so that staff could rectify the public notice error. Additionally, Planning Commission recommended that the applicant use this opportunity to meet with concerned neighbors.

After having received concerns from surrounding neighbors, the applicant has submitted a new and revised list of proffers, a new conceptual site layout, and an explanation of changes made to their proposal. The changes proposed in the revised conceptual site layout are described in the applicant's letter as follows (written verbatim):

- 1) Elimination of 4-bedroom units to address the concern of the neighboring residents that the development will appeal primarily to students; the change in the mix of bedrooms will reduce the parking space requirements, which will permit the other material modification.
- 2) The project will retain as many of the existing trees as possible along the southeast portion of the property boundary.

The change in the unit mix will result in a change in the footprint of the building, requiring a small reduction in the retail and office square footage on the ground floors. Therefore, the second proposed proffer below has been modified with respect to minimum square footage. A proffer has been added to eliminate units with greater than three bedrooms.

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 but excluding a bus pull-off lane) shall be located between any building and Lucy Drive.
- 2) The Property shall contain residential and non-residential uses. A minimum of 6,530 square feet of non-residential uses shall be contained on the first floor of buildings along the Lucy Drive side of the buildings. This does not preclude the property from adding non-residential uses up to the entire first floor of any building.
- 3) The calculated number of trips from the site (when evaluated using the ITE Trip Generation Manual) shall not exceed the maximum number of trips in the accepted traffic impact study authored by Timmons Group dated June 2018, revised July 2, 2018 (the "TIA study"). If increases in the number of trips are proposed, the Department of Public Works may require a new traffic impact study, and the property owner shall be responsible for implementing mitigations identified in the new traffic impact study.
- 4) The property shall not contain residential units that have greater than three (3) bedrooms per unit.

With regard to proffer #2, the proffers submitted last month would have required a minimum of 7,162 square feet of non-residential space. The new proffers would require a minimum of 6,530 square feet of non-residential space, which is a difference of 632 square feet.

As noted above, on the day of the August 8 Planning Commission meeting, the applicant submitted a proffer to construct a six-foot tall opaque fence along its southern boundary line. The proffer has not been offered with the newly submitted proffers. The applicant plans to discuss the fence proposal with residents at an upcoming community meeting to ensure a fence is something the residents want. Staff has been informed that the community meeting hosted by the applicant will take place on September 7 from 6pm to 8pm (occurring after this staff report is completed). The applicant has the option to submit new or to revise submitted proffers at the September 12 Planning Commission meeting.

While the conceptual site layout is not proffered, it illustrates what the applicant could develop on the site. The applicant has made the following changes to the conceptual site layout:

	<b>August 2018 Conceptual Site Layout</b>	<b>September 2018 Conceptual Site Layout</b>
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Retail total	3,453 sf	3,200 sf
Office total	3,709 sf	3,300 sf
Total units	107 units	117 units
4-bedroom units	57 units (228 bedrooms)	0 units (0 bedrooms)
3-bedroom units	37 units (111 bedrooms)	110 convertible 2/3-BR units (220 to 330 bedrooms)
2-bedroom units	10 units (20 bedrooms)	
1-bedroom units	3 units (3 bedrooms)	7 units (7 bedrooms)
Total bedrooms	362 bedrooms	227 to 337 bedrooms
Total Parking Spaces Required by City Zoning Ordinance (with shared parking calculations)	342 spaces	305 spaces
Total Parking Spaces Illustrated	342 spaces	323 spaces

At the August 8 Planning Commission meeting, staff noted that traditionally within townhome and multifamily complex (apartment) communities there is often a clubhouse building or separate building for the property manager's office, fitness center, and other amenities for residents. Section 10-3-25 (14) of the Zoning Ordinance requires the provision of one parking space for every 250 square feet of gross floor area for clubhouse/amenity buildings. Staff acknowledged that with the proposed type of development, where the amenities are not in a separate building from residential uses, there is a difference in how a site would be used from traditional apartment complexes where residents drive vehicles between buildings. At last month's meeting, staff had not yet determined whether parking requirements should be applied to the amenities space for this type of development. However, since the August meeting, staff has determined that the existing code requirements do not provide enough flexibility to treat the proposed development any differently than a traditional multi-building apartment complex with separate amenity buildings. Staff does believe, however, that it makes good planning and zoning practice to have different requirements for the different designs and is drafting an amendment that will likely presented to Planning Commission in November.

As currently designed, the subject site does not include the additional needed parking spaces as required by Section 10-3-25 (14). If the planned Zoning Ordinance amendment is not proposed and approved, then, based on the conceptual site plan, 30 additional spaces (for a total of 335 spaces) would be required and must be accommodated on the site. The additional required parking spaces could have an impact on the ultimate design of the project site.

Considering the details of the proffers submitted by the applicant, staff has no suggested conditions for either of the SUP applications. Staff recommends approval of the requests for the rezoning, and two special use permits as presented by the applicant.

Chair Way asked if there were any questions for staff. Hearing none, he resumed the public hearing and asked the applicant or the applicant's representative to speak.

Mr. Willie Lanier, Madison Lucy Realty, said he is here to speak on the potential development on Lucy Drive. As was explained earlier, we did present this last month at Planning Commission and we moved forward at your request to have a public meeting with the neighboring community. With the holiday in early September, it pushed that meeting back to this previous week, we held the meeting this past Friday evening.



One of the things that I mentioned last month is that I am always open to public input. I believe that we have listened thoroughly, we have gone back and reviewed the Comprehensive Plan, we have studied the property more to better understand how to best utilize the property from our vantage point and concur with some of the suggestions that were made. These changes and new proffers come from either last month's Planning Commission or the public meeting this past Friday evening.

Mr. Lanier continued stating the concept plan revisions call for us to eliminate the four-bedroom units. That was very concerning to residents during our meeting last month due to the fact that it "screams" students, given the fact that most of the student housing has four bedrooms. An additional item that was also concerning was the lack of screening from a vegetation standpoint along the south border, but more particularly along the southeastern border. As we went back and studied the layout with our design team we realized that if we were going to remove the four bedrooms that would allow in a change in the requirement for parking. This helped us to create a larger buffer in an area that has more dense trees on the subject property. By eliminating 19 parking spaces we now have the ability to proffer a larger green space along the back, southeast corner of the project; an area of approximately 23-feet wide and 250-feet long.

Friday night we had about 90 minutes to two-hours of back and forth conversation and a suggestion came about regarding the fact that this zoning district has an allowable height of up to 52-feet, it was suggested that we should consider proffering the current height of 47-feet. We concur and have added that as a proffer. Another proffer that we are putting back in after Friday night's meeting is the proffer of a fence along the southern boundary. This will provide visual privacy, but in addition to that it will be a physical privacy by controlling behavior of people who may look to park on Emerald Drive and attempt to have easy access to the property by crossing over private property to the development. So, this proffer has been put back on the table.

