



CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

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April 5, 2021

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

SUBJECT:

Consider requests from Christopher and Susan Versen to close +/- 1,248 sq. ft. of undeveloped right-of-way and from Jeffery and Bonnie Ferguson to close +/- 1,288 sq. ft. of undeveloped right-of-way located between Myers Avenue and Monticello Avenue. The portions of undeveloped public right-of-way requesting to be closed are adjacent to tax map parcels 26-V-1, 27-T-1, and 26-S-15.

**EXTRACT FROM MINUTES OF HARRISONBURG PLANNING COMMISSION
MEETING HELD ON: August 12, 2020**

Chair Colman read the request and asked staff to review.

The technical issues continued; however, staff was able to include the slideshow, in presenter format, in their presentation.

Ms. Dang said that she will present the original application that was included in the staff report. There is an update with additional information and drawings. On Monday, I was contacted by the neighbors at 371 Myers Avenue, the Fergusons, with interest in purchasing a portion of the right-of-way also. I have been speaking with both property owners over the last couple of days. I will share with you what will be closed given the interest in the land that both property owners have.

The undeveloped public alley right-of-way is adjacent to property that the Comprehensive Plan designates as Low Density Residential. These areas consist of single-family detached dwellings in and around well-established neighborhoods with a target density of around 4 dwelling units per acre. The low density residential areas are designed to maintain the character of existing neighborhoods. It should be understood that established neighborhoods in this designation could already be above 4 dwelling units per acre.

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

Site: Undeveloped public right-of-way adjacent to tax map parcel 26-V-1 and 26-S-15, zoned R-1

- North: Single-family detached dwellings, zoned R-1
- East: Across Myers Avenue, single-family detached dwellings and Spotswood Elementary School, zoned R-1 and R-2
- South: Single-family detached dwellings, zoned R-1
- West: Continuation of the undeveloped public right-of-way to Monticello Avenue and single-family detached dwellings, zoned R-1

The applicant is requesting to close a +/- 900 square feet portion of an undeveloped public right-of-way located between Myers Avenue and Monticello Avenue. The applicant explained to staff that the land sits at a high elevation and has beautiful mountain views, and that the applicant would like to incorporate this area into their backyard. The alley is approximately 35-feet in width and the applicant is requesting to close approximately 20-feet of width for a length of approximately 45-feet. The exact dimensions of the closure will be determined when the land is surveyed, and a plat is drawn.

The applicant acknowledges in their letter that the undeveloped public right-of-way is “heavily used by pedestrians in the neighborhood, especially children on their way to Spotswood [Elementary School], and it provides access to the new driveway at 371 Myers Avenue.” In 1995, a 20-foot portion of the right-of-way adjacent to and for the entire length of the property at 410 Monticello Avenue was approved for closure and 15-foot was reserved as a pedestrian access. Staff recommends retaining a minimum of 14-feet of right-of-way for this section of the undeveloped right-of-way for people to continue using for walking and biking. If the City paves a shared use path in the future, the path would be 10-foot wide with 2-foot shoulders on each side. Note that at this time, the City has no plans or schedule for paving a shared use path.

Typically, after City Council votes to approve the closing of public street or alley right-of-way, the City Clerk will send letters to adjoining property owners and the adjoining property owners would have 60-days from the date of the letter to notify the City of their interest to purchase half of the right-of-way. If the adjoining property owner declines to purchase half of the right-of-way or does not respond, the applicant can purchase the full width. However, in this case, both the applicant and the City agree that a minimum 14-foot of width needs to be reserved for pedestrian access and cannot be closed. If the adjoining property owner at 371 Myers Avenue (TM 27-T-1 located north across the undeveloped right-of-way) is interested in purchasing a portion of the right-of-way, then city staff will work with the two property owners to determine how to divide the land between the two owners while maintaining a minimum 14-foot pedestrian access.

The Department of Public Utilities and Columbia Gas of Virginia have commented that there is a public water main and gas main within the undeveloped public right-of-way. While the exact locations of the public water main and gas main relative to the area the applicant desires to close is unknown at this time, if the City approves the closure of the alley, easements would need to be established for each utility. Public Utilities would require a minimum 20-ft easement, centered, on the water line and Columbia Gas would require a minimum 10-ft. easement centered on the gas line. The applicant expressed that given where they believe the gas main is located, they might choose to exclude any area that would be required to be within a gas easement from the area they want to purchase. Exhibit A represents the approximate locations where the water main and gas

main are located; exact locations of the mains and widths of the easements would be determined when the survey and plat are prepared.

The applicants are aware that if City Council votes to approve closing the undeveloped right-of-way (first reading at City Council), the applicants are responsible for having a survey and plat prepared in order for the City Attorney to draft the ordinance to finalize the closure (second reading). The survey should show dedicated easements, if applicable, and that the undeveloped public right-of-way will become part of the applicant's existing parcel(s).

