

**MINUTES OF HARRISONBURG PLANNING COMMISSION**

**June 10, 2020**

The Harrisonburg Planning Commission held its regular meeting on Wednesday, June 10, 2020 at 6:00 p.m.

Members present by electronic, video communication: Mark Finks; Brent Finnegan Vice-Chair; Kathy Whitten; Sal Romero; Jim Orndoff; Zanetta Ford-Byrd; and Gil Colman, Chair.

Also present: Adam Fletcher, Director of Community Development; Wesley Russ, Assistant City Attorney; Thanh Dang, Assistant Director of Community Development; Alison Banks, Senior Planner; Nyrma Soffel, Acting Office Manager, and Tom Hartman, Director of Public Works.

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

Chair Colman asked if there were any corrections, comments or a motion regarding the March 11, 2020 Planning Commission minutes.

Commissioner Finnegan moved to approve the March 11, 2020 Planning Commission meeting minutes.

Commissioner Finks seconded the motion.

The motion to approve the March 11, 2020 Planning Commission minutes passed (7-0).

**New Business – Public Hearings**

***Consider amendments to Chapter 12, Transportation of the 2018 Comprehensive Plan***

Chair Colman read the request and asked staff to review.

Tom Hartman, Director of Public Works, said that the City of Harrisonburg Comprehensive Plan presents a vision of what kind of community the City would like to be in the future and identifies steps to move toward that vision. The Plan is the central organizing umbrella under which other plans, regulations, and initiatives exist. The Plan establishes the preferred overall long-term vision for our community. The Plan is not a regulatory document but serves as a guide for Harrisonburg and it helps City and community leaders with setting policies and decision-making.

Virginia Code Section 15.2-2223 requires the City to have a Comprehensive Plan. Comprehensive plans deal fundamentally with the physical characteristics of a community. Hence, land use is the core element of a comprehensive plan. However, in order to arrive at an appropriate plan for the use of land, other physical aspects must be addressed, such as environmental features, transportation, water and wastewater facilities, and other public facilities.

Chapter 12 includes the Street Improvement Plan, which contains project descriptions and a map that identifies transportation infrastructure improvements that the City may pursue to address safety, congestion, bicycle and pedestrian needs, and new development. Projects are not prioritized in the Street Improvement Plan. Instead, the City will utilize the Harrisonburg-Rockingham Metropolitan Planning Organization's Long Range Transportation Plan to represent prioritized projects.

These amendments to Chapter 12, Transportation of the Comprehensive Plan are proposed to add projects that have been recommended by various transportation studies that have been completed since the adoption of the 2018 Comprehensive Plan. Studies include the East Market Street (Route 33) Corridor Improvement Study; the South Main Street Corridor Improvement Study and Erickson Avenue/Pear Street Intersection Study; the Port Republic Safety and Operations Study; and the Downtown Harrisonburg Operations Study. (Information on the studies can be found online at: <https://www.harrisonburgva.gov/transportation-planning>.) The studies were conducted to identify solutions for facilities that have a high number of crashes and/or congestion. Some of the study recommendations were, or are planned to be, implemented with City funds.

The Department of Public Works will pursue grants to implement larger, more expensive recommendations. The amendments to Chapter 12, Transportation of the Comprehensive Plan are being made so that the City's transportation funding (Smart Scale) applications can obtain higher scores, by meeting the criterion of the projects' inclusion in the City's Comprehensive Plan. The projects' inclusion in the plan will also allow City staff to work with developers to plan for implementation of the improvements as adjacent properties develop.

The proposed amendments also remove completed projects and identifies those that have been awarded funding since the 2018 Plan was adopted. Awarded projects have implementation schedules spanning approximately the next eight years.

No changes to the planning assumptions were made. However, the Planning Process section of the chapter was updated to include traffic studies as a method of identifying projects to include in the Street Improvement Plan. The Planning Process section of the chapter describes the methods used in developing the Street Improvement Plan.

Additionally, since the 2018 Comprehensive Plan was adopted, VTRANS2040 has been updated and is now called VTRANS 2045 Mid-Term Needs. Proposed amendments to Chapter 12 reflect this change. VTRANS 2045 Mid-Term Needs is Virginia's statewide long-range, multimodal transportation plan. Led by the Commonwealth's Office of Intermodal Planning and Investment, it is a policy document that focuses on the needs of the Commonwealth's Corridors of Statewide Significance, the multimodal regional networks that support travel within metropolitan regions, and improvements to promote Urban Development Areas (UDAs).

Lastly, there are a few minor text amendments proposed throughout the document. Such amendments are not substantial and include matters such as appropriately identifying the Department of Community Development and correcting an acronym associated with the Design and Construction Standards Manual.

Chair Colman asked if there were any questions for staff.

Chair Colman asked how are these projects and their funding impacted by COVID-19 and the City's funding cutbacks? What is your projection on funding?

Mr. Hartman said that the State and the City are still working on their revenue projections to see what that decrease is going to look like for transportation funding. VDOT has released their 2021 six-year plan. We have not seen how previously funded projects are going to be affected. It will be the fall or winter before we get a better view of State revenue on transportation and how that will impact some of the projects that we are applying for. We are still going to apply the seven projects. We are wading into the unknown regarding what the State funding is going to be.

Commissioner Finnegan asked if there were any projections regarding the impact of fewer cars on the road because more people are working from home? Have you seen any projects regarding a drop in traffic because JMU students are taking classes online?

Mr. Hartman said that we have been following the volume of traffic throughout the City. In the beginning of March, our volume was about 50%-55% of what they were last year at that time. Over the past week, and as of last Friday we were 32% down of what we have seen historically for that time of the year. There has been a bit of a rebound from what it had been. There definitely was a reduction in vehicle traffic throughout the City. The Interstate has had the lowest I have seen in percent reduction in vehicle miles travels. They are coming back up a little bit faster. They are at a 20% reduction from the last update I heard. The metrics that are used for these projects and the scoring are based on odd year averages. It will take a few years for this to fully be incorporated into metrics.

Commissioner Finks asked if there will be future additions or edits to this chapter in regard to the Downtown Parking Plan.

Mr. Hartman said that the Parking Plan has been completed and is a document that will be used when we roll into the Downtown Master Plan. Depending on how we move forward with the Master Plan and the projects recommended to improve parking and transportation throughout the Downtown, there may be amendments coming forward once that document is completed. Right now, there are none on the radar. We put that document on pause and are waiting for some information for the Master Plan.

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

There were no calls regarding the amendments to Chapter 12, Transportation of the 2018 Comprehensive Plan.

Chair Colman closed the public hearing and opened the matter for discussion.

Commissioner Whitten made a motion to recommend approval of the amendment to Chapter 12, Transportation of the 2018 Comprehensive Plan, as presented.

Commissioner Finnegan seconded the motion. The goal here is to get Federal funding and we need that now more than ever.

Commissioner Finks added that he appreciates staff coming forward with amendments like this. I appreciate us focusing on trying to keep the Comprehensive Plan as a living document. We are making it a relevant document when we are making edits and changes when it makes sense for the City.

All members voted in favor of recommending approval of the amendment to Chapter 12, Transportation of the 2018 Comprehensive Plan (7-0). The recommendation will move forward to City Council on July 14, 2020.

***Consider a request from Bell Investments LLC for a special use permit to allow business and professional offices at 704 North Main Street***

Chair Colman read the request and asked staff to review.