Some of the original proffers from last month included where we would place the buildings so that we could maintain the Lucy Drive frontage and so that we could guarantee that there would be no drive lanes between the buildings and the public street. Another was the commercial square footage, and why we now have 6,530 square feet, this is more or less the foot print sizes of the building and how much square footage you have to offer for commercial space. Obviously, with the TIA, I am limited, from a traffic standpoint, to the traffic study and if there are uses that are higher than what the traffic study allows, then I would have to provide a new study. That is why I am proffering the traffic study as noted. Another change is, because of the floor plate and eliminating the four-bedroom units, that we have created ten more units. We now have 117 units and we are proffering that number.

At this time Mr. Lanier provided several elevation views and site plan views of the property.

Mr. Lanier continued saying the one thing that I wanted to express to the Planning Commission is that we believe we are consistent with the Comprehensive Plan, we understand that there are different types of development concepts that can be constructed here by-right, today, and we understand that it is very important to look at different ways to show a willingness to support community. I hope I have shown an ability to do that through these proffers that we are offering tonight.

There is one item that I had mention previously when I was here; however, it is not an item that can be proffered. It is something that I have mentioned since day one when I started talking to the City and that was my desire to ensure walkability from a pedestrian standpoint. Most cities across the Country, large and small, would have sidewalks within heavily traffic, commercial areas. We know that the area behind Valley Mall has no sidewalks whatsoever; therefore, by default, it puts more cars on the street because people cannot get down the block by walking. The reality is that streets, such as Deyerle Avenue that have a hotel, a restaurant, commercial businesses, and so forth, would have sidewalks in most places in the Country. I have already engaged Public Works to work with me to support the cost to get sidewalks

in along Deyerle Avenue from Lucy Drive to University Boulevard. Obviously, I am just one single real estate developer who cannot put sidewalk throughout the entire commercial district, but the importance of walkability in areas is probably greater and much more needed now than it ever has been. Although this is not an item that can be proffered, I will stay consistent with my word that, paying for sidewalks along Deyerle Avenue from Lucy Drive to University Boulevard will allow for businesses to get more foot traffic, restaurants to get more lunch crowds, and in general do much more than what can be done now.

With that being said I would like to thank you for the opportunity to come back and revisit this project and explain to you some of the findings that we have had since the last meeting. I want you to know that we feel very confident through our research and analysis of the subject property and how the City has identified the property in the Comprehensive Plan that we are very close in meeting the goals of the City for this area.

Chair Way asked if there were any questions for Mr. Lanier.

Mr. Finks said in the presentation that staff just gave regarding this project I saw the number of seven, one-bedroom units. Is that number correct?

Mr. Lanier said we believe with the floor plates right now it will allow for us to have seven one-bedroom units. When we use the word two- and three-bedroom convertible units, what we are trying to indicate is that we are building for the future; so that we will have flexibility in how this building is rented and how it functions. The key is that we hope to work with the market place and be able to offer more one-bedrooms, be able to offer one-bedroom with an office, or den. We are trying to be very strategic in how we look at building this building. We have put a lot into this building in terms of placement of amenities and so forth, but all of these units have the ability to be converted to one type or another. The two- and three-bedroom units will be able constructed such that walls inside the units can be changed out to doors or cased openings to provide different functionality within the space. It is very important for us to build a building that we can adapt for use down the road. There will be one-bedroom units that do not have the ability to be converted into a one-bedroom with an office or den. The two- and three-bedroom units can be converted down to a one-bedroom with an office or den; a two-bedroom; a two-bedroom with an office or den; a three-bedroom. That is our design concept for this building.

Mr. Finks said I ask that in reference to the fact that this proposal is going to be marketed towards young professionals. To me, having more one-bedroom apartments would appeal to young professionals. I understand your point of having flexibility to be able to have dens; however, I believe if there were more one-bedroom apartments it might address some of the concerns that citizens have had about this being geared towards students.

Mr. Lanier said we understand that the market, as a whole, and the affordability of Harrisonburg, that one bed-rooms tend to be somewhat restricted to space for personal belongings. When you have one-bedrooms that may push people into obtaining some type of outdoor storage component and then that is extra expense that an individual is still carrying. We have found that one-bedrooms tend to not be as sufficient when it comes to personal belongings.

Mr. Finks said you are proffering 117 units and I know you are keeping it open for maximum flexibility, but can you give an estimate on how many beds that might be?

Mr. Lanier said that was in the proposal. We believe the maximum number of beds to be at 337; whereas before we came in about 30+/- beds higher than that.

Mrs. Whitten asked have you built a development like this before, and where is that development?

Mr. Lanier replied yes, I have built a development like this in Richmond, Virginia. That development had 103 units of one-, two-, and three-bedroom units.

Mrs. Whitten asked if the development was close to a campus, a college or university campus.

Mr. Lanier said yes, it is near two universities – Virginia Commonwealth University and Virginia Union University.

Mr. Baugh said it is located across the street from Virginia Union's football stadium.

Mr. Lanier said I build elevated communities, not necessarily garden style apartment communities. Elevated communities tend to have a certain location because of that particular building style versus the more spread out garden style apartments.

Mrs. Whitten asked what kind of security do you have in the building in Richmond and what do you anticipate for this complex in terms of managing problems that may happen.

Mr. Lanier replied first I would say that they are two different types of communities. From a security standpoint, we have security that monitors the property in the evening and night hours. With the Richmond property, the City of Richmond's Master Plan called for economic development in an area of the City that required some support – such as more streetscape, more improvements, more business in the area, and so forth. We happen to be a "first mover" into that area, so the concept of security was higher on the list for us. With this environment in Harrisonburg you do not have the same type of demographic or the same type of perceived security concerns. I believe the reality here is to just manage the building so that the behavior is controlled, more so than the concerns of crime.

Mrs. Whitten said thank you, although those things have been of concern for some of the apartment complexes in our area. With the research that I have done regarding mixed use development, parking becomes a real big problem because of people wanting to use the businesses and the people who live there come home from work and do not have their spaces to park. Are there going to be designated parking spaces for people that live there full time?

Mr. Lanier said yes, our revised concept allows for 100 per cent designated spaces for every tenant in the building. We also have designated parking spaces for commercial uses only. This concept plan is actually a better plan because it addresses parking in a more robust scenario than what we had before.

Mrs. Whitten asked do you have visitor parking as well.

Mr. Lanier replied within that area, yes.

Mrs. Whitten said there are those people who will just come to visit as a guest to a resident and not for the commercial uses, obviously those are the people who are going to look for some space outside of the complex.

Mr. Lanier replied understood, and we realize that could take place.

Chair Way asked if there were any further questions for Mr. Lanier at this stage. Hearing none, he asked if there was anyone who would like to come and speak in favor of these proposals. Seeing none, he asked if there was anyone who would like to come and speak in opposition of these proposals.