Now, I would like to spend some time discussing what has transpired over the past couple of days. Earlier this afternoon, I emailed new letters from each of the property owners and a PDF titled "PC Update Map Area of Requested Closure" which includes the areas illustrated as Area A and Area B. The owners of 445 Myers Avenue are interested in acquiring portions of the undeveloped right-of-way because of the beautiful views from that location and the owners of 371 Myers Avenue are interested in acquiring portions of the undeveloped right-of-way to add additional buffer between their home and the pedestrian access. Additionally, if possible, the owners of 371 Myers Avenue would like to incorporate the driveway that exists within the undeveloped right-of-way into their property. The area illustrated as Area A has been reduced in size by the owners of 445 Myers Avenue compared to the original application to allow the owners at 371 Myers Avenue the ability to obtain additional land and in consideration of the transition area necessary for the pedestrian path.

As I said before the exact dimensions of the transition area and the width of the pedestrian access is still to be determined and will be worked on by the Department of Public Works.

Included in this drawing, you will also see in the corner of 371 Myers Avenue, there will be some planning needed to get the future 10-ft wide path to make the turn to get to the crosswalk at Myers Avenue. And while I do not know the details yet, there will need to be some coordination with the owners of 371 Myers Avenue to obtain some land at the corner for the shared use path. There may be an opportunity for a land swap in square footage that could reduce the cost of the land the owners would purchase from the City.

City staff still recommends approval of this request if the following is included:

- a. The City retains a minimum of 14-feet of width from the undeveloped right-of-way.
- b. Easements are established for the public water main and gas main, as necessary.

Chair Colman asked if there were any questions for staff.

Commissioner Finnegan said that it seems that we do not have all the information. Things are still in flux. I do not like to vote on something where there is missing information. Is that fair to say that we have not defined the boundaries and do not know exactly where the line will be?

Ms. Dang said that is correct. Staff is comfortable in proceeding. There are a couple of ways that this could be approached. Staff could spend the time and energy in doing the preliminary design

to figure out what we absolutely need and then have this application presented to the Planning Commission and City Council. We are comfortable with the approach of approving it conceptually, knowing that between the first reading and second reading at City Council, those details would have to be worked out. The second reading at City Council, unlike rezoning and zoning ordinance amendments where the first and second reading occur in the same month, with an alley closing there is more time that transpires. This will add a little more time, assuming that City Council were to approve the request that was conceptualized and presented here, Public Works can work on those details, share the information with the applicant's surveyors and then that plat would be presented to staff for review. It would then be presented again at City Council for the second reading to finalize the closure after the applicant has paid for the land that they are planning to acquire.

Commissioner Finnegan said that he is struggling with the language of alley closure. We are not really closing the alley. This is an alley reduction. Is "closure" the technical term that we have to use?

Ms. Dang said that the summary describes it as a portion of undeveloped right-of-way. We were vague in that description of portion because it is still in flux.

Vice Mayor Romero said that Planning Commission votes on something they believe in and they know what they are voting on; but, then it changes along the way to the point that sometimes I feel like I am voting, on the City Council level, on a completely different project. This Commission is here to advise City Council. Do you anticipate that there will be a lot of changes when it goes to City Council? Would it look a lot different than it looks right now?

Ms. Dang said that she does not know how to answer that because the layout is conceptual. I do not expect that it will look exactly like what I shared. The concept includes a pedestrian path that will be maintained. That was an important factor for staff as well as the community members that we heard from. They want to maintain that access way. As long as that pedestrian access can be maintained, staff did not have concerns about closing any area that the City did not need.

Commissioner Whitten said that children have used that property to traverse to and from school. My children were at Spotswood Elementary School. They walked that way to school. If you drove past, it looks like a continuation of one yard to another. This is not a complicated issue. What staff is proposing, to give that walkway space 14 feet, is completely adequate for that purpose and for the homeowners to have a little more space in their yard. They are maintaining that space anyway. I do not think that we need to get into the weeds. I am famous for getting into the weeds. In this case, I can see the path through the weeds.

Commissioner Finnegan said that there are alleys in Harrisonburg that we have seen as the Planning Commission that are full of brush. I want to make sure that if we reduce the alley, that we do not reduce it to the brush that is not traversable.

Commissioner Byrd said we are discussing this area that is closer to Myers Avenue where it is already flat and has well-kept grass. The changing of property there, unless the owners of that new property do something to create barriers, will not be a hinderance to the population. It is the rest

of the right-of-way, that is between 374 and 410 Monticello Avenue, where the 14 foot width is not observed at all.

Ms. Dang agreed. You are correct in the points that you made regarding the area closer to Monticello. I have spoken with the Department of Public Works. They will be following up with both property owners to make sure that it is cleared back to the 15-foot width that it should be.

Chair Colman said is there a possibility of doing a land swap with this and land at the crosswalk on Myers, with the other neighbors that want to buy some of that property. It would be nice to have that as part of this proposal. If we are going to maintain that path to provide a safe passage for children going to school, then I would like to maintain that safe passage all the way to the crosswalk. It is the same thing that you are proposing, but there is no commitment from their part. I would like to have a commitment. My concern is that we put people back on the driveway or the street, they have to walk back to the crosswalk. At this point, it is a suggestion from the City, but not a commitment from the purchasers.