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

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

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

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

- Site: Brewery manufacturing operation and printing company operation, zoned M-1
- North: Manufacturing operation, zoned M-1
- East: Manufacturing operation, zoned M-1
- South: Non-conforming single-family detached dwellings, zoned M-1
- West: Across North Main Street, non-conforming business office and non-conforming single-family detached dwellings, zoned M-1

The applicant is requesting a special use permit (SUP) per Section 10-3-97(3) of the Zoning Ordinance to allow business and professional offices in the M-1, General Industrial District. The property is located along the eastern side of North Main Street, approximately 350-feet from the intersection of Washington Street. Situated on the subject parcel is a +/-24,586 square foot building, which currently contains +/-19,326 square feet of manufacturing uses including a beer brewing company and the production area for a printing company.

If approved, the applicant desires to use the remaining +/-5,260 square feet of the building for professional and/or business office space. The applicant describes that 3,660 square feet would be used by the existing printing company as office space; 1,000 square feet would be leased by a professional engineering firm; and the remaining 600 square feet would be occupied by a future tenant. It should be understood that the use of space as office facilities accessory to and supportive of uses permitted within the M-1 zoning district is a use permitted by right; therefore, the printing company operation is allowed to have associated offices without obtaining a SUP. However, it is the applicant's desire to obtain the business and professional office SUP for the entire +/- 5,260 square foot area should the printing operation ever leave and there is interest in office facilities that are not accessory to and supportive of uses permitted in the M-1 district.

Conversion of the +/-5,260 square foot area into offices will require a change of use permit to ensure all Building Code regulations are met. Also, the applicant should be aware that if the SUP is approved, the office use must be established within twelve months of approval date.

Parking for the office use would be calculated at one parking space for every 300 square feet of gross floor area. The manufacturing uses require one parking space for every two employees working on a maximum shift and one space for each vehicle associated with the manufacturing use. If approved, staff would work with the applicant to determine the minimum number of off-street parking spaces needed for all uses. Meeting the minimum parking requirements for the intended uses should not be a problem as there is a large parking area, which already exists; however, the entrances into the parking area from North Main Street are only suitable for one-way use. There is also a separate, two-way entrance from East Washington Street onto the site. Staff suggests the applicant establish a regular traffic pattern on the site to provide for safe vehicular circulation; safe entry/exit; and adequate access to parking spaces. This could be accomplished by

making the North Main Street entrances one-way in only, exiting onto East Washington Street, and utilizing angled or parallel parking in the parking area along the southern side of the building. The entire frontage of the North Main Street corridor, with the exception of one Industrial designation and a handful of Governmental/Quasi-Governmental designations, is designated as Mixed Use within the Comprehensive Plan's Land Use Guide. In the general area surrounding the subject property, there is a mix of residential uses, professional offices, automotive sales and services, and light industrial uses. Staff believes that the proposed SUP is consistent with good zoning practice and will have no more adverse effect on the health, safety, or comfort of persons living and working in the area and will be no more injurious, economically or otherwise, to property or improvements in the surrounding area.

Staff recommends approving the special use permit.

Chair Colman asked if there were any questions for staff.

Commissioner Whitten asked what would constitute "establishing the use?" I understand that this space is being divided. Would all of the spaces that are intended to be used for offices have to be built out as office use space or just part of it?

Ms. Banks said that the approval of the building permit would establish their intent to utilize this for business and professional offices.

Commissioner Whitten asked even if they have part that is not rented that still is covered by the SUP.

Ms. Banks said yes. If they do not have a tenant for the additional 600 square feet, and their building permit shows that this was going to be for business and professional offices, it is still covered. They do not need to put a tenant in there immediately.

Chair Colman said that if they apply the SUP to the whole building, if they envision that they will utilize that space for professional offices, we sometimes get that pushback when we are looking at converting an M-1 property to anything else. The useful thing to go along with this request is that it does not seem injurious to the M-1 zoning. Staff does not seem to have anything against it. On the contrary, they are supportive of it.

Ms. Banks said that, to clarify, the entire building is 24,500 square feet. The SUP for the business and professional offices is only for 5,260 square feet. The M-1 permitted uses with the brewery manufacturing and the printing operation would be continuing.

Commissioner Finnegan said that he has been to the brewery. It appears that the entire lane has been shut off. Is that temporary? It is something that I have seen before. Does the brewery have the permission to close that section off or does that need to remain open?

Ms. Banks said that the section is marked as a fire lane. Ideally, it should be left open. I am sure that there are times when the fire department would police the area.

Chair Colman asked what driveway they were referring to.

Commissioner Finnegan said it was the driveway to the left of the brewery.

Chair Colman asked if there were any further questions for staff. Hearing none, he opened the public meeting and invited the applicant to call and speak to his request.

Connor Bell, 794 North Main Street, called to speak to his request. Brothers Brewery can close the entrance and lane that Commissioner Finnegan questioned, whenever they want. When we built the patio cover, we worked with the Fire Department to come up with fire lanes. The fire lane main entrance is the one off of East Washington Street. The other entrance they can use is the first entrance as you are going north on Main Street. The second entrance as you go north on Main Street is now not designated as an entrance for the Fire Department, but the Fire Department does have partial access from the parking lot. It is also marked with the red fire lane paint in that space.

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

Commissioner Finks said that in light of the Comprehensive Plan recommendations for this area the SUP makes sense. It is the best of both worlds where the space will be mixed use with the SUP and the parcel remains as M-1 if there is an industrial use that makes sense in the future. I will move to recommend approval of the SUP request, as presented by staff.

Commissioner Ford-Byrd seconded the motion.

All members voted in favor of recommending approval of the SUP, as presented (7-0). The recommendation will move forward to City Council on July 14, 2020.

***Consider a request from Virginia Mennonite Retirement Community to amend the Zoning Ordinance by reducing requirements for minimum separation between buildings in the R-3, Medium Density Residential District. Along with the request, City staff proposes the same amendments to be made within the R-3, Multiple Dwelling Residential and R-4, Planned Unit Residential Districts.***

Chair Colman said the Virginia State and Local Government Conflict of Interests Act requires that I make disclosure, to be recorded in the City records, in any matter in which I choose not to participate. Therefore, I make the following disclosure: I choose not to participate on this matter due to my professional involvement with the project. Chair Colman then logged off the meeting.

Vice Chair Finnegan read the request and asked staff to review.

Ms. Banks said that the Zoning Ordinance (ZO) requirement to provide separation between buildings on the same parcel of land, first appears in the City's ZO as early as 1963 within the "Modifications and Adjustments" section when it stated "[m]ore than one multiple dwelling may be located upon a lot provided the open space between buildings measured at the closest point shall not be less than 20 feet for one story buildings or 30 feet when one or both are higher than

one story buildings.” This regulation included all zoning districts regardless of whether it was a residential, commercial, or industrial district. In 1976, as part of a comprehensive ZO rewrite the language within modifications and adjustments changed to read “[i]n R-3 and R-4 residential districts, more than one dwelling or multiple dwelling may be constructed upon an unsubdivided parcel of land as density allows provided that the open space between each building as measured at the closest point to another building shall not be less than 30 feet.” Also added in 1976 within the R-4 zoning district under “Area and Dimensional Regulations” was the following statement: “[n]o structure or addition to a structure shall be erected within a distance or [sic] less than 30 feet from another structure.” In 1984 the R-4 language was amended to read “[n]o structure or addition to a structure shall be erected within a distance of less than twenty (20) feet from another structure;” however, the language within modifications and adjustments remained the same requiring 30 feet and applied to all other zoning districts.