Chair Way added I sense that, as before, there are probably going to be a number of people who want to speak to this. In order to ensure there is enough time for everyone to speak, please keep your remarks within the three to five minutes range. Also, please remember to state your name and address for the record, as this is our usual practice. Thank you.

Mr. Paul Clancey said my wife and I have lived at our retirement home at 261 Emerald Drive for 11 years. I have lived in Harrisonburg since 1948 and I rescued my wife, Kathy, from Cowansville, PA, while she was a student at Madison College. I followed her good example and graduated from there in 1975. We returned to the university as adjunct faculty for 19 years and small business owners in the community for 29 years.

I spoke against the rezoning at the August 8, 2018 meeting of the Planning Commission. The written opposition was from the perspective of myself, HOA members, and the neighbors.

Many of these same people attended the developer presentation on Friday, September 7, 2018, and we found no reason to refine the document that was presented verbally on August 8<sup>th</sup> and entered in to the minutes.

Mr. Clancey then asked of the people in attendance who are opposed to the rezoning to please raise a hand.

Mr. Clancey asked if there were any questions for him. Hearing none, he stated please vote no to the rezoning and special use requests.

Chair Way asked if you could identify one thing about this development that you have a problem with, what would it be?

Mr. Clancey replied physical intrusion on my back yard with a 24/7 light parking lot which would be active 365 days a year.

Mr. Lee Branner said my wife and I live at 291 Emerald Drive. I am here to express our strong opposition to the rezoning from R-3 to R-5C and the special use permits.

All of you have read our emails that were sent on August 7<sup>th</sup> and additional ones sent on September 11<sup>th</sup>. You are familiar with the detailed concerns shared by us through emails and we want to focus on the fact that this property was zoned R-3 when we purchased our townhouse and we were expecting the property to be developed as R-3 or other business/professional zoning. We have been living on Emerald Drive for 21 years and we actually look forward for this property to be developed, but not under the R-5C zoning.

The proposed four-story buildings could be up against the rear portion of our property lines, including the support systems to operate a high density residential complex such as loud generators, transformers, and trash collection areas. Additionally, on Tuesday, I had a conversation with a family who lives in the Woodland Drive subdivision directly across from the end of Lucy Drive. They are receiving large amounts of water on their residential property from all of the run-off from the apartment complexes, parking lots, the recently upgraded four-lane Reservoir Street, and from all the other high density housing complexes extending out to the City limits. I believe over 95% of the Lucy Drive property may be a combination of buildings and parking lots, which means additional water run-off down to those areas since all of us are thinking a lot this week about excessive water and possible flooding.

Finally, a NO vote will keep the current R-3 zoning intact and any future development will be consistent with our established Emerald Drive neighborhood and with all of the Bluestone Hills area neighborhood residents living on Crystal Lane, Pearl Lane, Blue Stone Hills Drive, Diamond Court, other surrounding streets and of course Emerald Drive.

Thank you for serving as our Planning Commission members.

Abe Shearer, 297 Emerald Drive, said Planning Commissioners and staff – I know you have probably already received considerable input from all of us on this matter; enough to get a pretty good sense of how we feel about this. I know first-hand how much time, study, and thought you put into deliberations, so I am not going to stand here and repeat the technical stuff I have already sent via email. So here is my final observation, both as an impacted property owner, but also as somebody who is pretty familiar with how all this planning stuff works.

This development is undoubtedly an exciting one. Conceptually, it does work well in our city. However, high density residential (R-5), coupled with retail and commercial (mixed use), is intended for entirely different locations in this City than Lucy Drive. The City's Land Use Guide, created by you in

conjunction with staff, already shows those areas in the City that can accommodate this. It is based on infrastructure, amenities, and a multitude of other previously studied considerations.

Rezoning is perfectly okay – we get that. It is just something that needs careful consideration. The Land Use Guide exists largely to guide in that decision-making process. When a rezoning conflicts with that, it should be a red flag. That is why we have public hearings. And the overwhelming citizen opposition you are seeing should be yet another clear red flag. You would not advocate rezoning densely populated, pedestrian friendly, retail areas in downtown, sat to R-1, simply to build a sprawling neighborhood like ours there. Conversely, we are asking you to NOT rezone the land beside our neighborhood to R-5 for a four-story, high density, mixed use structure – which really belongs downtown or closer to JMU's campus.

An interesting juxtaposition for you to ponder. Allowing this development today, on Lucy Drive, at this indisputably unfavorable location, eliminates future market pressures (i.e. market demand) for similar projects at locations where you actually do want it. There is a tradeoff. For every action, there is an equal and opposite reaction. That is why it is important to stick with the plan – this is precisely why we have the Comprehensive Plan and Land Use Guide.

I have enjoyed getting to know Mr. Lanier, I think he is a really nice guy and a good person; but, I cannot disagree with him more – this is in no way consistent with the Comprehensive Plan.

From the City's Mission Statement, there is a phrase I am sure you are all familiar with. We like to refer to ourselves as, and I quote, "The City With The Planned Future." We cannot continue using that phrase if it is no longer going to be true.

Thank you.

Mr. John Newman, 259 Bluestone Hills Drive, said he is Adjunct Professor of Political Science with JMU. I spoke to you last month about my, and my wife's, vehement opposition to the rezoning along Lucy Drive. My wife was undisposed last month with grandchildren, but would like to speak with you tonight.

Mrs. Sue Newman, 259 Bluestone Hills Drive, displayed a (24" X 36") photo of the view they have from behind their home. Mrs. Newman said this proposed development will take away the City view we now have. We are U.S. Army veterans and 18-year residents of the Bluestone Hills community. We are before you to convey our strong opposition to the proposed rezoning of the property along Lucy Drive.

As soldiers, we traveled the world and lived in a lot of beautiful places. Our experiences helped to shape our thoughts and desires on where we wanted to retire. We wanted a blend of city and country living and we wanted expansive views on both city lights and country mountains. We had in mind an enchanting view of this combination that we saw in Lyon, France. Amazingly, in 1999 we visited Harrisonburg and found Bluestone Hills Drive. A long 20-year search for the perfect place to build our dream home was over.

The first thing we did before we bought land on Bluestone Hills Drive was to check the zoning on Lucy Drive as well as Evelyn Byrd. The last thing we wanted was to sink our money into building an expensive home and then have a huge high-rise of some sort be built to obscure our view. The lots were zoned R-3 and that was fine with us. So, we bought the land and built our dream home. It cost us our life savings. But we know that in the long run our homes market value would only increase, so we were confident that we were making a good real estate investment.

