



City of Harrisonburg

City Hall
409 South Main Street
Harrisonburg, VA 22801

Meeting Minutes - Final Planning Commission

Wednesday, August 10, 2022

6:00 PM

Council Chambers

1. Call To Order

The Harrisonburg Planning Commission held its regular meeting on Wednesday, August 10, 2022, at 6:00 p.m. in the City Council Chambers, 409 South Main Street.

Present 7 - Brent Finnegan, Jim Orndoff, Adriel Byrd, Kathy Whitten, Donna Armstrong, Laura Dent, and Valerie Washington

2. Roll Call/Determination of Quorum

Members present: Brent Finnegan; Adriel Byrd; Kathy Whitten; Valerie Washington; Dr. Donna Armstrong; Laura Dent; and Jim Orndoff.

Also present: Thanh Dang, Assistant Director of Community Development; Adam Fletcher, Director of Community Development; and Nyrma Soffel, Office Manager/Secretary.

3. Approval of Minutes

Chair Finnegan called the meeting to order and said that there was a quorum with all members present and asked if there were any corrections, comments or a motion regarding the July 13, 2022 Planning Commission minutes.

Commissioner Byrd moved to approve the minutes.

Commissioner Whitten seconded the motion

All members voted in favor of approving the July 13, 2022 Planning Commission minutes.

All members voted in favor of approving the July 13, 2022 Planning Commission minutes.

3.a. Minutes from the July 13, 2022 Planning Commission meeting

4. New Business - Public Hearings

Chair Finnegan noted that several scheduled items that were advertised for this meeting have been tabled, including a request for Wilson Avenue, an alley closure for Effinger Street, and the residential portion of the North Dogwood Drive request. These will not be heard tonight.

4.a. Consider approving a request from New Venture Partners LLC to rezone portions of two parcels addressed as 745 North Dogwood Drive and 860 Waterman Drive

Chair Finnegan read the request and asked staff to review.

Ms. Dang said the Comprehensive Plan designates this site as Neighborhood Residential. These 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: Undeveloped land, zoned R-1
North: Industrial uses, zoned M-1
East: Across Rockingham Drive shared use path, undeveloped property, zoned R-5C
South: Undeveloped property, zoned R-1
West: Self-storage facility, zoned M-1

The applicant is requesting to rezone a +/- 0.36-acre site from R-1, Single Family Residential District to M-1C, General Industrial District Conditional. If the request is approved, the applicant intends to expand the existing self-storage facility on the adjacent property identified as tax map parcel 38-E-7 and addressed as 820 Waterman Drive.

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

1. At the time of development, along the property boundary adjacent to the North Dogwood Drive right-of-way, construct a 5 ft tall fence and provide a 10-ft wide landscaping buffer with trees or vegetation with the intent to form a dense screen. The installed vegetation shall be 6-ft in height at the time of planting and installed at a distance not greater than 7-ft on center. Both the fence and landscaping shall be maintained by the property owner.

While staff encouraged the applicant to consider conserving mature trees on the private property, the applicant responded that due to the steep slope of the site and grading that will be necessary, it would be difficult for them to conserve trees. The applicant has offered the above proffer to provide vegetative screening. This is in addition to the existing vegetation and trees within the public street right-of-way of the shared use path.

While the Comprehensive Plan designates this site as Neighborhood Residential and designates areas to the west fronting along Waterman Drive as Commercial, staff believes the request to rezone this small, triangular area to M-1 to expand the self-storage facility along with the submitted screening proffer is reasonable.

Staff recommends approval of the rezoning from R-1 to M-1C.

As noted above, the original application and public notices included a request to rezone an adjacent +/- 0.99-acre area from R-1 to R-5C, High Density Residential District Conditional. The applicant had first approached staff with the idea to rezone +/- 0.99-acres to R-5C and +/- 0.36-acres to M-1 in January 2022 and submitted an application in early July anticipating for the request to be included with the August 10, 2022 Planning Commission meeting agenda. At staff's request, the applicant has since tabled this portion of their request.

The reasoning for staff's requested tabling of the residential component of the applicant's property is due to a street connectivity study that is ongoing. Specifically, in January 2022, the City was awarded a technical assistance grant from the Virginia Office of Intermodal Planning and Investment for a "Street Connectivity Evaluation and Road Diet Multimodal Evaluation" (Street Connectivity Study). The Department of Public Works and consultants began the Street Connectivity Study in March 2022 and it is not anticipated to be completed until the end of August 2022.