It was not until the 1987 comprehensive rewrite of the ZO that the building separation language was removed from the modifications and adjustments section, but then added to the “Other regulations” sections for both the R-3 and R-4 zoning districts. The current language mimics the same regulation that was introduced in the 1987 rewrite, which is stated as follows: “[m]ore than one (1) principal building may be constructed upon an unsubdivided parcel of land as density allows. The open space between each building as measured at the closest point between building walls shall not be less than thirty (30) feet. The minimum separation between buildings may be superseded by building regulations.”

The applicant, Virginia Mennonite Retirement Community (VMRC) is proposing to amend the ZO regarding building separation within the “Other regulations” section of the R-3, Medium Density Residential District. The proposed amendment to Section 10-3-48.6 (c) would be as follows:

“More than one (1) principal building may be constructed upon an unsubdivided parcel of land as density allows. The open space between each building as measured at the closest point between building walls shall not be less than twenty (20) ~~thirty (30)~~ feet. The minimum separation between buildings may be superseded by building regulations. The front façade of each principal building shall face a dedicated public street or the limits of a private parking unit (as defined) and no building shall have the rear façade facing a dedicated public street, unless the parcel has multiple public street frontages where rear façades may front one (1) public street.”

If there is a desire to approve the proposed amendment, for continuity and best practices for application of the Zoning Ordinance, staff recommends also amending Sections 10-3-47 (c) and 10-3-54 (c), both of which are related to building separation within the R-3, Multiple Dwelling Residential District and the R-4, Planned Unit Residential District. The regulation language in each of these sections mimics the regulating language as shown above for the R-3, Medium Density Residential District. Staff advertised to amend all three sections.

Currently, if individual buildings within the R-3’s and R-4 zoning districts were situated on individual parcels, they would be required to have a ten (10) foot side yard setback from the side property lines. Therefore, each building would be separated by twenty (20) feet; ten (10) feet

on either side of the property line. By amending the ZO as proposed, multiple buildings can be constructed on one parcel and have the same building separation as if such buildings were located on separate parcels.

Building Code regulations address separation between buildings as well. Required building separation varies depending upon building type and material, number of openings (windows and doors), building use, and materials stored within the structure. It should be understood that prior to 1973, there was no State requirement for local governments to have a Building Official and building code enforcement; therefore, having a building separation requirement within the ZO was common. Within the subject ZO sections, the sentence “[t]he minimum separation between buildings may be superseded by building regulations,” does not imply that a reduction in separation is possible under building code standards; but rather, it may require a greater minimum separation. Currently, because there are no building separation requirements within the B-2, B-1, M-1, R-1, and R-2 zoning districts, the Building Code regulates building separation and whether or not it needs to be addressed.

It should be noted that approval of the ZO amendment would not allow for additional dwelling units on a site. Density would continue to be regulated by the lot area of the parcel.

Staff recommends approval of the proposed ZO amendment.

Vice Chair Finnegan asked if there any questions for staff.

Commissioner Finks said that there had been a similar discussion about this in the past and there was some concern from Harrisonburg Public Safety. Was there any concern from Harrisonburg Public Safety regarding this change to 20 feet?

Ms. Banks said that staff had discussions with the Harrisonburg Fire Department and Interim Chief Morris. His staff were comfortable with the reduction to 20 feet.

Commissioner Finks said that he recalls a discussion regarding the number of stories in the home and the distance between homes.

Ms. Banks said that when we were working on our new R-8 zoning designation, we had conversations about multiple stories and building separation. This reduction to 20 feet exceeds the building separation of the R-8 zoning district. In fact, the R-5, High Density District has a 10-foot building separation.

Vice Chair Finnegan asked if there were any questions for staff. Hearing none, he opened the public hearing and invited the applicant to call in to speak to the request.

Scott Kleist, Virginia Mennonite Retirement Community, 1501 Virginia Avenue called in support of his request and said he had nothing to add to the staff report.

Vice Chair Finnegan said that there were no questions for the applicant at this time. He invited the public to comment on this request. Hearing none, he closed the public hearing and opened the matter for discussion.

Commissioner Finks said that he is in favor of any opportunity to increase density.

Commissioner Orndoff asked if approval on this item would cause a domino effect around the City.

Ms. Banks said that she does not foresee any changes or a domino effect. I also want to clarify that the Zoning Amendment does not increase density. It does not increase the number of dwelling units allowed, only the closeness of buildings.

Vice Chair Finnegan said that he agrees with Commissioner Finks' sentiment. It is a little bit disappointing that the density is limited by the size of the lot. It should be able to be more dense if we are putting buildings closer together.

Commissioner Finks made a motion to recommend approval of the Zoning Ordinance Amendment, as presented.

Commissioner Whitten seconded the motion.

All members voted in favor of recommending approval of the Zoning Ordinance Amendment, as presented (7-0). The recommendation will move forward to City Council on July 14, 2020.

Upon conclusion of this item, Chair Colman logged back on to the meeting.

***Consider a request from Richard L. and Betty L. Sampson with representatives Edilza M. Alfaro Diaz and Carlos Madrid to rezone seven parcels addressed as 143, 145, 149 and 153 Charles Street and five parcels with no street addresses that have frontage along Clinton Street.***

Ms. Banks said that the Comprehensive Plan designates this area as Commercial (tax map parcels 41-F-48 through 53) and Neighborhood Residential (tax map parcels 41-F-17 through 22).

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

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

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

- Site: Antique furniture store and non-conforming salvage business, zoned M-1
- North: Across Charles Street, storage and warehousing, vehicle repair and sales, zoned M-1
- East: Conforming and non-conforming single-family detached dwellings, zoned R-2 and M-1
- South: Across Clinton Street, single-family detached dwellings, zoned R-2
- West: Vacant industrial site and conforming and non-conforming single-family detached dwellings, zoned M-1 and R-2

The applicant is requesting to rezone 12 parcels, totaling +/- 2-acres from M-1, General Industrial District to B-2C, General Business District Conditional. The parcels are located along the southern side of Charles Street and the northern side of Clinton Street, between Jefferson Street and undeveloped Albert Street. Located on the site is a +/- 8,680 square foot principal structure, which currently serves as a warehouse and showroom for an antique and salvage business; this building fronts along Charles Street. Directly behind the principal structure, is a +/- 2,300 square foot accessory building, which is situated closer to Clinton Street; however, this building has no direct entrance, or doorways facing, to Clinton Street and must be accessed from Charles Street.

If approved, the applicant plans to utilize the principal structure as an event space for weddings, baby showers, family reunions, baptisms, birthdays, quinceaneras, and other events to serve the community. The applicant has described to staff that events will take place within the building, while the area around the building will be used for parking. In conversations with staff, the applicant has also indicated allowing additional B-2 uses, such as auto repair, to occur in the accessory building to the rear of the property. The B-2 zoning district allows vehicle repair as long as all activities and storage of inoperable vehicles are completely enclosed within a permitted structure. The B-2 district does not allow repair of over the road tractors, their trailers, heavy equipment, manufactured homes, industrialized buildings, and agricultural equipment as a by right use, but would allow it with an approved special use permit.