Funkhouser (Realty) did a market appraisal of our home in 2016 and placed the value of our home between \$650,000 and \$700,000, telling us pointedly that the spectacular view of the city and mountains alone accounted for \$150,000 of that sum. They indicated that al fresco dining from our upper deck or our dining room with an evening view of the city lights and mountains in the distance would be a big selling

point should we ever want to sell our home, which we do not. They said that the right buyer would happily pay big bucks for our home because we would be selling an enhanced way of life, not just a brick and mortar building. Truly, dining each night with our view of the city lights has become among our most cherished experiences. Our view is priceless to us and it enhances our life on a daily basis. We pause throughout the day to stand for a few minutes to take in the beauty of our city view and to be grateful for what we have. And we thank God for bringing us to this paradise.

And now, because of this proposed rezoning, our paradise is on the precipice of becoming a nightmare. Calling this proposed rezoning a nightmare is not an exaggeration, it is a nightmare for us and for all our neighbors. The quiet neighborhood that we bought into lock, stock, and barrel is now threatened. The gorgeous \$150,000 view of the city lights and the mountains beyond could be replaced with an arresting vista of bikes hanging off balconies; of peace sign tapestries hanging haphazardly in bedroom windows; of rooftops with whirring heat-pump units buzzing endlessly. And noise, lots of noise coming from pool parties. And traffic struggling to make a left or a right on Deyerle is difficult now, but if this moves forward it will be impossible to get across Deyerle Avenue. We would need a traffic light there.

Mrs. Newman continued, the investment we made in our home is now threatened and the market value of our home will surely plummet. If this rezoning passes, the rug that we carefully and lovingly wove together many years ago will be jerked out from under us. The regulations we counted on will not be worth the paper they are written on.

As veterans of the U.S. Army, we put 25 years of our lives on the line every day so that each of you could have a chance to have your version of the American dream. It was an honor and you are welcome; I know you thank us. Perhaps your dream is like ours; perhaps you live in a nice home in a quiet neighborhood and your home is increasing in value. That is what every American wants; a beautiful home in a quiet neighborhood and good return on real estate investment. If you have your American dream than God Bless, we are happy for you, but for Heaven's sake, do not take our American dream away from us. We fought for this every day for more than 20 years. We paid for it in blood, sweat, and tears. All of these people in this audience are living the American dream too – they are where they want to be.

We beseech each and every one of you – do not go against the will of your constituents. You represent us, your neighbors, the Bluestone Hills community, not the developer from Charlottesville who intends to make money at our expense. There are more than a few excellent and suitable locations for this project, but Lucy Drive is not one of them. Please vote NO.

Mrs. Joanne Knauf said I live at 120 Diamond Court with my husband, John, and I also own Valley Realty Associates, so I too can speak a little bit about property assessments. The biggest concern for most of us here tonight is, besides property value, is safety. I have an email exchange with City staff over the past couple of days, and then copies of several pages of an old traffic study that is about 10 years old.

As I said our biggest concern is safety. The cut through traffic that the proposed development will bring to Bluestone Hills is a big concern for all. I was surprised to find out when I called last week that staff did not do a new traffic study, instead they relied on the Traffic Impact Analysis provided by the developer. I was shocked by that. I did not see any type of traffic study being done in my neighborhood. When they did it ten years ago, there were traffic counters in the area. You can see on the pages from that report the number of speeding cars from ten years ago. If I could go over it briefly with you. Ten years ago there were 388 cars going 41 to 45 miles per hour (mph) during the week studied. The week studied was September 16 through September 22. There were 131 cars going 45 to 50 mph; there were 77 cars going 50 to 55 mph; and so on and so forth.

When I called the Police Department 10 years ago and told them there were cars speeding 50 mph and higher in our neighborhood they laughed at me; obviously it was not so funny. Our feeling is that this development will increase the cut through traffic because the students will be going back and forth to all

of the student developments behind us. Which if you do not know along Chestnut Ridge Drive there are thousands of students; we see them travel through our neighborhood to go shopping, restaurants, and so forth.

We live at 120 Diamond Court, which is right at the end of Diamond Court. There are parties happening in our backyard already. Anyone who pulls out of any of the driveways along Bluestone Hills Drive or Diamond Court risks that there is someone speeding at 50 mph along where the sight distance is approved for 25 mph. It is very dangerous.

I ask that we look into traffic studies, not just for this project, but for all projects before we approve a big change like that. Maybe staff could come and visit this neighborhood that will be impacted by future development if approved.

Leslie Falconi, 249 Bluestone Hills Drive, said this proposal would have us believe that this mixed use apartment building will contain offices and restaurants or retail shops on the ground floor level. In fact, Mr. Lanier mentioned that he perhaps envisioned a restaurant such as a coffee shop as a possibility of one such establishment. We can only imagine that any business that would rent this type of space will be paying a healthy rent amount in order to do so. And when asked, they will have to be told, that not one single parking place has been planned for their employees, much less for their potential customers. Now I simply ask you, what kind of business would pay to rent this high rent space without adequate parking, much less without any parking at all. I believe their concern is not with the retail space on this ground level because quite simply, they have made no accommodations for any parking and as it stands now no business would rent from them under these conditions. 6,500 square feet of retail space by code has to have one parking place for every 250 square feet of rentable space, at a minimum that translates to 26 parking places, however, there is not a single one allotted because there is simply not enough parking even for the building's tenants. Let us not forget that in the bottom of 865 East a similar type mixed use building, there are several empty retail spots and several businesses that have already come and gone. Is that then because of the limited parking found around this building as well? At least 865 East does have some parking, not like this proposed building which has no parking. And at least 865 East is in a more commercial setting on Port Republic Road, a location that would attract more business than a building in a local neighborhood surrounded by townhomes and local residents with their kids, pets and families.

Concerning the lack of parking, Mr. Lanier cited that they do not anticipate that everyone who lives there will have a vehicle. I then say, if you cannot afford a car, how are you going to be able to pay the premium rent that will be demanded for these new fancy apartments. What they now propose are a revised 323 parking places for a revised 117 apartments and yet there still are not parking places to accommodate guests which at a minimum should be 50 spaces not to mention there is no parking for 6,500 square feet of retail space.

I wish to enter into the record the qualification standards which are occupancy guidelines for their building, the Spectrum, located in Richmond, Virginia. One, two, and three bedroom apartments can house non familial of two persons per bedroom, so that means that a three bedroom apartment could house six unrelated persons. So, there could potentially be 100 three bedroom units with 600 people and 17 two bedroom units with another 68 people, so really, it is 668 people with 323 parking places. I have made copies to share with you of the Spectrum's qualification standard for leasing out an apartment.

Mr. Baugh interjected saying correct me if I am wrong, but this type of occupancy could not happen here. These types of rules are extremely local, so, what you can do in Richmond you cannot do in Harrisonburg.

Ms. Dang stated in Harrisonburg each dwelling unit within the R-5 district would be limited to four unrelated individuals.