Draft study results include a recommendation to extend 3rd Street to the west. While the final terminus to the west is not yet fully conceptualized, there appears to be opportunity to plan for a future street that could extend into Rockingham County and provide connectivity between existing and future neighborhoods. If the 3rd Street extension to the west is included as a recommendation in the final Street Connectivity Study, it would be included in staff's proposal of amendments to the Comprehensive Plan's Street Improvement Plan, which is anticipated to occur in late 2022 or early 2023.

To this end, staff requested the applicant table their request to rezone the +/- 0.99-acre site to R-5C until staff has a better understanding of what recommendations might be made in the Street Connectivity Study and the Street Improvement Plan.

Chair Finnegan asked if there were any questions for staff.

Councilmember Dent said what I noticed on the map is that on paper at least Rockingham Drive could continue through the property that is proposed for rezoning. Are we letting go the possibility of continuing Rockingham Drive?

Ms. Dang asked you are talking about between Third Street and Chicago Avenue?

Councilmember Dent said between Second Street and up to Rockingham Drive.

Ms. Dang said at this time I do not think that there is a proposal or potential for that connection. In this map, the white area designates City right-of-way, properties that the City owns. At some time in the past, it appears that the City vacated the right-of-way that is Rockingham Drive extended, as well as this piece that would appear to be Third Street extended.

Councilmember Dent said so the part that is in yellow, as well as the part that could be the

connection to Rockingham Drive has already been vacated by the City.

Ms. Dang said that is correct. It belongs to the applicant that is making this request.

Commissioner Byrd said the study that you are waiting on is to decide if the City would want to reacquire that short piece that would reconnect Third Street to Rockingham Drive?

Ms. Dang said potentially. I do not want to commit and say how that would happen. The idea is to identify where additional street connections are needed, particularly as we look at walkability, efficient transportation for all modes of transportation, and increasing density or development in a community where you would need to have more connections.

Commissioner Whitten asked how many storage units are on that site now?

Ms. Dang said I do not know.

Commissioner Whitten asked does this area flood?

Ms. Dang said I do not know. They applicant may be able to answer.

Commissioner Armstrong asked what school is nearby?

Ms. Dang said Waterman Elementary School.

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

Gil Colman, Colman Engineering, and Gary Meyers, New Venture Partners, LLC, came forward to speak to the request.

Mr. Colman said there were some questions regarding the property that the City owns or that the applicant owns. The applicant owns that property, but during the meeting with staff, Public Works staff mentioned the fact that they have that study. We could have moved forward and said that we are still going to propose this but decided to wait and see what happens with that. We agreed with staff that it was a good idea to wait. We were looking to rezone a portion to be industrial to expand the mini-storage and the other portion to be residential. We wanted to increase the density to be able to make it feasible because as you saw, if you visited the site, it is very steep and difficult to access. The triangle that we are requesting to rezone as industrial becomes unusable to try to put anything back there because trying to bring that drive takes a big chunk of that. If you put a building there, you still have to provide accessibility and parking and other things. It is not possible. It would be captured between the slope and the mini-storages. It is not ideal. It works better for us, and for the City, to cut that side off and add it to the industrial part. Industrial property has decreased for the City. There is a trade-off. If we can get more

houses, then that is good also. In this case, it is good to provide additional space for the mini-storages.

There was a question regarding the trees. I do not know if you were able to identify where the property line was when you did the site visit. It is further down in that slope, which means that a lot of the trees that are there are already City trees and will not be affected. The property itself, technically, he can take the trees down now if he needed to because nothing keeps him from doing that. With this request, any tree that is going to be taken down, we are proffering that we will put back trees to provide a screening and compensate for the trees coming down. It will provide a better situation than it could be if it was just cleared without any screening. That is part of the proffers that we are offering.

Mr. Meyers addressed the flooding question. Three to four years ago we had that summer where it seemed to rain about every other day, this summer, too. I remember driving on Waterman Drive where there was eight to ten inches of standing water on the street at its worst. The level of that first building, our lowest building, is about three or four feet above that. We have never seen anything past the entrance as far as flooding. The property goes uphill from Waterman, so the everything would flow out to the front.