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

1. There will be no entrances or exits from the subject property onto Clinton Street.
2. At the time of redevelopment, or when any new use occupies the property, a six-ft opaque fence will be constructed and maintained by the property owner, along the Clinton Street side of the property. The fence will be placed at least 10-ft from the Clinton Street property line and will connect to the existing structure situated entirely on tax map parcels 41-F-17 & 18. If the structure on tax map parcels 41-F-17 & 18 is ever removed, the fence must be extended to the western property line of the subject property with at least a 10-ft setback from the property line. (Reference "Exhibit A", attached with this rezoning letter.)
3. Seven (7) large deciduous trees will be planted and maintained by the property owner, along the Clinton Street side of the 6-ft, opaque fence. One tree will be planted every forty (40) linear feet of frontage.

At the time of planting, trees shall meet the following:

- a. Deciduous tree, large: A tree that loses its foliage at the end of the growing season, which at maturity exceeds four (4) inches in caliper. When planted, these trees shall be at least two (2) inches in caliper and be a minimum of ten (10) feet in height. Multi-stem trees shall also be a minimum of ten (10) feet in height.
4. There will be no advertising signs, freestanding or wall, placed within 150-ft of the property line with Clinton Street. (Reference “Exhibit A”, attached with this rezoning letter.)
5. At the time of redevelopment, or when any new use occupies the property, the subject property will be limited to two vehicular openings (entrances) along the Charles Street frontage. The vehicular openings shall meet the following:
  - a. Be separated by 150-ft or more.
  - b. Be 30-ft wide for two-way (entrance/exit) vehicular traffic or 14-ft for one-way vehicular traffic.
  - c. Be delineated with material or structures, such as a permanent post and chain or other permanent fencing, along the remainder of the Charles Street frontage as approved by the Department of Public Works. The material or structures will be installed maintained by the property owner. (If and when curb and gutter is installed along Charles Street and serves to delineate the vehicular opening, the property owner will not be required to maintain the aforementioned materials or structures along the Charles Street frontage.)

As described above, the subject parcels fronting along Charles Street are designated as Commercial within the Comprehensive Plan’s Land Use Guide. The Commercial designation aligns with the requested rezoning to the B-2 zoning district. However, the subject parcels fronting along Clinton Street are designated as Neighborhood Residential within the Land Use Guide. The entire site, all twelve parcels, have been zoned industrially since annexation into the City in 1962.

In being conscientious with the residential neighborhood to the rear of the subject property along Clinton Street, the applicant offered proffers numbered 1-4 as written above. By not allowing entrances/exits along Clinton Street, there will be no additional vehicular traffic traveling through the neighborhood to access the subject property. Prior to redeveloping, or occupying the subject property with any new use, a 6-foot tall opaque fence must be constructed, at least 10 feet from the property line along Clinton Street. Within the 10 or more feet distance between the Clinton Street property line and the 6-foot tall fence, seven large deciduous trees will be planted, with one planted every 40 feet along Clinton Street. This ratio is the same as the current landscape border for parking lots, but differs from the parking lot landscaping regulations in that tree locations are not at the discretion of the property owner, but must be planted every 40 feet. The intent is to form a screen to provide separation between commercial uses and the neighboring residential district. The minimum 10-foot landscape area with large deciduous trees, and 6-foot fence would provide noise reduction as well as visual screening from lights and activities associated with commercial uses. If rezoned to B-2, the site could redevelop with new buildings or uses other than what the applicant is proposing. Proffer #4 is intended to restrict signage, freestanding or wall, within 150 feet of Clinton Street, which is the approximate depth of the existing parcels that front along

Clinton Street. Attached as “Exhibit A” is an aerial photo illustrating the approximate proffered fence and sign setback locations.

Proffer #5 addresses the large, wide open entrances along Charles Street onto the subject property. Charles Street does not have curb and gutter and most of the properties along the street were developed with entrances across the entire frontage. This creates an unsafe situation for maneuvering vehicles into and out of properties because customers can pull in and back out onto the street from any location on the site. Typically, staff would suggest curb and gutter be installed to creating smaller entrances and a landscape border across the remaining frontage of the subject property; however, staff believes that doing so could make stormwater issues worse for this area. Staff believes street improvements along Charles Street will require a more comprehensive design for street and stormwater improvements, which would be more appropriate to do with either a future road improvement project by the City or with redevelopment of the sites along Charles Street with an engineered comprehensive site plan. Therefore, proffer #5 addresses staff’s concern regarding the entrances along Charles Street, while not compounding any stormwater concerns. It should be understood that the materials or structures delineating the entrances can be landscaping, fencing, or other as approved by the Department of Public Works.

The Comprehensive Plan Land Use designation of Commercial, along the Charles Street frontage, supports the rezoning request to B-2C and the proffers offered by the applicant address concerns regarding the use and redevelopment of the site along the Clinton Street frontage. Staff recommends approval of the rezoning request as submitted.

Chair Colman asked if there were any questions for staff.

Commissioner Finks asked why the decision was made to specify deciduous trees rather than evergreen?

Ms. Banks said that the applicant chose the trees. In conversations with the applicant, it was their decision that they would like large deciduous trees.

Chair Finnegan asked if there was any concern that this is next to an R-2 neighborhood and there is the non-conforming house on 141 Charles Street. Is there any concern from the City about making future housing sites unavailable? They are now zoned M-1, but they are in the middle of an R-2 district.

Ms. Banks said that the owner of 141 Charles Street uses Albert Street as their driveway. It is designated as commercial in the Land Use Guide. It is currently being used as a single-family detached dwelling. They did not reach out to us.

Commissioner Finnegan asked if there are any future plans to make Albert Street connect with Clinton Street?

Ms. Banks said that the City does not have any plans right now. It would be up to a developer to connect Albert Street from Charles Street to Clinton Street.

Ms. Dang said that, in this area, we have requests on other paper streets to vacate the street. It goes through an evaluation of what utilities may run through the area, how the stormwater flows, and other things. Otherwise, we may or may not look at this street to be developed. We do not have an answer for that.

Councilmember Romero said that the Clinton Street neighborhood is predominantly Hispanic. I know people who live there. In fact, I own a property on that street. Community input is critical any time we want to make a change. Property owners on Clinton Street, including me, received the letter. I wonder if they have any idea what this is about. My concern is that right across Clinton Street from the subject property, out of those five or six houses, I believe five, or all, are Hispanic, Spanish speakers. I do not know if they speak the language or not. It would be important for us to assist a neighborhood in knowing what is happening. They live there. I do not live in this property that I have. My sister does. She did not receive the letter. I received it. In order for us to really be able to hear the people from the community and their suggestions and their feelings about it, it would make sense that we try to reach out and have the letter in Spanish, as well. I can tell you that a good number of the houses there, and if you follow Clinton Street all the way to Jefferson Street, that is a predominantly Hispanic neighborhood. That is a concern that I have with the communication.

Ms. Banks said that a member of the neighborhood, who lives in one of the houses in the area, Mr. Hernandez, has reached out to staff as a spokesperson for the neighborhood. He reached out via email addressing multiple concerns. The concerns ranged from noise; mass gatherings; cleaning up of the property with the trailers, trash and debris; and, a question about the automotive repair or what other businesses would be permitted. I answered their question to discuss what proffers had been offered about the fence. There was a concern about whether Albert Street would be utilized. They have started a neighborhood conversation and they have a spokesperson who was asking questions and we have been responding to them. They may participate in public input.