Ms. Falconi continued, I am a former property manager of an off-campus student housing complex and I know how hard it is to manage and control students in these specialized environments. Perhaps this is why Mr. Lanier stated that they would have someone in charge living on the property. If nothing else this person will be dealing with the lack of parking for guests and the towing that will be required to enforce permit parking only, this is how it works for student housing even when there is ample parking and even when there are guests lots surrounding the clubhouses. Towing is typically enforced from 5 p.m. to 8 a.m. seven days a week. For the most part, students who live in these large complexes i.e. Copper Beach, the largest, are so tied to their cars that even while living on the property they still drive up to their own clubhouse and swimming pool even though it is only a short distance from their individual unit.

Prior to moving to the Bluestone Hills area, I lived in Stone Spring Village located behind Eagle Carpet on Port Republic Road. Across the street from our neighborhood is located the Hills of South View, a large student complex with a clubhouse and numerous guest parking places around the clubhouse. And we still had problems with these students infiltrating our neighborhood, so much so that we had to resort to permit parking only, and I was in a completely private development off of any city street. As I have mentioned before, these guests will most definitely be parking all around our neighborhood city streets.

If you were to go to Lucy Drive right now parking is not allowed, therefore, any guest would be forced to park throughout our neighborhood, indicating once more this is the wrong place for this building. Then again let us not forget about the fire station that is located exactly across the street from this proposed building. Cars cannot possibly be allowed to block our emergency responders when they are doing their jobs and speeding off to handle fire emergencies.

Realistically the developer of this land is going to pay a very hefty price for these 5.7 acres and the only way he can make back his investment money is to ram through a new high density zoning request allowing him to place now up to six students in each three bedroom apartment since he has proffered not to build any four bedroom apartments and to go up four stories high full of student apartments, perhaps housing two students per bedroom. There is not a question at this point that this project is totally geared towards students. There is no other way to place so many unrelated people in a communal living situation, young professional are simply not going to be living with so many unrelated people, only students live in that fashion.

At this time Chair Way reminded Ms. Falconi of the time and asked her to wrap things up.

Ms. Falconi said, you must listen to all of us whose lives will be negatively impacted by this monstrosity of a building with all of the student related problems that it will bring and most especially, the impact it will have on parking and traffic in our already busy neighborhood. It is a great building, but simply in the wrong location. Your recommendation in favor of this building will only benefit two parties, Mr. Brubaker, the land owner, and Madison Lucy Realty the developer. You will be hurting hundreds of your constituents because there is not a single person, not one in our neighborhood, that sees the benefit of imposing this structure in our backyards.

Graham Mott, 297 Bluestone Hills Drive, said for the next ten years Harrisonburg needs no new student housing. The data that I have just handed to each of you shows that in 2015 JMU had a student population of almost exactly 20,000 and in 2015 none of those students were homeless. By 2027, ten years from now, JMU plans to increase their enrollment by 3,200. So, we went back and checked how many new student housing projects are either already built, under way, or planned, since the 2015 data. As you can see from the information I provided, that JMU has on campus, already built, under construction, or planned, 2,500 net new beds; I say net because some are being demolished and replaced. Off campus already built, under construction, or planned the number is 1,560 new beds. The total between these two is 4,060 new beds already built, under construction, or planned since 2015. So, there are roughly over



1,000 extra new beds already in the books before we even heard about this proposal. For the next ten years Harrisonburg needs no new student housing.

Michelle Lucatorto, 250 Emerald Drive, said the gentleman said we need no new student housing, but we do need the kind of housing that is currently existing on Emerald Drive. I am new to the City, I moved here just over a year ago and it took me a really long time to find a nice safe walkable neighborhood with this type of housing. Harrisonburg needs more of exactly what you are zoned for in that area, more affordable housing, more townhouses. This is what you had planned and this is what you need to build in this neighborhood if you want to attract professionals who want to live in your City limits and not move out into Rockingham County where that type of housing is available.

Dawn Payne said she is the pharmacist and co-owner of Medicap Pharmacy at 2091 Pro Pointe Lane. I just have some comments on the traffic impact analysis that was done on the Lucy Drive location and submitted with the application. The data collection, from what I read, the first one was done on Wednesday, April 4<sup>th</sup>, which was done by the City and included the Lucy Drive/Reservoir Street intersection. The other sample in the study was done by the Peggy Malone Group for the applicant, and that was done on Wednesday, May 2, 2018 and it included Lucy Drive and Evelyn Byrd intersection and Lucy Drive and Deyerle Avenue intersection. My concern is that the last day of class for JMU was April 26, 2018 and finals were April 27<sup>th</sup> thru May 3<sup>rd</sup>. As we know in this day and age, many students do not even need to take finals and May 2<sup>nd</sup> was definitely the end of that time period. So, is the Wednesday, May 2<sup>nd</sup> sample even an accurate sample of what was going on at that time. Obviously having a business on Lucy Drive we see the benefit of increased traffic, but at the same time we realize that if the planning is not correct it can also be a deterrent to my business. There are definitely places that I avoid because there is not enough parking or I know the traffic is going to be bad, especially when the students are in. So, that is my issue with the data collection.

Also, some other things, since I do travel there every day and am familiar with the area. Neff Avenue is very congested. I do not know if anyone frequents Macado's Restaurant, but pretty much from Evelyn Byrd Avenue to Reservoir Street is a parking lot, especially when the students are in. That is why I was kind of surprised, since we were looking at Deyerle Avenue, that Neff Avenue was not addressed as well; it obviously is an issue and will create more of a "jam" if you are trying to go straight on Deyerle Avenue across Neff or to turn left on Neff Avenue.

My third comment is about the fire station as well. Has anyone been in contact with the Fire Department about this request? According to this traffic analysis, the one entrance is going to be right across the street from the fire station. They are our neighbors and we really enjoy seeing the fire trucks go in and out of the station; but, the truck is big, and it is usually not one turn into the station. The truck must stop and back-up. We want to make sure that it is a safe and efficient environment for our emergency personnel to respond to calls. I do not have statistics on how many calls they go out on, but this needs to be a safe plan for that fire station.

Ms. Payne concluded by proposing that the data collection that was done on May 2<sup>nd</sup> be redone, not on any JMU break, so that we get a better representation of what this all will look like in 2021.

Ken Seligson, 147 Diamond Court, said I will be very brief. My wife bought a townhome on Emerald Drive about twelve years ago and a big factor in that purchase was the current zoning of R-3 along Lucy Drive. Since we have been married, we purchased our home on Diamond Court and again, we took the R-3 zoning into consideration. Now with this rezoning, it represents just a changing of the rules in the middle of the game. Given the stark incongruence of the proposal and of this structure in this neighborhood, I generally oppose the rezoning.

Alexandra Falconi, 129 Emerald Drive, said as a property owner along Emerald Drive I have grown to love many things about this location. The neighborhood in itself, sits within the perfect premises of town.

The convenience of having everything you need in just a matter of minutes gives a great appeal to everyday necessities. It is safe and friendly, with the security that the neighborhood typically feels like home to most.

I like the neighborhood so much that I have recently looked into purchasing another rental property on Emerald Drive, one that is located much closer to Deyerle Avenue. I find this neighborhood is in much demand for residents of Harrisonburg due to the things I have already mentioned.