Chair Finnegan said the quarry is on the other side of Waterman Drive. You cannot see it from ground level because of the trees.

Commissioner Armstrong said I did not see the other side. I only saw from the North Dogwood Drive end of it. If you cut into it, even the steep portion, will it not increase the potential for erosion?

Mr. Colman said those things have to be addressed when you submit the comprehensive site plan. You cannot just cause erosion without taking care of it. The site where the mini-storages are is not as steep coming out because it stops before the slope. The one where we are proposing the other development, that is extremely steep. That will change. We would have a flatter grade in front of it and then exposed basements in the back. We are not here to talk about that one. In terms of the erosion, it is a fact that any land disturbance could lead to erosion if not taken care of as it needs to be. In this case, it would be the same.

Commissioner Armstrong said I am asking you about this situation, not any situation.

Mr. Colman said that is what I am saying. This situation is like any other. That needs to be taken care of. Legally...

Commissioner Armstrong asked are you saying that there is a potential for erosion there?

Mr. Colman said there is a potential for erosion with any land disturbance.

Commissioner Armstrong said not if it is flat.

Mr. Colman said yes if it is flat. A potential for erosion can exist anywhere as long as you have runoff going through it. That is the case regardless. Any time you disturb land, it has to be seeded. It has to be stabilized. That is a requirement.

Commissioner Armstrong said I am hearing a yes from you.

Mr. Colman said yes, absolutely. I like to give the bigger context. Yes, that is true. Yes, from the standpoint that it has to be stabilized. Erosion could occur anywhere.

Chair Finnegan said I am sure you have done the market studies on building up instead of up the hill, making taller storage units. I have seen double decker storage units elsewhere. Is that something that was considered here to preserve land?

Mr. Meyers said we looked into it, but as soon as you go several stories or climate control, it puts us in a different market. We are comfortable in the market we are in right now, just a simple one-level drive-up storage unit.

Commissioner Whitten asked how many units are there currently? How many will you add?

Mr. Meyers said we have 146 separate units in four buildings. On the additional land that we can do by-right... We probably can do another 320, including the small triangle. The triangle might be 10 or 15 percent of that.

Commissioner Whitten said then you would be maxed out.

Mr. Meyers said yes, that would be the whole property. We are not doing that all at once. We are breaking it down a little bit.

Commissioner Armstrong said, to clarify, the triangle piece that we are discussing would only be an additional 32 units.

Mr. Meyers said I have not counted the ten to fifteen percent. I do not know exactly what crosses that line. We are talking about a small percentage of the total buildout. The rest is already zoned correctly for storage.

Chair Finnegan asked if there were any questions for the applicant. Hearing none, he asked if there was anyone in the room or on the phone wishing to speak to the request. Hearing none, he closed the public hearing and opened the matter for discussion.

Commissioner Whitten asked when we accept a proffer with trees, what if the trees die? Do we monitor that situation?

Ms. Dang said that as part of our proactive zoning, when we resume it, or if we get a complaint, typical code enforcement, yes, they are to maintain those in perpetuity, unless they were to rezone and amend their proffers.

Councilmember Dent said I see on the aerial photograph, the part where Rockingham Drive stops, I am trying to get a hold of where the City still owns it. If the City continued Third Street, would it be to the end of Rockingham Drive? If you continued Third Street straight across where that R-1 is on the yellow part, where it hooks up with Rockingham Drive, that would be what the City still owns so that connectivity would work?

Ms. Dang said I cannot say I can speak to the exact alignment. The connectivity study is studying where connections are need, then it will look at recommendations. There is a period of determining feasibility, including slopes, property and other things. We are not that far along yet. As I understand it, and from reviewing the draft, there is a recognition that there is a need. Whether it can be met or not, there is a need for some kind of extension to the west.

Councilmember Dent said it is not really relevant to this discussion, though, if they already own the triangle part. It is more in the tabled part if the residential comes up.

Ms. Dang said, to be clear, they own that piece also.

Commissioner Byrd said I think the discussion trying to understand where future roads are going to be, is that the other side of Rockingham Drive would officially be a dead end.

Chair Finnegan said Rockingham Drive already is a dead end.

Commissioner Byrd said what I am saying is that, if someone builds a building there, we are not going to think about right-of-way.

Ms. Dang said while the City may have negotiated the removal of buildings and purchasing property, it would be a high barrier to overcome. What you are speculating is reasonable.