Commissioner Whitten asked if the commissioners got a copy of the email.

Ms. Banks said that it was not included in the packet. Would you like a copy?

Commissioner Whitten said that she did not need it right now. It is nice to know that there was communication.

Ms. Banks said that it happened while the packet was going out.

Ms. Dang said that there were a lot of questions directed at staff to help him (Mr. Hernandez) understand what the request was and what the proffers were. We could ask if they want to submit that as formal comments.

Commissioner Whitten said that it would be helpful.

Commissioner Finks said that people may not see a difference between comments and questions. It would help to inform us to see the questions the public asks.

Commissioner Whitten said that she thinks that it is germane.

Chair Colman said that they would like to know of any type of public input. It sounds like that the neighborhood was aware of the request.

I wonder about completely blocking the area from the neighborhood. If there are going to be businesses and services here, it is very difficult for the neighbors to get through. They would have to jump the fence or go through the undeveloped alley, which is another reason to keep it and perhaps create a path to allow the neighborhood access to the new services that develop within this property or another property here. If we are looking at this as the land use being commercial, we want to have the connectivity. We do not want the noise and the lights at night, which can be managed by landscaping and some fencing. We have to consider the connectivity of the services to the neighborhood.

Ms. Dang said that could be a future use of Albert Street, if not developed as a public street. It is a future idea that can be explored there. The proffers were offered to address concerns and to protect the neighborhood from light and noise. That is why the fence and the trees were offered.

Commissioner Finnegan said that this is not a street or alley closure request, but I echo Chair Colman's concerns. The only walkable street to get out of that neighborhood, if you are trying to get to Charles Street, would be Jefferson Street or North Main Street. We should keep that option open for people who live in that neighborhood.

Commissioner Whitten asked if the number of guests that would be attending this event center is regulated by the square footage of the building?

Ms. Banks said that Building Codes would set an occupancy level that can be within the building for any particular event. The applicant has stated that everything will take place within the building, but should there ever occur an event, perhaps in a tent, outside the building, all regulations as with mass gatherings apply. If the tents that they were to erect are 900 square feet or greater, they are required to get a building permit. If they are planning to have more than 50 persons under the tent, they are required to get a building permit. If they were erecting a tent for an event, and they are getting the permit when needed, staff would be addressing the need for a mass gathering permit, as well.

Commissioner Whitten asked if parking would come after the fact?

Ms. Banks said that parking would be established when the occupancy of the event center is established.

Commissioner Whitten asked if there were any projections about numbers?

Ms. Banks said no.

Commissioner Whitten said that if there is a concern of screening with the use of fencing and trees, evergreen trees are a much better screen than deciduous trees.

Chair Colman asked if that is a recommendation we can add.

Ms. Banks said that it is a proffer, not a condition of any type.

Chair Colman said that if we are not happy with that proffer, if we do not think that is enough, can it be amended? As Commissioner Whitten has said it is not as robust of a screening as evergreen trees.

Ms. Banks said that it is aesthetic, as well, between the fence and the deciduous trees. Quite often the evergreens can grow out. The applicant made the proffer. If Planning Commission is uncomfortable with the proffers, you can deny the request and state your reasons why. If the applicant changes the proffer, it may mean that they have to bring the information back to Planning Commission for your review. It is a proffer and if you are uncomfortable with the proffers or do not approve of them, you should recommend denial.

Chair Colman said that for aesthetics and safety, deciduous trees may be the better option. The evergreen might be a potential hiding place. Deciduous might be a better option. It depends on what they are taking into consideration.

Commissioner Finks said that, in relation to deciduous versus evergreen trees, he is more concerned with the possibility of automotive repair in the back building. If that had not been part of the discussion, I would not be as concerned. An evergreen tree will help more than a deciduous tree, year-round, with noise or view from the automotive repair that would be closer to Clinton Street than the event space.

Ms. Banks said that there is also a six-foot tall fence. In the B-2 district you cannot perform automotive repair outside. It has to be within the building.

Commissioner Finks said that when he visited the property, the building seemed like an open building. That would mean that they would have to add garage doors.

Ms. Banks said that the building has three garage doors on the east side. It has nothing on the Clinton Street side. It is closed, concealed completely.

Commissioner Finks said that they must have been open when I was there.

Ms. Banks said that it is a down-zoning. The vehicle repair business could operate right now, out here, and does not have to be enclosed. They could bring tractor trailers in and start repairing them, by right, today, with the M-1 zoning. If it is B-2, it must be interior and you cannot have the heavy equipment repair.

Commissioner Whitten said that I would like to see us do everything we can to protect the existing neighborhood. I know that when people leave events, they are noisy and car doors slam, sometimes include alcohol and late hours. It might not be the best neighbor.

Chair Colman said that the rezoning, in itself, certainly when they clean all this up, will improve the neighborhood. That would be my expectation. The fence and the trees will also provide a barrier to that. In terms of noise and some of the other issues that Commissioner Whitten mentioned, what can we do to prevent that? Do you have any suggestions along those lines?

Ms. Banks said that there could be an agricultural farm equipment sales business that moved into this property, right now, by right, and one week out of every year, raised a tent in the back portion had a customer appreciation week playing music and serving a dinner meal. It would only be one week out of the year, but a lot of the things you are questioning are things that can currently happen on this property by right. The proffer providing the fence to protect the neighborhood and the taller deciduous trees, which would grow and expand the buffer. They would not get that if the property were to remain M-1 and a committed business were to move in here.

Commissioner Orndoff said that the traffic concern seems to not be as big of an issue because there is no access to the rear of the property. The only vehicle ingress and egress would be on Charles Street. Clinton Street would not be affected, so it would not affect traffic within the neighborhood.

Chair Colman said that concern is with the number of people who would come to an event and the amount of noise that might generate.

Commissioner Whitten said that they will still be heard. It is a concentrated area. That is why I was trying to get an idea of how many people would be there. It was helpful to hear that if there would be a tent, then they would be under the mass gathering ordinance. If it will be an event center, to be successful they would have to have events every week. Some might be smaller than others, but if there is a large event every week, that is a lot different than the example that was given about a farm equipment sales facility having a customer appreciation week once or twice a year. If it is every weekend, it does impact the neighborhood.

Councilman Romero said that there is a demand for a facility like this. They will very likely be booked throughout the year. It might be operating Friday, Saturday and Sunday to some extent. There is room for something like this in the City. I am concerned about the noise levels. Is there a noise level that they are required to operate under?

Ms. Banks said that parcel will be required to comply with Section 15-3-2, the noise violation and penalty section of City Code along with 15-3-3, that is the permit for the use of any sound amplifying equipment in connection with outdoor social or mass gatherings. They will have to comply with those. At night, between 10:00 p.m. and 7:00 a.m., you cannot exceed 55 decibels. This is measured and handled by the Police Department. During the day, from 7:00 a.m. to 10:00 p.m., you cannot exceed 65 decibels. In conversation with the neighborhood representative, I reminded them that with this site or any of the M-1 sites, if they hear any of this kind of noise, they should contact the police department for a patrol to come to the site. Do not wait to call Zoning on Monday morning. Contact the Police Department. The noise ordinance violations apply to this property, just as they do in Old Town.

Commissioner Ford-Byrd asked if noise was a concern when communicating with the neighborhood spokesperson.

Ms. Banks said, yes, it was. I am reading from the email, the response that I discussed with them.