As I started to really take the time to begin making the effort of purchasing the potential townhome, my hesitation took over. As much of these residents sit here tonight, the thought of having the five acres of Lucy Drive and Deyerle Avenue be rezoned from a level R-3 to a R-5, high density building is mind baffling. With the combination of local business below, it is unfathomable to think about. I often ask the question, what type of person would want to rent my new townhome that sits next to a high density building? Where lights are always highly lit, dumpsters are compiled at wee early morning hours and parking... Emerald Drive already has the street parking highly occupied by many of the residents' cars and their guest's cars. To put a high density building that lacks already over 200 parking spaces before it is built, only gives me the understanding that those cars of this new building are going to litter the streets of Emerald Drive, Bluestone Hills Drive, and Deyerle Avenue. What type of neighborhood is this going to become?

Ms. Falconi said in conclusion, should this rezoning be passed, I will not be purchasing this potential townhome. No way will I have an interest in purchasing a rental unit in a highly congested neighborhood. Not only is this new zoning going to decrease the value of the property and homes tremendously, it is going to bring many unwanted consequences due to the mix of tenants that will be occupying this new building.

William Walker, 180 Emerald Drive, said that I was at the last planning meeting, as well as the meeting with the developer and I have heard all of the people oppose the request; I have not heard one person say why the zoning should be changed. What is the real reason that the developer is changing the zoning? He can build a fancy building? You can build a fancy building in R-3. The only reason I can think of that the developer wants to rezone is because he cannot make enough money with the R-3. So, all the people here tonight are going to sacrifice their places because of two people, the person selling the land and the developer in order to make more money. That is all this is about. More money can be made if the zoning is changed from R-3 to R-5, no other reason has been given.

Bob Hill said he is the CEO of the Harrisonburg/Rockingham Board of Realtors located at 2050 Pro Pointe Lane. Philosophically, I have a hard time speaking against any proposed use of a private property, so I am not really speaking against this proposed use; but, I am here to express a larger concern for the community in general. There is an extreme shortage of available property for residents. There is an extreme crisis for the availability of affordable housing in Harrisonburg. There is an extreme shortage of inventory of all kinds of housing right now. If we as a community are hoping to grow, hoping to welcome new people, young professionals, to the community, we need to think very carefully about more single-family residences and not continually building more apartments, we have a lot of apartment buildings constructed recently. We are going to reach the point where that saturation is going to come back to hurt us. If we do not want to shut the doors to the community for any additional people to come in, then we need to be looking at building new single-family residences, rather than multi-family residences.

Melanie Shoffner, 328 Emerald Drive, said I will not repeat all the good arguments that have already been heard here tonight; but, two things I feel have not been stressed enough. One is the concern of how we are developing Harrisonburg and the idea that we want people to come to live and stay here. Apartments are not residential, they are temporary and that is something to be concerned about. Affordable housing is

something that Harrisonburg does not have much of. I am also new to the area and had a horrible time finding a place to live. I lucked at when getting 328 Emerald Drive, I had already put other bids on homes in Rockingham County because there was just nothing in Harrisonburg. So, I believe more residential housing that would be affordable for single families would be an excellent idea, but that is not what apartments provide.

Secondly, I find it interesting that the idea of this development is being put forward as fitting the flow of the neighborhood and that it suits the neighborhood in which it works in. I love the idea of more sidewalks and walking space, that would be fabulous throughout Harrisonburg. But, forgive me, I do not mean to be insulting to my neighborhood, but there is nowhere to walk to in my area. There is a proposal to build a high functioning residential area across from a plasma center, a fire station, a pharmacy, and a gym; all wonderful things to have in a neighborhood when you need them in the moment. But they are not places that residents are going to spend a lot of time walking back and forth to. The closest restaurant is Macado's and as already noted, it is on an exceptionally busy corner that is battling traffic. After that you have to keep going to University Boulevard to get to restaurants. Students are not going to walk to University Boulevard, they are going to get in their car and drive.

I absolutely understand that the applicant is trying to make money and there is no issue that something is going to be built there – it is empty space. But the proposal does not fit the area, it does not fit the neighborhood, and it does not fit the needs of the neighborhood. I would love something like a coffee shop, I would love to see something that fits the neighborhood and works business hours, but, does not have high lighting, and does not have heavy traffic.

Jeff Lucatorto said I own both 295 and 323 Emerald Drive. I am not going to keep beating the drum on this, I think you all get it, we are not fans. I appreciate how hard your decision is and I was struck at the last meeting that you were reviewing, rather thoughtfully, a difficult matter where there was a proposed child care facility in a part of Harrisonburg that really desperately needs child care. I was personally impressed with this commission in how thoughtful you were in balancing the needs of the community versus the impact to the surrounding area. In that particular case I think the decision was very close, but ultimately against the facility. You all have a hard job, that was a very hard decision. In this particular case I think the benefit of this proposal is not nearly as noble as that child care proposal. I think that the impact on the community is substantial and I think you all know what to do.

Mr. Way said Mr. Lucatorto was thanking us for our thoughtful deliberations last time. I would also like to say, and this is not saying which way I would vote on this decision, but it has been very reassuring to see the thoughtfulness of the input that we have received on this case from the neighborhood and beyond. Thank you all for such useful information to consider. Is there anyone else wishing to speak regarding the request?

Marsha Felter, 301 Bluestone Hills Drive, said I want to discuss the biking and sidewalk situation in our area. When you look at the Harrisonburg Bike Map, the property in question is located here on Lucy Drive and Deyerle Avenue. This area is surrounded on three sides by extremely low-comfort bike routes, that is the City's phrase, not mine. Those streets include Market Street, Evelyn Byrd Avenue, Neff Avenue, University Boulevard and Reservoir Street. I think we have all driven on Reservoir Street and cannot think it would be comfortable to bike on that road, but it is nice with bike paths. The fourth side is the Bluestone Hills area which is comprised of medium to steep inclines with no sidewalks or bike paths, the streets are used for residential parking. The business area was built with no sidewalks; however, there is sidewalk on Deyerle Avenue and bike paths on Lucy Drive.

Per City ordinance, R-5 zoning is to be in areas that are walkable, bikeable and that provide easy access, for example like going to the grocery store. In the past you, the Commission, have found downtown and Port Republic Road to be suited for R-5 zoning.

I am sure the City had good reason for zoning the property in question R-3 in the past. For those very same reasons it should remain, R-3 zoning in the future. Quoting from your Comprehensive Land Use Guide Strategy 2.2.1 it discusses developing a zoning approach, and I quote “Ordinance provisions would allow innovative residential building types and permit creative subdivision design solutions that promote neighborhood cohesiveness, walkability, connected street grids, and community green spaces”. Strategy 2.2.2, and I quote, “To develop a zoning approach to require, permit and/or provide incentives for the development of live work neighborhoods with characteristics similar to the mixed residential neighborhoods, but with compatible residential-scale office uses permitted as well”. To me this seems to describe the R-3 zoning.