Commissioner Whitten moved to approve the rezoning request.

Councilmember Dent seconded the motion.

Chair Finnegan said I will probably vote for this. I do not love it. I do not love the idea of moving trees to put storage, but also this is what this site is. It is one triangle of land. I will probably vote for it.

Commissioner Armstrong said we are talking about a rezoning here. We are doing a lot of spot rezoning. To me a spot rezoning should improve the neighborhood. I do not see this doing that. It

is only a third of an acre. Those issues of drainage and erosion, and we have a treed third of an acre that might be able to carry 32 additional units. I do not find it a compelling argument or a real improvement to this neighborhood to rezone this spot. I will vote no for it.

Commissioner Byrd said this area is currently zoned residential. It is highly unfeasible for it to ever be residential and therefore its zoning, the City would be viewing as permanently make it park, green lands, without declaring it to be so. Having this zoned in a way that does not allow for anything to be built there is not reasonable. Odd-shaped parcels should either have a particular zoning or be rezoned to something that someone can actually use and not have these arbitrary zonings. I would be likely to vote in favor of this.

Chair Finnegan called for a roll call vote.

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

The motion to recommend approval of the rezoning request passed (6-1). The recommendation will move forward to City Council on September 13, 2022.

A motion was made by Whitten, seconded by Dent, that this PH-Rezoning be recommended for approval to City Council, due back on 9/13/2022. The motion carried with a recorded roll call vote taken as follows:

Yes: 6 - Finnegan, Orndoff, Byrd, Whitten, Dent and Washington

No: 1 - Armstrong

4.b. Consider approving ordinance amendments pertaining to Homestays and Short-Term Rentals - Section 10-3-24 of the Harrisonburg City Code

Chair Finnegan read the request and asked staff to review.

Mr. Fletcher said in March 2019, the City adopted regulations associated with short-term transient lodging uses commonly referred to as short-term rentals (STRs) or "Airbnbs." Prior to March 2019, these operations, unless previously approved by the City as a bed and breakfast, had been illegal in the City. A few months later in July 2019, the City made amendments to the regulations associated with STR registration requirements as well as to the penalties section associated with violations to the regulations.

After the City had approved many STR applications, in the fall of 2019 Planning Commission decided that the STR regulations should be reviewed and to consider making amendments. After

two Planning Commission worksessions, the City, in September 2020, adopted amendments to the STR regulations, which, among other things, created the by right “homestay” use.

In total, there have been 30 approved STR SUP applications and 17 issued by right homestay permissions. (Note: Since September 2020, six STR SUP applications have been approved and are accounted for in the 30 total approvals.)

Since the 2020-amendments, staff has observed the need for additional modifications for updates to the code and to adjust details of the regulations so that the original intent for operators to maintain the dwelling in which a homestay or short-term rental occurs is the primary residence of the operator.

Staff is proposing to modify the title of Article DD and to amend three sections of the Zoning Ordinance. All modifications are associated with regulations for homestays and short-term rentals.

First, staff would like to amend Article DD by adding “homestays” to the name of the title description. This amendment should have occurred when the homestay use was added to the Zoning Ordinance in September 2020. The amendment is shown as follows:

Article DD. HOMESTAYS AND SHORT-TERM RENTALS

Secondly, staff would like to modify Section 10-3-24 Definitions by deleting the reference to “Bed and breakfast facilities” from the Zoning Ordinance (as staff no longer believes this reference is necessary) and then by modifying the definitions of both “Homestay” and “Short-term rental” to clarify what is meant for each use. The modifications are shown below:

~~*Bed and breakfast facilities:* See “short-term rental.”~~

Homestay: In a single-family detached, duplex, or townhouse dwelling unit, the provision of ~~a~~ the dwelling unit ~~guest room~~ or an accommodation space within the dwelling unit ~~principle building~~ that is suitable or intended for transient occupancy for dwelling, sleeping, or lodging purposes and is offered in exchange for a charge for the occupancy.

Short-term rental: The provision of a dwelling unit, an accessory building, or an accommodation space within either building ~~a guest room or accommodation space within the dwelling unit, or any accessory building~~ that is suitable or intended for transient occupancy for dwelling, sleeping, or lodging purposes and is offered in exchange for a charge for the occupancy.