Ms. Dang said that she does not believe that a request for a closure can be conditioned on other property that we do not have.

Mr. Russ said that he does not believe that is something that can be conditioned.

Chair Colman said that he agrees with Commissioner Finnegan. These are a lot of very good ideas, but they are not solidified. I understand why, to some extent, but what concerns me the most is that if they are trying to accommodate the traffic of children through that area, then I would like to make sure that we are bringing them to a safe crossing place and not back to the street or crossing someone else's yard. I would like to have more assurances. We might not be able to condition it, but we can say no until this is resolved. I am not saying that is what we are going to say. I am suggesting that it could be a decision.

Commissioner Finnegan said that we just saw a request like this. We had one that we tabled two months ago because we felt that we did not have enough information. We are within our right to table this request with concerns if we do not feel comfortable voting yes or no.

Chair Colman said that the applicant has not had a chance to speak yet, or other callers. They can comment, from their end, what they want to do. I want to hear from the applicant and other callers.

Ms. Dang said that this is not a public hearing, but we would like to hear from the applicant. It is customary that we give them the opportunity to speak. I will add that we will have the first applicant on the line first. Due to technological limitations, the second applicant will have to call in.

Chair Colman opened the meeting for public comment and invited the applicant or applicant's representative to call in.

Chris Versen, 445 Myers Avenue, called to speak to his request. My wife, Susan, and I are the original applicants to close part of the right-of-way between Myers Avenue and Monticello

Avenue. Our application has to do with the western half of the section that Ms. Dang showed you on the map. The asphalt driveway is the access we have to our driveway. It is the same one that I used as a cut through when I was a kid in the 1970s. I love the cut through as much as anybody does. We took our children to Spotswood Elementary from our old house on Paul Street. I would never want to do anything to interrupt the flow of bikers and pedestrians.

Chair Colman said that we understand your request. It gets more complicated when we have to allow the adjacent property owners to also buy some of the property. Thank you for understanding.

Mr. Versen said that the maps that Ms. Dang showed were difficult to see because of the technology glitches. Our more recent proposal had the cut through connecting where the asphalt meets our property line which would make a clean and open access to the 15 feet that currently runs along the edge of 410 Monticello Avenue. At least at that end, from where our driveway is to the west, I do not see a complication. Obviously, finishing the route to get to the crossing guard, Ms. Byrd, at the crosswalk is something entirely different. That was beyond anything in my application.

Chair Colman said we have those plans. It was late in the day when we received them. I do see it here. Thank you for making that adjustment. It is helpful.

Chair Colman asked if there were any more questions for the applicant. Hearing none, he asked for the next caller.

Jeff Ferguson, 371 Myers Avenue, called to speak to his request. We are concerned about the safety of the children, as well. My wife was a teacher in the City of Harrisonburg Public School system for 23 years. We have lived here since 1997. I would like to see what the City would propose as far as a cut-over to the cross-walk. We certainly would not be opposed to that because of the protection of the children. I have grandkids. My daughters attended Spotswood Elementary, Thomas Harrison Middle School, and Harrisonburg High School. We are very much concerned about the well-being of the children. I would like to ease your minds on that.

Chair Colman said that he understands that Mr. Ferguson is willing to discuss with the City how this may affect his property and any potential property swap.

Commissioner Byrd said that he has no questions. I understand the design of the piece of property that they are trying to acquire.

Chair Colman asked if there were any more questions for the applicant. Hearing none, he asked for the next caller.

John Monger, 424 Monticello Avenue, called regarding the request. My concerns are the ambiguity around the request. I understand that there was an initial request and now there is another request for additional land to be purchased on both sides. When you went to that slide that had the two parcels being purchased, it looks like there is an angle to the right to get to Myers Avenue. If anybody has walked that, they know that the crosswalk is to the left. It appears that you are cutting off the access point to where the crosswalk is to get to Spotswood Elementary School by angling

to the right. Another concern I have is that one of the nice features of Spotswood Elementary School is being able to walk. It could start making it harder for families to walk their kids to school. I understand that both property owners understand the traditions of that alleyway and the walking, but they are not always going to be the property owners. Once the property is sold, it can be impossible for the City to get that back. I hope the City thinks long and hard. I think that tabling the request is a good avenue to go because you do not truly know what you are recommending at this point. I would like to see the parcel be marked to where the neighboring community can see what the alleyway is going to look like after this reduction so that people can make a full decision on it. At this point, we are grasping at smoke and mirrors of what it is going to look like once it is all said and done. I know that both property owners know the tradition, love the tradition, of that walkway, but they are not always going to own that property. Those are my concerns. I would like to see what is actually going to happen before it is pushed through to the next stage.

Chair Colman asked if there were any more questions for Mr. Monger. Hearing none, he asked for the next caller.