It appears to me that this new proposed building is in conflict with the City’s Comprehensive Plan about land use development because it does not promote neighborhood cohesiveness nor does it have characteristics similar to the mixed use residential neighborhoods.

I know that there was discussion also about the developer putting sidewalks in, but I was not sure if I understood that he said he was not willing to proffer them.

Ms. Dang clarified by saying even if the developer wanted to proffer them the City could not accept that has a proffer, it is on property he does not own.

Ms. Felter said so therefore, we do not know if that would ever happen. Ms. Felter continued, when the Townes of Bluestone started developing, that was zoned R-3, but Diamond Court was developed, Bluestone Hills Drive was somewhat developed, and Emerald Drive was already developed. We had a City meeting when the Townes of Bluestone wanted to develop, and we actually asked the developer if he would consider building a bit higher quality townhome so that we could all keep the value of our homes in good standing. That developer did do that, and we have worked well with that developer for that approach.

Mr. Way said seeing no other speakers, I will close the public hearing and turn this discussion over to the Planning Commission.

Mr. Colman said thank you for all of your comments and emails. There is a reason we have public hearings and there is a reason why we need to hear from you so that our decisions are not simply based on our own opinions or staff’s opinion. In some ways I look at this meeting and your input as input into our Comprehensive Plan. The Comprehensive Plan allows the neighbors and citizens to come and speak to what kind of City they want, and you all are doing that here, right now. This is more than welcome information, it is needed information; anyone sitting here on this commission needs that input from the citizens to ensure our plan is consistent with the desires of the citizens. I take all of this very seriously and your input is very important.

Mrs. Fitzgerald said I need to ask a technical question. Do I understand correctly, with the request here, if the first request to rezone the two parcels from R-3 to R-5C fails than the other two requests are irrelevant.

Mr. Fletcher said you still have to vote on all the requests. All requests will move forward to City Council with Planning Commission recommendation.

Ms. Dang said of course the special use permits could not be approved if the rezoning fails at Council.

Mrs. Fitzgerald said we will need three separate motions regardless of what the outcome will be?

Ms. Dang replied correct.

Mrs. Whitten said I would like to echo Mr. Colman’s comments. It is gratifying to hear citizens come forward and take part in and support their neighborhood with their neighbors. It is not something we always hear; of course, there are not many apartment complexes that will come out and support their

apartment complex. One of the reasons I am serving on Planning Commission is because I believe in neighborhoods and I want to see neighborhoods supported in the City and taken care of. The people who live here, work here, whether it is for a short while or a long while, we all are in it together and we are supposed to look out for each other and be good neighbors. Thank you for looking out for one another and looking out for your home. Your home is your best investment and your biggest asset; but it is where your heart is.

Mr. Finks said I would like to echo the statements from Commissioners Whitten and Colman – we really appreciate all the input everyone gave. It is great that you all care about your neighborhood so much to come out on a Wednesday night and to email us all your concerns.

Mrs. Fitzgerald said congratulations to you all on learning how to use your government; going through the Comprehensive Plan, going through the Zoning Ordinance, figuring out who to email and talk to. I am a teacher by trade and I get the feeling that you all are kind of interested in “what’s going to be on the test,” this is when you want to know what the vote is going to be. So, I am going to start – I am going to vote against the rezoning and I will tell you why. I read everything last month and I read everything this month, I listened and took notes at both meetings. I am currently the Chair for the Harrisonburg School Board and I am finishing up my tenth year on Planning Commission. I have been sitting here listening to things like this for a really long time and do not remember one that has gotten this much involvement from the neighborhood and the community; and we put you through this for two months because of a very small clerical error. But we wanted to do it perfectly, completely right, because we knew that everybody would care, and we wanted everything to be correct, no technicalities that one could go back on.

I am going to vote no for a couple of reasons. When you are asked to make a change, like a rezoning, sometimes we say yes, and that is because the rezoning makes more sense. The trade-off works. I teach economics and the trade-off has to work, you might give up something, but what you get is a benefit for possibly for the neighborhood, but for the community as a whole. I understand staff’s perspective of wanting a transition from that land that is behind your neighborhood, to what is past and beyond your neighborhood; but I do not think that this is it. I think about Sunchase Apartments and what student complexes did to the neighborhood behind there and I do not want to do that to you.

We have had two years of talking about the Comprehensive Plan and one of the things that we hear over and over again is the need for Harrisonburg Planning Commission and City Council to protect our neighborhoods. This proposal does not do that. The need for student housing does not exist right now. The trade-off does not work for me to vote in favor of this; I am going to vote no.

Mr. Colman said we have spoken through our draft Comprehensive Plan that we do want to protect neighborhoods. The draft Land Use Guide does not reflect a land use that even gets close to this type of commercial use or this type of massing of a building in this area. In my view, this use approximates more to a heavy commercial area. This is detrimental to the neighborhood.

It is a great concept, great idea, for a different part of the City. I will be opposed to the rezoning as well.

Mr. Baugh said I think there are three issues. One thing that I have pretty consistently had an issue with is proposals that will increase residential density in areas where it is not part of the plan. I think it is a safe assumption that this proposal will have more human being in the space than you would have with an R-3 development. It might not be a lot more, but it will almost certainly be more and I have pretty consistently been opposed to things to just those grounds and I am going to do that again here.

The second related issue that got brought up at the last meeting, but not emphasized as much tonight was about proffers. While we do have proffers, it just seems to me that for a development like this, that is at a clash with the existing neighborhood, here I think we need more specifics on the proffers.

I have already said I am going to vote no on this; but I am going to venture to tell you what I think is the other side of this. We continue to hear that the neighborhood likes the existing R-3, do not change it. I have talked and emailed with some of you regarding this, and that is the R-3 development of Charleston Townes. Charleston Townes is an R-3 development that is full of students, by right. You would have townhouses with residents doing all of their moving about between units, not within a contained building, and within the parking lots. I know there was the concern with this proposal that the proffered fence would not protect the neighborhood; well, with a by right, R-3 townhome development they do not have to put up a fence. So whatever issues you might have with cut through that a fence could protect, you will not get with townhomes. That is the question, is this proposal worth it, so as not to get a Charleston Townes. I have asked that of several of the neighbors and have consistently been told that you would rather have Charleston Townes there than this proposal; I do not know that I would.

I also have some concern with ten to fifteen years down the road with, not this building, but Charleston Townes II located there. Charleston Townes II is a poster child for a lot of development that people believe we have too much of already. I do not know that that is what will develop there, and that is another reason why I am voting no on this rezoning.

This neighborhood has overwhelmingly spoken to me of what they desire, and it is not my job to put my personal opinions in there. My vote is with this neighborhood, but there is nothing about that R-3 property developing by right that will keep you from having students, traffic, lighting, and trash.