The next amendment is to Section 10-3-25.1, which is associated with off-street bicycle parking regulations. This modification would simply eliminate the reference to “bed and breakfast facilities” and to replace it with “homestays and short-term rentals.” (Homestays and STRs should have been added to this section during previous amendments.) The regulation remains the same, which

is that off-street bicycle spaces are not required for either use. The amendment is shown below: (Note: For brevity, rather than displaying the entire table, only the part of the table associated with the amendment is shown.)

(3) *Bicycle parking space requirements by use:*

Use Parking Requirement

Hotels, motels, and similar transient housing 4 spaces minimum (~~Bed and breakfast facilities~~ Homestays and short-term rentals have no minimum requirement)

The last section to be modified includes amending Section 10-3-205 (2), which is part of the General Regulations section for both homestay and short-term rental uses. The amendment is shown below:

Sec. 10-3-205. General Regulations

(2) Operators shall maintain the ~~property~~ dwelling as their primary residence, as indicated on a state-issued license or identification card or other documentation deemed acceptable by the Zoning Administrator.

As shown, the amendments have two separate components. With regard to the second component, the modification provides additional flexibility to potential applicants by allowing other types of documentation other than a state-issued license or identification card be submitted to confirm the intended dwelling, for either a homestay or STR, is the applicant's primary residence.

Regarding the first component, by exchanging the word "property" for "dwelling" this eliminates the ability for an operator, who resides onsite and where there might be more than one dwelling in a structure or more than one dwelling in separate buildings on the property (i.e., a duplex or a triplex or two separate single family detached dwellings on one property) from renting dwelling units that are not their primary residence as a homestay or STR.

For reference, there have been seven STRs approved allowing a property owner to have one dwelling unit be the operator's primary residence and then to have a second dwelling unit on the same property be used for transient lodging. The seven examples include:

- 1451 Hillcrest Drive (Park View) (approved in June 2019), which is a duplex,
- 981 Summit Avenue (approved in June 2019), which is a duplex,
- 957 Summit Avenue (approved in July 2019), which is a duplex,
- 845 College Avenue (approved in July 2019), which has two dwellings in separate structures,
- 168 Pleasant Hill Road (approved in August 2019), which is a duplex,
- 111 Campbell Street (approved in August 2019), which has two dwellings in separate structures, and
- 217 Franklin Street (approved in February 2022), which has two dwellings in separate

structures.

Internally, the STR review for 217 Franklin Street sparked debate among staff as to a potential problem with the existing use of the term “property” (rather than “dwelling”) and we had considered proposing a version of the amendment discussed herein earlier this year in March. Ultimately, a homestay annual registration sparked further debate, forcing staff to decide about whether one unit of a duplex, where both duplex units are on the same parcel, could be used as a homestay transient lodging operation. (Note: It was determined that the application must be approved given the use of the term “property.”). In researching information to help staff make a determination during the homestay scenario noted above, and in providing additional support for the amendments proposed herein, staff reviewed the PC worksession minutes from October 29, 2019, where on page 3 of the minutes, it is noted that “[t]he group agreed that for homestays the dwelling should be the operator’s primary residence” (emphasis added). And then later that “[c]ommissioners agreed that both by right homestays and STR SUPs should require that the dwelling be the operator’s primary residence and that if the operator is not the property owner, then the operator must be present during the lodging period” (emphasis added). Unfortunately, at this time, is unclear whether the term “property” was used as a universal term to include “dwelling” or whether “property” was erroneously used instead of “dwelling.”

In all, staff believes the proposed amendments will provide further clarification and better implementation for the intent of the homestay and short-term rental regulations and supports approving all of the discussed modifications.

I want to go back to Section 10-3-24 and to focus on the definition of “short-term rental.” If approved, it would state that the provision of a dwelling unit, an accessory building, or an accommodation space within either building could be used for transient occupancy. I want to clarify that when we use the term “accessory building” it is not an “accessory dwelling.” I think casually the public might consider an accessory building that might be a dwelling would be permissible, but as we use the term accessory building in the Zoning Ordinance, it is not a dwelling, it is simply an accessory structure on the site. It could be a detached garage, it could be a building that you erect on your property to be a living space, a room, but it is not a full on dwelling. It cannot have a full kitchen and it cannot be a dwelling space or an abode for someone.

Chair Finnegan asked if there were any questions for staff.