Heidi Klim, 418 Monticello Avenue, called regarding the request. I am very close to the walkway. I am concerned also that the Planning Commission is thinking about endorsing a plan that is not concrete. It is a changing thing. We need to see exactly what is being changed and where the borders are going to be so that we can make a good decision about it. It is a decision that if you send an endorsement to City Hall, they will go, oh the Planning Commission endorsed it, and it paves the way or is a set up for it to be quickly passed. It is no harm done to table it and give it a second thought, have some time for the community to see it plotted out, and make it more real and clear to people how that path is going to look. It gives everybody comfort. People feel comfortable when the boundaries are clear, as opposed to, we think it will be this, but we are not sure it will not be that, but we hope it is 14 feet. Let us see what it is, then you can make a conscious and thoughtful decision on the request.

Chair Colman asked if there were any more questions for Ms. Klim. Hearing none, he asked for the next caller. As there were no more callers, he closed the public comment portion of the meeting and opened the matter for discussion.

Commissioner Finnegan said that the crosswalk from the school to the alley is not pointing in the right direction, it takes you to the front yard of 371 Myers Avenue. Is there any possibility to repaint the crosswalk in the right direction to the alley?

Ms. Dang said that it is located at that location to line up with the northeast corner of Myers Avenue and Mountain View Drive near the school, perpendicular to the street, which is the shortest distance that anybody would be crossing the street. It is a good observation that it is skewed with where the existing curb cut is closer to 445 Myers Avenue, but that is why the path would have to be designed or clearance provided so that people can come down that hill and make the turn over to where the crosswalk is located presently.

Commissioner Orndoff said that it seems that there is enough interest for other members of that neighborhood to be involved in this decision. Would there be the possibility of Public Works doing some sort of community meeting or presentation at Spotswood Elementary School and bringing

people in and having discussion among the neighbors, so that we may come to some agreement as to how that they would like it to look.

Ms. Dang said that this is now become a significant project for them to take on and review. They have many other priorities that they might have to address first. Public engagement is important, but the vagueness of our application at this time was to do what was minimally required to figure out what the alignment would be. At this point in time there is no budget or any funds for putting up anything to delineate or enhance the path. With that said, in conversations with the Public Works Planning Manager about this application, she did point out that this could be an application for a Safe Route to School grant or something to that effect. They have not started anything, but now she is seeing through the comments and this discussion, how much interest there is in this area. It has brought it up as a potential future grant application.

Commissioner Whitten said that given the current conditions regarding Covid-19 and large groups, she does not believe it would be possible to have a public meeting.

Chair Colman said that the way that it is anticipated, it would put the children back into the driveway. It is not a sidewalk. It is a shared pedestrian and vehicular path. If the Safe Route to School were to be done with the property right now, the whole path would be outside of the driveway. It would cross the new driveway that is not shown on this image, but it would be outside of the existing driveway.

Commissioner Finnegan said that it looks like there is an outbuilding or shed about two-thirds of the way back from Monticello Avenue that appears to be in the alleyway. Is that what that is?

Ms. Dang said that there is a garage or a shed structure back there. I do not know where the property lines are relative to that building. It may be within the right-of-way. There is a history of that in alleys throughout the City. The aerial photos that we offer you are off by several feet because of the aerial projection and other data. It is not survey data. When Public Works looks at vegetation and other things there, we might be able to identify whether the City would require that person to move their shed. If there is space to get by and it would work, we may not require them to move it.

Commissioner Finnegan said that his main concern is not the shed. The last alley closure request that this body heard was completely overgrown and not traversable. If the next property owner that moves into 374 Monticello Avenue decides to put a fence down the property line, the alley conceptually, technically, might be an alley, but if it is full of vegetation, then it is not traversable. I am not concerned about the applicants. They are supportive of using that for Safe Routes to School. My concern, as is often the concern for the Planning Commission, is not the current occupant who is making the request. It is the next property owner who might decide to do something different and does not like people cutting through their yard. At this point, if there is a motion to approve this, I will vote against it, only because I do not have enough information to make a decision. I think tabling it would be a better move.

Commissioner Whitten addressed Commissioner Finnegan asking do you understand that the 14-foot pathway is preserved?

Commissioner Finnegan said that it is preserved on a GIS system like this. It does not mean that, if I bought that property and I did not like someone cutting through my yard, and I built a fence right on the property line, that fence might be right on the property line, however the path may not be traversable. I want to make sure that, regardless of who the property owner is, that is a walkable path.

Ms. Dang said that it may be that City staff was not aware that there was vegetation that was overgrowing the section that is closest to Monticello Avenue. From my conversations with staff, it appeared to be that way. We will address the cutting back of the vegetation to make sure that the 15 feet is clear.

Chair Colman said that Public Works does not maintain most alleys, like the one Commissioner Finnegan mentioned where we denied closure. Why would this be different? The other concern is that this is a heavily used alley, so trying to reduce it or close it without a definite plan seems premature. If we did have a plan, it would be more straightforward. I feel uncomfortable, too. We need more information. It may not have to be on Public Works shoulders. It may be on the applicant's shoulders. Getting a surveyor involved would be helpful to know where the property lines are and to work with the reports on where the center and edges of that path may be.