Mr. Finks said I think I agree with some of what you said; but, I do wonder if what could be built there in R-3 would address some of the concerns with this proposal, such as the height. But you are correct, a lot of what we have heard here tonight, you could have those same concerns with a by right townhouse development. One thing that Harrisonburg does need is more affordable housing and more affordable apartments included in that. I know that some people think that apartments do not lead to people staying in the City, but, as a young professional I have a lot of friends who have been living in the same apartment for the last ten years because they do not need any room to grow. There are a lot of things with this proposal that are beneficial in some ways and I like things about this proposal. I would like to see more buildings like this in Harrisonburg, in different areas, we need to move to denser neighborhoods as the City continues to grow. Of course, we need to be considerate of where those buildings go.

I appreciate the developer's desire to offer more proffers and to listen to the neighborhood, and to try and change some things where they could to meet the concerns of the citizens; but, I do not think it works in this neighborhood, it would be a negative impact on the neighborhood. I do not know as a Planning Commissioner how I could approve something like this with such vocal opposition from the neighborhood. So, in closing I am going to vote no.

Mr. Baugh said I want to make certain that we are not forgetting something that we already know. I do not know when the last time Harrisonburg built student housing because we "needed to", but I do know it was before I was on this body. That is not what happens here. What happens here is that the student housing market has its own pull from market forces and that is why you can produce these figures that show we are overbuilt. The effect of it has been Harrisonburg is to the extent that we have had affordable housing, it has tended to be apartments, and it has tended to be the back end of the pipeline as student housing age. We all know this. It has been a long, long time since anyone has built student housing here because we are about to "run out", it is not how the market functions. But it is a reason why things like density and location do become relevant. There is no such thing as letting them build student housing, it is housing that people can rent out.

Mrs. Fitzgerald said it is one thing to allow student housing to be subject to market forces than it is to rezone something very specifically to allow student housing to be put in that spot.

Mr. Way said this is an interesting situation and there are lots of compelling points. This represents something of taking care of a transitional piece of land between a commercial area and a residential area. We, Planning Commission, completely endorse the idea of mixed use developments in appropriate places; but the big question here is this location the proper place for it? Clearly, the neighborhood sentiment is that it is not the place. Harrisonburg needs to have a balance between somewhere where visitors like to come, whether short term residency, including the valued student population, in balance with a place where there are long term citizens here. What is that balance? It should be a place as accommodating of both those groups. What does this development do for that balance?

We often refer to the Land Use Guide as we should when making these decisions and the Land Use Guide does not designate this area in a way that this proposal would seem to suggest. I am also going to be in opposition to this and I want to reiterate that point about the thoughtful and detailed input we have received from the neighborhood on this to really help us to understand that this was really not a simple knee-jerk NIMBY reaction. This is a difficult and challenging decision, but I think that all the arguments have been compelling. At this time, I am looking for a motion on this request.

Mrs. Whitten said I have one more thing to add. This has been a very rich environment for two months for whoever would like to purchase this land and develop it. Maybe there is some food for thought here for someone to develop it in a way that would be pleasing to everybody.

Mr. Fletcher said can I say one thing before you vote. As staff, we hear you and have the objectives and strategies in our Comprehensive Plan to increase single-family detached homes. When you look at our Land Use Guide all across the City a significant portion of the undeveloped acreage is designated to be single-family detached homes, but it is at higher densities. We recognize the fact that a higher density is what makes it able to be built. When developers are coming in to develop you must remember that the City does not build streets; the developer builds the streets to the City's standards. Why do so many streets in the City not have sidewalks? Because the streets were built in the 40's, 50's, all the way to the 1990's when the City's regulations did not require sidewalks. Neff Avenue was built in 1992 and sidewalks were not required. Now we are going back and retrofitting streets with sidewalks. Because of all the infrastructure that is required to be built in a public street drives up the cost, which then drives up the cost of the lot and the single-family home being built. If you do not increase density, the word on the street is you are not going to be able to develop. So we have these desires from the community that are all good planning principles that we share; walkable streets, bicycle paths, sidewalks. All these things take up more and more space, unless we have pressures to reduce the width of the public streets.

As staff we recognize this and we recognize that smaller streets are in some way safer because you have to drive slower. But the City has to build streets to a certain standard to get maintenance dollars from the State and what we need help with is making the community understand those things and also to help support staff's endeavors with policies to be able to have streets that are lesser widths. Not private streets, public streets. As we have all these things in our mind of what makes a walkable neighborhood, we must remember that is what drives up the cost for development. I can think of one parcel of about five acres in the City, it is designated as Low Density Residential in our Land Use Guide; that is four units per acre. Four units per acre by the States guidelines is actually an Urban Area. In our Comprehensive Plan we have proposed to designate the entire City as a UDA, an Urban Development Area. We are recognizing it as an Urban Developed space. If you pick up Harrisonburg and place it in another metropolitan area, it is a neighborhood, so walkability is a relative term.

I do caution us that we cannot continue to develop as we have up to this point, because the population numbers are coming, this is a desirable place to be, this neighborhood is proof of that. We cannot continue to build car-oriented developments. We must be more aggressive with these types of developments in areas of the City that were not originally planned for mixed use development.

I want people to get involved in those decisions not just because it is in their neighborhood, but we have to have the support from the community to know that we are going in the right direction with these policies so that we can continue to push for them when the rezonings come up.

Mr. Colman said I want to say something that goes along with those thoughts. We need to recognize that we need developers; they are the ones who are going to build affordable houses where needed, apartments where needed, and so forth. The proposal we have here is not a bad proposal, it is just that we do not think it is in the right place. I would encourage the developer to find another location within the City and do this development.

Mr. Baugh said let me take that a step further, this type of development is not the future, it is the present. This is what other places are doing. To echo what Mr. Fletcher is saying, we are seeing some tension between when we have our “planner hat” on and we are saying this type of development is good; but, when it comes time to put one somewhere, especially if it is near anybody, suddenly we do not want it.

We are probably going to see more of this before we see less, especially, because we have said from a general perspective that we do like to see movement in this direction for a lot of reasons. This is not something new for all, this is what other places are already doing.

Chair Way said I think that we must be very careful and sensitive to the geography of this. I think clearly there are some places that work well, and the latest iteration of the Land Use Guide does a good job at identifying some interesting parcels for this.

Mr. Way then asked if there was a motion.

Mrs. Whitten moved to recommend denial of the rezoning request and the two special use permit request for all the reasons stated.

Mrs. Fitzgerald seconded the motion.

Chair Way said we have a motion and a second to recommend denial. He then called for a voice vote on the motion.

All voted in favor of the motion (6-0) to deny the rezoning and the two special use permits.

Chair Way said this will move forward to City Council on October 9, 2018.

Respectfully Submitted,

*Alison Banks*

Alison Banks  
Senior Planner