Chair Finnegan said there are a lot of houses on the north end of town, acquired in one of the last annexations that happened, where there are a lot of basement apartments that are non-conforming. This does not really apply to them because those are part of the dwelling unit or it is just the same structure? I understand an accessory dwelling unit, granny flat, whatever you want to call it in the back. That is easy for me to understand. There are a lot of houses, particularly in the Parkview neighborhood that have these basement apartments.

Mr. Fletcher said it is not an easy answer because there are many different scenarios of how those

spaces came to be. It is great that you gave this example of the basement apartment. What is that space? Is it a separate dwelling space where you cannot get from unit to another? Or can you go to the basement door, open it up, go downstairs and it happens to be another living space downstairs. I do not know that I can give you a straightforward answer because we have to have these conversations when these scenarios come up. What is the structure? What is the space? If it truly is a separate dwelling unit, the Code amendments we are talking about this evening would prevent a person who resides in the structure from renting the second dwelling unit as a transient operation. If it is not a second dwelling unit and it happens to be a space with a kitchenette, free-flowing, completely open to the structure, then it is a possibility that they could. We may even run into scenarios where people have a space like that, have traditionally used a basement area as a second dwelling, with an understanding that they do not go into each other's spaces. We may request that they remove the stove facility which often times is the determining factor about whether or not it is a separate dwelling. There are different scenarios.

Commissioner Whitten said you talk about kitchens. What about bathrooms?

Mr. Fletcher said typically, from a building codes perspective, bathroom spaces is not one of those things that makes it a dwelling space. Examples are all across the City where someone may have renovated the second floor of a detached garage into a living space with a bathroom. Oftentimes it is the kitchen that makes that determining factor. The terminology that is used in the building code is "sanitary cooking facilities."

Commissioner Whitten said that is weird because STR folks typically are not planning on doing a lot of cooking anyway. I think kitchens is immaterial to all of this. If you had enough facility to cook and you have a bathroom, I think managing accessory buildings in backyards in a college town could be an enforcement nightmare.

Mr. Fletcher said remember that a Homestay must be in the principal building and any time there is an accessory building, that is not a dwelling. If someone wants to use it as a STR, they must come and get a SUP.

Commissioner Whitten said I still think it is going to be an enforcement nightmare.

Mr. Fletcher said this does not change this in any way. If I am understanding your concern, the code amendments that we are talking about this evening do not change the scenario that it sounds like you are concerned about.

Commissioner Washington said you said a lot about accessory units. Could you over that one more time?

Mr. Fletcher said I focused a lot, in that last section, about the terminology of accessory building. In the Zoning Ordinance when we refer to an accessory building, we are talking about is a structure on a piece of property that is subordinate to the principal building. It could be a

detached garage, a storage shed, or even a structure that is erected from the ground up that includes a living space and a bathroom. Those things are not dwellings. If someone is casually referring to an accessory dwelling, it must include all of the functions that you must have in a space to reside in it. The kitchen is usually the determining factor.

Chair Finnegan asked is this body going to be trying to make that determination or is that going to happen in the Community Development office?

Mr. Fletcher said it happens in our office. We make those interpretations.

Chair Finnegan asked so you decide if this is a separate dwelling unit, and this is not?

Mr. Fletcher said correct. If a property owner or an applicant disagrees with staff's interpretation, that is the type of scenario that goes to the Board of Zoning Appeals. It does not come to Planning Commission or City Council.

Commissioner Orndoff asked did I understand you to say that if this were put into effect that there are several that would no longer qualify?

Mr. Fletcher said what I was trying to explain is that there are approved STRs that have that ability. They can maintain that ability. They received their SUP. The code provisions tonight would prevent that situation from ever coming to an application scenario. You would not be able to apply for a second dwelling on the same property to be a transient lodging operation.

Chair Finnegan asked those become non-conforming?

Mr. Fletcher said I would not call them non-conforming. They have a SUP and they can maintain their status.

Chair Finnegan said they would be legally operating on old rules.

Councilmember Dent asked if they discontinued it for two years, would that kick in that they no longer have that ability?

Mr. Fletcher said yes. That is the case for any STR. In fact, I believe that there is one of them that has lost their ability to be a STR. I had a conversation with an individual who mentioned to me that they had received a SUP. They were talking about a different scenario and said that they have gone back to a long-term rental. I told them that they have lost their ability to have the STR. They have to maintain the use of an approved SUP.