Commissioner Byrd said that it sounds like Public Works has not been maintaining the section closer to Myers Avenue, that the applicants have been maintaining that grass. The applicants are being delayed, people in the community are concerned due to the rest of the right-of-way. In that area there is a lot of vegetation. It does not feel that there is 14 feet of width, perhaps two feet or seven feet of width. If you walk through there, you are getting close to a lot of vegetation and then a structure where we do not know exactly where the line is drawn relative to that structure. It seems that the property of that structure, that the right-of-way goes down to two to three feet of width relative to the vegetation on the other side. The applicants' proposals are addressing their section, but the community issue is more the perception due to the other end of the right-of-way. That would lead me to want to table this to find out where these lines actually exist for this right-of-way so that the community will understand that the applicants are not trying to prevent the path. There is not a clear understanding where the other section of the path exists.

Commissioner Whitten said that is a very good analysis of the problem that we are looking at. I would add that I do not think that those two applicants are going to have to pay for the survey of that part of this property. They are not trying to buy all the way to Monticello Avenue. Is that correct?

Ms. Dang said that is correct. They are only responsible for surveying the area that they will be purchasing.

Commissioner Whitten said that this has uncovered a problem that would never have been addressed without their interest in purchasing the property that abuts their property.

Commissioner Finnegan said that is correct. 410 and 374 Monticello Avenue are the two properties that are adjacent to the majority of the alleyway, not the two that are on Myers Avenue.

Commissioner Whitten said that is a Public Works issue to clear that property if we are saying that we want it to be used for a pathway. That has nothing to do with either one of these two property owners. A lot of this information came in late this afternoon. If it is everybody's comfort level to ask for more time, then I think that it is the Planning Commission's responsibility to be direct with what it is that we are asking staff to do.

Chair Colman asked what are we asking staff to do.

Commissioner Whitten said that apart from this application, we are asking for more information about the section of the alley that ends up at Monticello Avenue.

Commissioner Finnegan said the issue that I have is not with the two properties that are making the request, but with the two properties that are on Monticello Avenue. I do not know what it is that staff can do other than get more clear lines as to where exactly it goes.

Chair Colman said that it is our responsibility to look beyond the immediate issue or immediate subject. In the same way as we are looking at how this impacts the children going to school, we need to look at what else is going on here that needs to be addressed. According to GIS, the alleyway seems to be blocked by a shed, potentially, but we do not know that until there is a determination from a surveyor whether that is the case or not. Whose responsibility that is, I do not know. That is a question for staff. If the two property owners that are trying to purchase property from the City platted their property, the surveyor would know whether the line continues on the same way or not. Part of their research would be to tie in those properties with the other properties. I do know that we want to put it on the applicant because their request is relatively straightforward. I am still uncomfortable, even with their request, about where that path is going to be. I agree that it is blocked farther up, but even where we are talking about, where is that path going to be? Is that really the way it should be? It is not just whether the request is clear or their intentions are good, but who is going to own that property later on and will they be as accommodating? In most cases, people just go and build their shed in the middle of the alley or of the right-of-way. This could be the case here at some point, unless there is a defined path as it is on the other side of Monticello Avenue, where there is a paved path. That is clearly a right-of-way for people to walk through. Here it is undefined.

Commissioner Finnegan made a motion to table the request.

Commissioner Whitten seconded the motion. I want to reiterate what I said that we need to give some direction.

Ms. Dang asked what information do you need? Are you asking for the path to be designed on a plat as well as marking the field for your review? If the applicants wish to move this forward, it would be quite some time for you to receive this back.

Commissioner Finnegan said that he does not want to cause additional costs and hassle for the applicants. Would it be possible to get chalk paint and put a line where the actual boundary would be? Photos with chalk paint where the line would be is sufficient for me. I do not want to create a

bunch of hoops for them to jump through. I just do not feel comfortable voting yes or no on this today.

Chair Colman said that the applicants will have to conduct a survey of their properties and the properties that will be acquired. That could be done sooner rather than later. Establishing where those lines are is not a huge cost or a huge burden. It would not be for the applicant, especially if it would make us feel more comfortable saying that we are more comfortable with the path here compared to saying that we do not feel comfortable supporting this. I feel comfortable with the applicant, but we need more information and that would be a delineation of where the path would be and how that would impact access to the crosswalk.

Commissioner Whitten said that typically when people ask for these things, they get their request approved and then they must expend funds for the project. I think it is a big ask on our part to ask a homeowner to hire a surveyor to do that without approval.

Chair Colman said that he disagrees. I work in this field. Homeowners are always asking to mark their property lines. If they are going to acquire more property, they need to determine where their property is and what they are buying. They will have to do it, regardless, and they can do it to anticipate where they are. It is not uncommon, and it is not a huge cost. I would guess that it is the same cost as their request.

Commissioner Byrd said that the applicant for property 371 Myers Avenue has the most interest in needing to know where the line is relative that tree line of property 410 Monticello Avenue. It appears from the image that most of the path will be relative to their property, not the original applicant on the other side. It appears that to have someone put together that information of where the path is and where the limits of their property are, will help them determine and negotiate with the original applicant and the City on how much land each could obtain.