Commissioner Whitten said that maybe we will hear from them in the public hearing.

Chair Colman said that we will let them speak and we can ask them some of those questions. When we hear from them, it will be what they expect. I do not know if we have any statistics on event centers and the noise levels are. Given that we have an improvement to the property, to B-2 Conditional or to B-2, would be more helpful to the neighborhood compared to M-1 because it would be cleaner. On the other hand, if it is going to be a facility like this, it has the potential to create a nuisance as well. I feel supportive of it, but at the same time I am concerned about the noise. We can ask the applicant that question.

Are there any further questions for staff?

Ms. Banks said that the applicant has worked diligently with staff on this. I reached out to them to get a phone number that we could call for them to come online with you this evening. I did not hear back from the applicant. They do have the ability they could call in here and perhaps they will, but we did not call them this evening because we did not have a number with which to reach them.

Commissioner Whitten said that there is number at the bottom of the "To whom it may concern" letter in the packet.

Ms. Banks said that there is also a language barrier.

Ms. Dang said that we could call the number, but we have been working through their representative. They did not get back with us. They know how to call into the meeting if they need to.

Chair Colman opened the public hearing and invited the applicant or their representative to call into the meeting.

Carlos Madrid, 1532 College Avenue, called in to speak in favor of the request. I represent the buyer of the property. To address the concerns regarding noise, the events will happen within the building. The building itself will be soundproof. It will be completely protected from noise coming to the outside environment in order to protect the neighborhood. The number of people to every event will be to the maximum capacity that the Fire Department and City codes address. The owner will abide by those numbers and regulations. The auto shop was simply an idea, not something that is going to happen. There is not going to be an autobody shop after the closing is done on that building. This building is not to be used for an auto repair. It is for events. The auto shop idea was just an idea, not a plan. On the fence side, the proffer states a six-foot fence. My client says that she wants a ten-foot fence. I want that to be a complete barrier so that the neighborhood can be protected. I agree that it is better to have large trees because small trees can be a hiding place for people. Tall trees will be planted there to give the neighborhood the residential mood even though

there is a business operating on Charles Street. Clinton Street will not be affected. The parking will be according to code. The entrances will be on Charles Street only.

Commissioner Finks asked when you obtain the capacity inside the building, are you planning on getting a number for planning and seating.

Mr. Madrid said that there are numbers, but the new owner will adhere to the recommendation of the Fire Department.

Commissioner Finks said that you have the opportunity to get a seating capacity with a layout of where the tables and chairs would be and another capacity for an event that would be standing. Are you planning on hosting events where there will be seating, or would you also allow the space to be used for events that are standing room?

Mr. Madrid said that the zoning allows for different types of events. In this case, the use of the building will be on Friday and Saturday, and eventually Sunday. The usage normally happens between 3:00 p.m. and 8:00 or 9:00 p.m. Those are the timeframes in which the events will likely be happening. There is an idea of numbers. When there are no rules, people do whatever they think is best. When there are rules, the applicant will abide by the rules. There will be events where there will be seating, and they are getting some furniture for that. Eventually, there will be events where there will be standing. All will be done by code.

Ms. Banks said that occupancy is established by the applicant's architect, as the architect is addressing Building Code needs. The architect will establish occupancy levels for seating and where tables will be, if there is standing room what it will be, and it will be addressed through the Building Code.

Mr. Madrid said that the next step, after approval, would be hiring an architect who is familiar with the codes and permits. That person will be key and will educate the new owner about the concerns that you have mentioned.

Councilmember Romero asked if he or the applicant have reached out to the neighborhood, especially the homes in close proximity to the property.

Mr. Madrid said no. There has not been any contact. Since there is nothing going on until the approval comes through, there has not been a push about taking their input into consideration. When the approval comes through, of course there will be that consideration. There is this concept where a given weekend there will be an event to give back to the neighborhood. Refreshments would be free for the neighbors, inflatables for kids, that people can come and enjoy, perhaps twice over the summer. That is a business consideration on giving back to the community. Cleaning the area will be one of the improvements. The number one effect that the neighbors will see is the cleanliness. Then the green area with trees will also be something that they will applaud. Someone mentioned that most of the five or six homes are Hispanic. Most of these events will be quinceañeras. Most Hispanics use these providers as their provider for years. This facility will serve as one of those places where they can celebrate their 15-year-old girls, or their wedding

anniversary, or other celebrations. It will be a place for families to build memories. That will be something that they will appreciate.

I read the letter from the neighborhood representative. He took pictures of the trailers. He was addressing that and asking if it would be the same. That will not be the case after the zoning is approved. That person will have the question answered. He also mentioned noise. As you mentioned, the six houses are residential and mostly Hispanic. Noise is the number one factor that people worry about. I mentioned in my conversation that the building will be soundproof inside. That should address the concern.

Chair Colman asked if there were any other callers. There were no more callers, so he closed the public hearing and opened the matter for discussion.

Commissioner Finnegan said that he echoes the comments made by Councilmember Romero and Commissioner Finks regarding the outreach to the community. It sounds like the site will be cleaned up, which is good. I do not feel confident in terms of what the activity level will be and whether the neighbors are on board with the proposal. I am leaning towards not supporting this simply because there are some missing pieces of information.

Councilmember Romero said that he agrees with Mr. Madrid that this venue is something that many people in our community are always looking for. There are not enough venues for the event that he was mentioning. I think this is a good business idea, especially for many in the community who do like to have celebrations and large gatherings, including in my community and many of the Hispanic communities. I do agree with that. There is a need. I was just texting my sister, who lives on Clinton Street. She has been there for a year and a half. She said that she has not heard anything about this. She lives right across from the property on the Clinton Street side. I am not sure who this neighborhood representative is because you would think that he would have asked the people who live right across from that property. I am concerned that the neighbors might not know much about what is going on. They may not be able to advocate for themselves if they do not know that this is happening. I am not opposed to it, but I think the neighborhood should think about it. Hopefully between now and the City Council meeting there will be more information and that we have a chance to listen to their concerns.

Chair Colman said that he has neighbors nearby that some weekends have loud music. This is just one neighbor. I would never want to live right there close to this event center if they are going to have activities throughout the week and on the weekend. If the events were to be indoors, it may be fine. If it is soundproof, it might be fine. I am concerned about outdoor events that may have a sound system blaring into the neighborhood. That would be a nuisance to that neighborhood. I have complained before and nothing has changed. At 2:00 a.m. in the morning, the neighbors were having a party. If it went until 10:00 p.m., fine, they are having a party. They carry on and on. At 2:00 a.m., we called the police. They came twice and nothing happened. It went on for hours after that. I have been affected by this, so I am not very sympathetic to having noise overnight or even during the day if it is going to go on and on. I think that if it is indoors and the sound is contained to an indoor event, that may be okay. I would like to recommend that the sound system be limited to indoors. Any activity outside should not have a sound system. I do not know how to word it,

but I do not want speakers blaring outside and annoying the whole neighborhood. It might serve the neighborhood in some way, but I am conflicted about it because of the noise issue.

Commissioner Finnegan said that he would be more inclined to support the request if there were a proffer that limited the hours of operation or something to that effect. I know that we cannot add them here. That is my primary concern. It does not feel right to say that this is acceptable, but if there are problems just call the cops. I am not comfortable with that.