Commissioner Whitten said the "other documentation deemed acceptable by the Zoning Administrator." What are we talking about?

Mr. Fletcher said we are talking about utility bills, any kind of official documentation that can assist in help staff determine that that place is their principal residence.

Ms. Dang said I had this conversation with our prior Zoning Administrator Rachel Drescher on identifying what documents we might tell people that would be acceptable. We looked at the DMV website and what they deemed acceptable to prove residency. They could be a recent utility bill, voter registration cards, recent payroll stubs, or a collection of items that we could review to feel confident that it is their primary residence.

Chair Finnegan asked is it like the I-9?

Ms. Dang said not quite. We do list examples on the website.

Councilmember Dent asked is it up to staff to make the determination that there is proof that they live there?

Ms. Dang said that is right.

Chair Finnegan said I do not know if you ever interact with HEC or the water bill from Public Utilities. Is there a way to verify an address by looking at that, whether they have used any electricity or water?

Mr. Fletcher said we work in coordination with all the departments. We request information and water usage data quite a bit.

Commissioner Whitten said we had that situation in the last two months.

Mr. Fletcher said we did. We requested information for water use for a request on Broad Street which helped us determine that the units had been vacant.

Councilmember Dent said I also remember a case on New York Avenue where there was a question of whether the person actually lived there. This would give you that leeway to make that determination.

Mr. Fletcher said we would not bring an application to this body if we believed that it was not their principal residence. We had already made that determination. It is before you. If an applicant disagrees, it goes to the Board of Zoning Appeals. If they disagree with our interpretation, or the Zoning Administrator's determination, then they appeal to the Board of Zoning Appeals.

Commissioner Whitten said the one on Newman Avenue is an accessory building. Is that correct? It is a garage.

Mr. Fletcher said on the corner of Newman Avenue and Ott Street. That is an accessory building,

not a separate dwelling.

Commissioner Whitten said it would not be able to have a proper kitchen.

Mr. Fletcher said correct. We had a couple of meetings and conversations with that applicant about that specific scenario.

Commissioner Washington asked, in terms of terminology such as bed and breakfast, is that a national or regional trend, or something that is just easier for you in terms of it being outdated in using bed and breakfast with homestays or STRs?

Mr. Fletcher said it is the latter. We only had two or three bed and breakfasts ever since the creation of the bed and breakfast use which was approved in 2001. We kept it in the code because there were still people that would refer to these types of operations as bed and breakfast facilities. As we have experienced different scenarios and phone calls and questions about these things, we kept coming back to “what do you mean by this?” or “what do you mean by that?” We have had enough time from March of 2019 and enough experience that we decided to get rid of the term. It is no longer used from the local Harrisonburg perspective.

Chair Finnegan asked if there were any more questions for staff. Hearing none, he opened the public hearing and asked if there was anyone in the room or on the phone wishing to speak to the request.

Austin Bell, Harrisonburg resident, came forward regarding the request. Would this affect long-term rentals?

Chair Finnegan said this affects Airbnbs, STRs, VRBOs and the like. What my goal is to try to prevent outside investors from buying up housing, turning it into hotels in the middle of a neighborhood and not living there.

Mr. Bell said that is very acceptable. I have been looking forward to creating an accessory dwelling in my backyard and be able to rent it out as an Airbnb or STR. What you are saying is that with these amendments, that would not possible anymore. It would have to be stripped down to not have a full kitchen. I do not quite understand the why.

Chair Finnegan said, speaking for myself, a lot of it is trying to stop rental stock from going to the highest bidder from people from out of town.

Chair Finnegan asked if there was anyone else wishing to speak to the request. Hearing none, he closed the public hearing and opened the matter for discussion.

Chair Finnegan said these are so hard to regulate. We have been dealing with this since 2018, 2019, trying to figure out the best way to do this. I support staff’s recommendations here to

change this. There are a few that if I had to do over again, I would vote against them. Those are the ones that would have been filtered out by this amendment. I support these amendments.

Commissioner Armstrong made a motion to recommend approval. I compliment staff on the presentation of this. We are really lucky.

Commissioner Byrd seconded the motion.

Chair Finnegan said staff is doing all this with at least one arm tied behind their back. Thank you for your work on this.