Commissioner Orndoff said that we have a motion on the floor that has been properly seconded and we need to take a vote.

Chair Colman said that it sounds like we cannot take a vote until we have a discussion on conditions or requests before the vote, otherwise we are tabling an item without any direction.

Commissioner Finnegan said that the direction is that we need more information. We need to know exactly where the lines are.

Ms. Dang clarified that the commissioners want to know where the existing property boundaries are, as well as, where the center or the edges of the future path would be. That will take some work and it will take some time before this item returns to you. It will not come back next month.

All members voted in favor of tabling the request (7-0). The item is tabled until the applicant can return with the information requested.

**EXTRACT FROM MINUTES OF HARRISONBURG PLANNING COMMISSION
MEETING HELD ON: March 10, 2021**

Chair Finnegan read the request and asked staff to review.

Ms. Dang said that the undeveloped public alley right-of-way is adjacent to property that the Comprehensive Plan designates as Low Density Residential. These areas consist of single-family detached dwellings in and around well-established neighborhoods with a target density of around 4 dwelling units per acre. The low density residential areas are designed to maintain the character of existing neighborhoods. It should be understood that established neighborhoods in this designation could already be above 4 dwelling units per acre.

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

- Site: Undeveloped public right-of-way adjacent to tax map parcel 26-V-1, 27-T-1, and 26-S-15, zoned R-1
- North: Single-family detached dwellings, zoned R-1
- East: Across Myers Avenue, single-family detached dwellings and Spotswood Elementary School, zoned R-1 and R-2
- South: Single-family detached dwellings, zoned R-1
- West: Continuation of the undeveloped public right-of-way to Monticello Avenue and single-family detached dwellings, zoned R-1

The applicants' original requests were presented to Planning Commission on August 12, 2020. Planning Commission tabled the requests (7-0) and requested applicants and staff to provide information on where the existing property boundaries are, as well as, where the center or the edges of the future path would be located. Provided as an attachment is the Extract of Minutes from the August 12, 2020 meeting.

Since the August 2020 Planning Commission meeting, staff from the Departments of Public Works and Community Development worked to survey the undeveloped right-of-way between Myers Avenue and Monticello Avenue and to design the future trail project. Provided as an attachment is "Exhibit D. 60% Engineering Plans for Mountain View Drive Trail." Sixty-percent plans represent enough engineering design to confirm that the project can be constructed and that the plans and specifications will meet the objectives of the project without significant design changes. Considering the expected volume of pedestrian and bicyclist traffic on this trail, existing trees near Monticello Avenue that staff wishes to preserve, a shed that encroaches into the right-of-way, and utility constraints at both ends of the trail, staff determined that a 5-foot wide gravel trail between Myers Avenue and Monticello Avenue was appropriate. Know that in 1995, a 20-foot portion of the right-of-way adjacent to and for the entire length of the property at 410 Monticello Avenue (tax map parcel 26-S-15) was approved for closure and the remaining 15-foot in width undeveloped right-of-way was reserved as a pedestrian access. While the section of undeveloped right-of-way between 374 and 410 Monticello Avenue is only 15-feet wide, staff has proposed to reserve 20-feet of width of right-of-way between 445 Myers Avenue (26-V-1) and 371 Myers Avenue (27-T-1) should the City later desire to construct a wider 10-foot wide path and require additional width for construction and maintenance. At this time, the City has no plans or schedule for constructing any trail or path at this location.

The Department of Public Utilities and Columbia Gas of Virginia have commented that there is a public water main and gas main within the undeveloped public right-of-way. The approximate locations of the public water main and gas main relative to the area the applicants desire to close are illustrated in "Exhibit A. Right-of-Way Exhibit." It is believed that the water main may extend further west before turning southbound. If the City approves the closure of the alley, the exact location of the water main and gas mains will be determined and easements would need to be established for each utility.

The applicants are requesting to close a total of +/- 2,536 square feet of an undeveloped public right-of-way as illustrated in "Exhibit A. Right-of-Way Exhibit." Should City Council vote to approve the closing of portions of the public street right-of-way (first reading at City Council), the applicants will be responsible for hiring a surveyor to prepare a plat in order for the City Attorney to draft the ordinance to finalize the closure (second reading). The plat shall illustrate the location of the water main and gas main within the undeveloped right-of-way and shall show the location in which easements shall be reserved by the City, if applicable. Lastly, the plat shall demonstrate how the closed undeveloped public right-of-way will be divided among the applicant's existing parcel(s).

With the necessary width and easements reserved, staff recommends approval of the closing request for the undeveloped public right-of-way.