Commissioner Finks said that I am usually going to be in favor anytime we take an M-1 and turn it into a B-2 whenever it is right next to a residential zone. I think that Chair Colman is right that there should be some discussion about outside noise, or what Commissioner Finnegan said about hours of operation. I would ask that Mr. Madrid make a point of reaching out to the community, the neighbors, regardless of whatever recommendation we send. In this type of scenario, there should always be discussion with the neighbors. That is what I would like to see happen, especially when we know that there was an email in question. It seems that there are people in the community that have questions or have not been fully informed about what is going on. Mr. Madrid should reach out to the community and physically discuss the project with them.

I will take a moment to say that I hate it when we, as a City, talk about green space or how a certain type of green space will create situations where people can hide. That is used for a lot of reasons to cut down forests and trees and green buffers. It personally irritates me. It bothers me when we talk about cutting down green spaces because people can hide somewhere. It hurts our community. It hurts our neighborhood and our peace of mind. I think that, in this situation, regardless of the six-foot fence, evergreen trees are going to help keep noise down year-round.

The developer or Mr. Madrid should be reaching out regardless of how we vote tonight. They should be reaching out and discussing their plans with them and making sure that what they envision for this property is understood by all the adjoining neighbors.

Commissioner Ford-Byrd asked what it means to vote against the request at this point. Does that give the opportunity to go back and amend the proffers and bring them back? Can that be done tonight?

Ms. Banks said that additional proffers or changes to the proffers could be made at this point. I do not know if Mr. Madrid, the applicant's representative, is with the applicant at this time. They may need to discuss it before they change or add any proffers. It might be something that does not occur until tomorrow or next week, before it goes to City Council. Then it would be up to City Council to decide if they want to send it back to the Planning Commission to be heard, or you could table it this evening.

Commissioner Finks said that we can vote it down tonight based on the proffers they presented. They could amend the proffers before City Council. It would not necessarily have to come back to us. The proffers could be amended before it went to City Council and they could make the decision based on the proffers that are amended.

Chair Colman said that has happened before. City Council may decide that they want us to review those proffers again.

Ms. Banks said recent precedent is that, if proffers are changed or amended, City Council sends it back to the Planning Commission.

Chair Colman said that we could table it. We could request that the applicant reach out to the neighborhood and consider proffers to address our concerns about noise. We could recommend that and table this for a later vote.

Commissioner Finnegan asked, if we table this, do we have to advertise a second public hearing.

Ms. Banks said that, if the Planning Commission tables the request, it does not have to be re-advertised. If you table it, you have to state that you want it to come back at next month's meeting and what specifics you want the applicant to consider.

Chair Colman asked if the Planning Commission can reopen the public hearing the next time they consider the request.

Ms. Banks said yes.

Commissioner Finks asked if they would have to re-advertise.

Mr. Russ said no.

Commissioner Finks said that, if they table the request, the Planning Commission should state that it is tabled until the next meeting, instead of the next month, due to the uncertainty in the state of the world.

Commissioner Finnegan moved to table the request in order to give the applicant the opportunity to address some of the concerns that the Planning Commission has. The request will be considered at the next meeting.

Chair Colman asked what specifics do we want to ask them to consider.

Ms. Dang said that the Planning Commission should be cautious because they cannot require or specify what the applicant should proffer. You can clearly state what your concerns are and suggest ideas about how they might address those concerns.

Commissioner Finks said that rather than addressing the proffers, my main concern is that there does not seem to have been a dialogue with the neighborhood. The proffers have not been discussed with the neighbors.

Councilmember Romero said that he has texted with three neighbors during the meeting. Out of the three people, none have heard anything about the request. They have seen the signs and knew

that something was going on. I do not know who the neighborhood spokesperson is, but three people who have lived there for over 20 years do not know anything about it.

Chair Colman said that the Planning Commission encourages the applicant or the applicant's representative to engage the neighbors and address the concerns with noise, both indoor and outdoor, including, perhaps, hours of operation and things like that.

Commissioner Whitten added concern regarding lighting in the parking lot.

Commissioner Finnegan moved to table the request until the next meeting.

Commissioner Finks seconded the motion.

All members voted in favor of tabling the request until the next meeting (7-0).

***Consider a request from Robert D. and Gretchen M. Maust and representative Matchbox Realty to rezone 151 West Wolfe Street***

***Consider a request from Robert D. and Gretchen M. Maust and representative Matchbox Realty for a special use permit to allow parking and parking garages as principal uses at 151 West Wolfe Street***

Chair Colman said the Virginia State and Local Government Conflict of Interests Act requires that I make disclosure, to be recorded in the City records, in any matter in which I choose not to participate. Therefore, I make the following disclosure I choose not to participate on this matter due to my professional involvement with the project. Chair Colman then logged off the meeting.

Vice Chair Finnegan said that the next two items would be considered together. He read the request and asked staff to review.

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

Downtown is an existing area that exhibits and is planned to continue to contain a mix of land uses. The downtown Mixed Use area often has no maximum residential density, however,

development should take into consideration the services and resources that are available (such as off-street parking) and plan accordingly. Residential density in Mixed Use areas outside of downtown should be around 24 dwelling units per acre, and all types of residential units are permitted: single-family detached, single-family attached (duplexes and townhomes), and multi-family buildings. Large scale developments, which include multi-family buildings are encouraged to include single-family detached and/or attached dwellings.

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

- Site: Illegal parking lot, zoned R-3
- North: Across West Wolfe Street, single-family detached and multiple-family dwellings, zoned R-3
- East: Building under renovations for office use, zoned B-1C
- South: Office building and parking lot, zoned B-1 and B-1C
- West: Single-family detached dwellings, zoned R-3

The applicant is requesting to rezone a +/- 9,685 sq. ft. parcel from R-3, Medium Density Residential District to B-1C, Central Business District Conditional while also seeking a special use permit per Section 10-3-85(8) to allow parking lots and parking garages as principal uses within the B-1, Central Business District. The parcel is located downtown at 151 West Wolfe Street between South Liberty Street and South High Street. Currently, there is an illegally established parking lot with about eight parking spaces.

If the requests are approved, the applicant plans to legally establish and construct a parking lot to be used as additional parking for new offices within the existing building at 136 West Elizabeth Street, which is adjacent to the subject property. The applicant has described that the building at 136 West Elizabeth Street will be used by Sentara RMH for counseling and behavioral health services.

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

- “1. The applicant would retain all uses permitted by right except for convenience shops, drive-through banks, fast food restaurants, shops that primarily serve coffee, donuts, bread or bagels, and marijuana dispensaries;
2. There shall be no less than 10 parking spaces located on the property; and
3. Should the lot be redeveloped in the future, no parking lot (including travel lanes and drive aisles) shall be located between W. Wolfe Street and the closest building to W. Wolfe Street.

Special use permits shall be permitted as approved by City Council.”

With regard to the use proffers, the applicant would retain all the uses permitted by right in the B-1, Central Business District except for convenience shops, drive-through banks, fast food restaurants, shops that primarily serve coffee, donuts, bread or bagels, and marijuana dispensaries.