Shown on Exhibit A is +/- 275 sq. ft. section of property at the southeast corner of tax map parcel 27-T-1 (371 Myers Avenue) that the owner has expressed willingness to sell to the City, which City staff desires obtaining should a 10-foot wide path be desired in the future. While the sale of +/- 275 sq. ft. should not be considered as part of the decision to approve or deny the request to close portions of the undeveloped street right-of-way, when the price for purchasing +/- 1,288 sq. ft. from the City is determined, the City will consider an exchange of +/- 275 sq. ft. of property and deduct the cost of +/- 275 sq. ft. from the total cost of purchasing the +/- 1,288 sq. ft.

During the August 2020 Planning Commission meeting, Commissioners expressed concern that vegetation is encroaching into the section of undeveloped right-of-way closest to Monticello Avenue. The Department of Public Works has clarified that it is their policy not to maintain undeveloped rights-of-ways or alleys where there is no public facility. While a wood chipped path exists in this area, it was not constructed and is not maintained by the City. Therefore, neither the City or adjacent property owners are responsible for keeping the undeveloped right-of-way clear of vegetation until a trail or path is constructed by the City. Staff with the Department of Public Works has discussed the possibility of a Safe Routes to School Transportation Alternatives Program grant application.

Lastly, on March 3, 2021, the City Surveyor flagged the location of existing and proposed right-of-way and painted the location of the centerline of the proposed 5-foot wide path. Planning Commissioners and members of the public are encouraged to visit the site to see the flagging and paint. Photos of the area taken on March 3, 2021 are provided as Exhibit C.

Chair Finnegan said that the visual markers were helpful.

Chair Finnegan asked if there were any questions for staff. Hearing none, he noted this item is not a public hearing; however, the Planning Commission will allow the applicants, and then the public, to speak to the requests, and invited the applicants to speak to their request.

Christopher Versen, 445 Myers Avenue, called to speak to his request. I have nothing to add to what City staff has done. They put together a really nice package. If you have any questions for me, I would be happy to answer.

Chair Finnegan asked if he wanted to speak to the concerns from the neighbors.

Mr. Versen said once the flags went up and everyone was able to see how clearly the path is laid out, it has been the opposite of concerns. Everyone I have talked to is happy that is going clearly marked for use.

Tracy Stover, called on behalf of her father who lives at 410 Monticello Avenue in opposition to the request. The path that you are talking about goes within about a foot of my father's property, as it has been measured around the tree. As a property owner, he is very worried about the impact that a path that is within a foot of his driveway will have on his property. It cannot help but impact in a negative way. As you all mentioned, there are two old, healthy trees that are there. I appreciate the fact that they are going to try to go around. They are very big trees with very big roots. I find it hard to imagine that they can do that safely. You are talking about four inches of gravel. That four inches of gravel is going to end up elsewhere on property that is being mowed and in driveways. Who does the upkeep with this? It has been an undeveloped right of way for citizens. There have been no issues with this. None. Why now, after 30 years, does gravel need to be placed there to devalue our property? I assume we are going to have higher traffic and dogs. I would imagine that you, as property owners, would not appreciate having this within a foot of your property. I am opposed to this. He is opposed to this. I do not see the reason for this change. It is being used properly right now, undeveloped, with no issues.

Jeff Ferguson, 371 Myers Avenue, called in support of his request. I think that staff did a very good job with the presentation. I am available for any questions.

Heidi Klin, 418 Monticello Ave, called regarding the request. I sat through this marathon of a meeting. So many issues that were brought forward tonight were about density, height, closeness, and how tight spaces are. That brings forward to me how important these few green spaces that we have left in this town are. Instead of being less valuable, it tells me how more valuable they are. That little walking path between Monticello Avenue and Myers Avenue is this little quiet harbor for children and people who walk their dogs to have a respite from the paved world that is around us. My concerns are that a five foot wide path is not very wide. If I were a child riding a bike to school, it would be tight. If I had a child in a stroller and I was walking my older children to school, it would be tight. Could we go nine? Also, gravel is harsh. It is a form of pavement. The City would be better served to use mulch for the path. Mulch is so much more organic, quiet. It does not seem as managed. I also think that mulch might be easier to spread and maintain than gravel. If gravel spreads out into people's yards it could get caught in lawn mowers when people are mowing their lawns and cause damage. Also, children might pick up gravel and throw it. Mulch

would be so much kinder. I would like a little bit wider than five feet and I would like mulch. I think that keeping the trees, I applaud that. We can walk around them and we can narrow the path at the Monticello Avenue end to keep the trees. People need green space. I think that path makes our neighborhood safer.

Lindsey Monger, 424 Monticello Ave, called regarding the request. I think that one of the applicants mentioned that the was nice that the pathway was clearly marked now, with the dotted lines and the white flags. Except for someone that uses the pathway, I have noticed very quickly that people are taking the flags down. To comment that it is being well received and everybody is for it, I have trouble understanding that or feeling that it is the truth when the flags have been taken down. I do not believe that the flags would be taken down if the neighbors were potentially in agreement with where the flags were going. I think Mr. Ferguson is the other neighbor who called in as the other applicant. I do not feel that there has been any discussion about the driveway that was put on the land that they did not own and what happens to that driveway. It is a little bit confusing to me. I feel like it has not been mentioned at all. I also agree with the other neighbor that called, gravel seems like a very odd choice. There was a comment that it was not set in stone, but there are so many other materials to preserve the nature around the path. The path right now is being used as it is supposed to. People walk through there, but there are driveways, detached storage sheds and all kinds of things. The path is not marked but people do use it. It is also concerning and confusing that you are talking about selling portions of the land to the homeowners and then in the same breath you are talking about widening. Why would you sell some of the path then talk about trying to widen it or make sure that it has enough space. It seems logical that you would just keep it. Those are my comments. I appreciate your time.

William Lilly, 378 Monticello Ave, called regarding the request. The path is going to be within ten feet of our home. My house is closer to where the path is going to be than any other house. The gravel is going to run down. Thunderstorms are going to wash that gravel into my yard and into the other side's yard. You said four inches over the roots of the trees. It is going to bring it up four inches above where my driveway is. Gravity is going to pull it down into the driveway. I do not understand why, after so long, anything has to happen at all. The traffic on the path is annoying to us as homeowners as it is. When you add the clear, defined pathway it is going to increase the traffic. Currently, as it sits, only the residents of the neighborhood know about it. Children go back and forth to school and that is fine. When you put in a clearly defined path, any passersby through the area see it and take it. I do not understand why, if the reason for the path is for school safety, then why a clear a path needs to happen after so long of it working the way it is. I hope you understand what it would be like to live here, if it was you. Would you want a path within feet of your house?

Mr. Ferguson called back into the meeting to respond to some of the previous phone calls. First of all, concerning our driveway, we met with a person from the City and had permission to put the driveway in to connect it to the asphalt driveway that was their previously, the partial right of way that the City had put in prior to our moving here 23 years ago. We did get permission from the City to do that. I am also listening to the comments about the gravel. I would concur with that. Perhaps there is another alternative, such as the woodchips rather than gravel. I think some very valid remarks were made. Even now, with the mulch that is there, when we mow, we do our best to avoid it but it has a way of scattering. I can see where that could be a problem. Also, for the

kids, if they were running and trip and skin their knees. I would ask you to take look at that. I did want to address the driveway situation. We did not just go ahead and do that without getting permission from the City. I can give the name of the individual if you need it. We did get permission before we did that.

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

Chair Finnegan said that the Planning Commission has heard from the neighbors and the applicants. There seems to be a common thread among the people who are opposed and the people who want it do not love the gravel idea. Could staff speak to that?

Ms. Dang said that the item of discussion today is about the closure of portions of the undeveloped right of way and whether you would recommend approval or denial of that. With regard to gravel or what type surface it is or what width it will be, I would encourage the members of the public to contact Public Works. They would be the ones leading the community engagements or conversations with the public about the design of the trail. I would encourage them to reach out to Erin Yancey at the Public Works Department. She has spoken with some neighbors already, in the last week or so. This project for the trail is not funded. We do not have a schedule for it. It is very conceptual. Staff developed a 60% plan at the request of Planning Commission to ensure that the City did not sell property that we would end up using. We are confident that what we have proposed to keep would accommodate either a five foot path or a ten foot path in the future, whichever option might be chosen.

Commissioner Whitten said that she remembers this conversation very well. I remember saying that we are creating something that is going to spin out of control. That is exactly what has happened. I do not have a problem with the work that has been done towards creating a path, but the path is not the point of why we are here. The point of why we are here is that these homeowners wanted to purchase part of this property. We have ensured, while upsetting an entire neighborhood, that there is plenty of land to meet the need of getting kids or people with dogs across that small area. I do not know what the expenditure is to this point, but I know that Public Works has no plan for this trail. They do not have any plan. They do not have any money. I spoke with Ms. Yancey this afternoon because when I saw gravel, I thought the same way as everyone else who has commented. Why in the world would you feel like you need to put gravel here. She said that was because that is what we would use in many cases. It is no way what we are recommending. We do not have a budget for it. We need to get back to why we are here to decide whether this property should be sold or not. I am favor of it, just like I was months ago when we dealt with it. It is not going to hurt anybody, and it is not going to take enough land away that we lose that access.

Commissioner Byrd said that as he was listening, he was reviewing the packet. It was clearly reported to us that the City has no plan or a schedule for construction of any trail or path at this location. For the public listening, this request is not about a trail. The concern is closing portions of the current right of way. Those flags were to clarify to all parties concerns where the current right of way existed so that we knew, physically, in the real world, what we were discussing was to be purchased. That is the reason for all these markers. All these details about trails, I am not sure where all the came from, even though I enjoyed reading those things. That is not what this

was concerned about, nor was that what all the little flags were for. They were for people like me to come over and see where the property is, where the new property line would be, where the right of way is. That being said, I would be in favor of this particular purchase.

Commissioner Byrd moved to recommend approval of closing portions of the undeveloped right of way.

Commissioner Whitten seconded the motion.

Chair Finnegan called for a roll call vote.

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

The motion to recommend approval of closing portions of the undeveloped right of way passed (7-0). The recommendation will move forward to City Council on April 13, 2021.