The applicant has removed these uses from the list of by right uses in order to address staff's concerns about traffic generation and to stay below the threshold for the City to be able to require a traffic impact analysis (TIA). The Institute of Traffic Engineer's (ITE) Trip Generation Manual (a tool used nationally by transportation engineers) assigns a trip generation rate to these five uses that would have put the peak hour trip generation for this site over 100 vehicles in both AM and PM peak hours, thus triggering the requirement for the applicant to complete a TIA study for staff review. Staff acknowledges that the excluded uses could serve residents and visitors of this area well. While the TIA Determination Form, which is required as part of the rezoning application, uses the ITE Trip Generation Manual to calculate the number of peak hour trips, this is only a starting point. Had the applicant wanted to allow the uses that they excluded in the submitted proffers, a TIA study could have been performed to assess the impact of the proposed uses to the traffic network. During this time, assumptions could have been made about a higher level of pedestrian activity and a lower rate of vehicular traffic generation for sites located in the downtown area. The applicant instead chose to proffer the exclusion of these uses from the list of permitted uses.

Regarding proffer #2, while the applicant intends for this parcel to be used as on-site parking for the office building at 136 West Elizabeth Street, it is important to acknowledge that this site could redevelop into a different use in the future. Since there are no minimum off-street parking requirements in the B-1 district, the parking spaces could be eliminated, which could push the responsibility of the parking demand onto adjacent properties or for the City to accommodate the demand. The applicant understood staff's concern and has proffered a minimum of ten on-site parking spaces to ensure that any future development of this property will have on-site parking available.

If rezoned to B-1, the site could redevelop with new buildings placed away from the public street to allow parking and travelways between any buildings and the public street. Proffer #3 is intended to promote pedestrian friendly design by not allowing parking lots between buildings and public streets, which creates barriers for people wanting to walk to uses/buildings. By placing buildings closer to the street it concentrates people and places along the public street and creates an environment that is more accessible, interesting, and safer for pedestrians, which are designs and environments that staff promotes, especially for areas designated Mixed Use by the Comprehensive Plan's Land Use Guide.

As described above, along with the rezoning request, the applicant is also applying for a special use permit per Section 10-3-85(8) to allow parking lots and parking garages as principal uses within the B-1, Central Business District. While parking lots are allowed in the B-1 district, they are only allowed as accessory to a principal use. For the foreseeable future, the applicant believes the subject parcel will not be used for anything except as parking for adjacent uses, thus approval of the special use permit is required.

Attached is a conceptual site layout for the subject property, as well as an excerpt of the engineered comprehensive site plan currently in review for 136 and 152 West Elizabeth Street and the subject parcel. Off-street parking and landscaping requirements, among other details, are being reviewed through the engineered comprehensive site plan process to ensure that all regulations are met.

(Note that the owner of 136 and 152 West Elizabeth Street are different from the owner of the subject property.)

The Comprehensive Plan Land Use designation of Mixed Use supports the rezoning request to B-1C for this parcel and the listed proffers address future redevelopment concerns. Staff recommends approval of the rezoning request as submitted.

Additionally, staff believes that the proposed parking lot is consistent with good zoning practice and will have no more adverse effect on the health, safety, or comfort of persons living and working in the area and will be no more injurious, economically or otherwise, to property or improvements in the surrounding area, and would therefore recommend approval of the SUP as submitted.

Vice Chair Finnegan asked if there were any questions for staff. Hearing none, he opened the public hearing and invited the applicant or applicant's representative to call and speak to the rezoning and SUP requests.

Michael Jaffee, 631 Ott Street, Matchbox Realty, called in support of the request. I look forward to continuing the development of 136 West Elizabeth Street. The rezoning is meant to bring the lot into a conforming use and provide additional on-site parking for the new project. We are happy to do it and look forward to completing the project. The project will bring mental health facilities to the downtown community. These offices are being relocated from University Boulevard and this location will bring them closer to public transit and other options.

Vice Chair Finnegan asked if there were any questions for the applicant's representative. Hearing none, he asked if there were any other callers. There were no more callers.

Vice Chair Finnegan closed the public hearing and opened the matter for discussion.

Commissioner Finks said that the rezoning and SUP make sense. They fall within the Comprehensive Plan. He moved to recommend approval of the rezoning request, as presented.

Commissioner Whitten seconded the motion.

All members voted in favor of recommending approval of the rezoning request, as presented (6-0). The recommendation will move forward to City Council on July 14, 2020.

Vice-Chair Finnegan said that he usually does not want more parking lots, especially when it uses space that could be residential. There are three parking lots in this area. As staff mentioned, the parking that this will be used for, mental health services, is positive. In addition, it is not running parallel to the street. It is narrow running away from the street.

Commissioner Finks asked when was the last time that the property was used for residential purposes.

Ms. Dang said that she does not know, but probably never.

Commissioner Finks moved to recommend approval of the SUP, as presented.

Commissioner Ford-Byrd seconded the motion.

All members voted in favor of recommending approval of the SUP, as presented (6-0). The recommendation will move forward to City Council on July 14, 2020.

Upon conclusion of this item, Chair Colman logged back on to the meeting.

**New Business – Other Items**

None.

**Unfinished Business**

None.

**Public Comment**

None.

**Report of the Secretary & Committees**

***Proactive Code Enforcement***

Ms. Dang said that the proactive code enforcement remains temporarily suspended pending the hiring of a Zoning Technician.

***Rockingham County Planning Commission Liaison Report***

None.

***Board of Zoning Appeals Report***

None.

***City Council Report***

None.

**Other Matters**

**Update on Comprehensive Update of Zoning and Subdivision Ordinances**

Ms. Dang said that there were three proposals submitted. The review committee has completed its review. Staff is negotiating with the top consultant now. We hope that we will have a contract or Notice of Award issued sometime early next week. Then we can share with you the schedule and what the next steps will be.

### **Update on Comprehensive Housing Assessment and Market Study**

Ms. Dang said that there were eleven submissions for the Housing Study. The review committee met and short-listed their top candidates. Interviews and discussions with those top candidates have been completed. That project is now in negotiations with the top candidates. The committee hopes to have a Notice of Award or contract completed by the end of next week. We can share more information once that is announced.

Chair Colman asked if there were any parameters given. Is the City anticipating any action?

Ms. Dang said that they are going to wait for the study results. In the RFP, we were anticipating that the study be completed by January 2021; however, in light of the COVID pandemic, it could be delayed several months. I would anticipate that in early 2021, in the first quarter, we would have recommendations from the consultants. We would be able to plan or decide what we will pursue.

Ms. Dang said that the next meeting will have the return of the Charles Street request, which was tabled today, a preliminary plat and SUP request for a property on South High Street, and we plan to bring forward the amendments for short-term rentals and homestays that we had talked about in October through December. We have that ready to share with you.

Commissioner Finnegan said that given everything that has been in the news lately, not just the pandemic, but the protests around the country there is a lot of focus on the police. We need to recognize, as a body, the role that Planning Commissions have played in segregation and housing discrimination throughout history. It is our job to educate ourselves. I am reading a book called The Color of Law about the history of segregation in zoning in the United States. We have to be extra vigilant about these issues, given everything that is happening in our country right now and how it relates to our work here on the Planning Commission.

Chair Colman said that it is timely that we are looking at rewriting our Zoning Ordinance. That is something that we should consider. I hope that there is input from the community and from the Planning Commission and commissioners about what we are looking for in our planning. Social justice is important when addressing housing, as well. That is why the item that we tabled today had a lot to do with how it may affect the neighbors who perhaps do not have as loud a voice as other people do. We are recommending that the applicant reach out to them.

The meeting adjourned at 8:45 p.m.

---

Gil Colman, Chair

---

Nyrma Soffel, Secretary