Councilmember Dent said I am still wrestling with the terms “accessory building” and “accessory dwelling.” It sounds like it could be a fine line in some cases. Does a kitchenette make it a dwelling? Does it have to have a stove? I guess you review that on a case a case basis.

Chair Finnegan called for a roll call vote.

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

The motion to recommend approval of the amendments passed (7-0). The recommendation will move forward to City Council on September 13, 2022.

A motion was made by Armstrong, seconded by Byrd, that this PH-Ordinance be recommended for approval to City Council, due back on 9/13/2022. The motion carried with a recorded roll call vote taken as follows:

Yes: 7 - Finnegan, Orndoff, Byrd, Whitten, Armstrong, Dent and Washington

No: 0

5. New Business - Other Items

- 5.a.** Consider approving a request from Greenwood Homes LLC to preliminarily subdivide a +/- 3.14-acre parcel into townhome and common area parcels, and for Subdivision Ordinance variances, at 611 Pear Street

Chair Finnegan read the request and asked staff to review.

Ms. Dang said in 2020, Planning Commission (PC) and City Council (CC) reviewed a preliminary plat request from Cobber’s Valley Development, Inc. to preliminarily subdivide a +/-

5.66-acre parcel to create two parcels of +/- 3.13 acres and +/- 2.24 acres and to dedicate a new public street to serve as the entrance to a planned residential development. The preliminary plat was approved by CC on October 13, 2020, and the final plat was recorded on May 25, 2021. Later in 2021, PC and CC reviewed requests to rezone the +/- 3.14-acre parcel to R-8C, Small Lot Residential District Conditional and for a special use permit to allow townhomes of not more than eight units. The requests were approved by CC on September 28, 2021. The subject request is to preliminarily subdivide the same +/- 3.14-acre parcel into 33 townhome parcels and one common area parcel.

The Comprehensive Plan designates this site as Medium Density Mixed Residential. These areas have been developed or are planned for small-lot single-family detached and single-family attached (duplexes and townhomes) neighborhoods, where commercial and service uses might be finely mixed within residential uses or located nearby along collector and arterial streets. Mixed-use buildings containing residential and non-residential uses and multi-family dwellings could be appropriate under special circumstances. Attractive green and open spaces are important for these areas and should be incorporated. Open space development (also known as cluster development) is encouraged, which provides for grouping of residential properties on a development site to use the extra land for open space or recreation. Like the Low Density Mixed Residential designation, the intent is to have innovative residential building types and allow creative subdivision designs that promote neighborhood cohesiveness, walkability, connected street grids, community green spaces, and the protection of environmental resources or sensitive areas (i.e. trees and floodplains). Residential building types such as zero lot-line development should be considered as well as other new single-family residential forms. The gross density of development in these areas could be around 20 dwelling units per acre. Commercial uses would be expected to have an intensity equivalent to a Floor Area Ratio of at least 0.4, although the City does not measure commercial intensity in that way.

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

Site: Vacant land; zoned R-8
North: Across Pear Street, detached single-family dwellings and vacant land; zoned R-1
East: Vacant land; zoned R-1
South: Land currently being developed for residential uses within Rockingham County; zoned County R-5
West: Detached single-family dwellings; zoned R-3C

The applicant is requesting approval of a preliminary plat with variances to create 33-townhome parcels and one common area parcel.

As required, all lots would be served by public water and public sanitary sewer. The preliminary plat shows how proposed water and sanitary sewer lines will serve each new lot. An existing public water main and an existing public sanitary sewer main are located within Pear Street. On Sheet 2 of the preliminary plat is an easement plan that illustrates that a new public water main is

proposed within Cobbler's Court and a new public sanitary sewer main is proposed adjacent to Lot #226. The easement plan also illustrates the location of proposed easements for public water, public sanitary sewer, and public general utilities. The location of the proposed stormwater management facility is illustrated on Sheet 1.

Section 10-2-42 (c) of the Subdivision Ordinance requires all parcels to have public street frontage. The applicant is requesting a variance from Section 10-2-42 (c) and describes in their application that "The requirement of lots to front public streets would comprise the previously approved density due to the necessary requirements associated with public street design. Furthermore, the proposed private street section is consistent with that of the adjacent Rockingham County development providing for a comparable, interconnected layout." Staff does not have concerns with this variance request. This deviation from the Subdivision Ordinance has been approved multiple times throughout the City for many, existing townhome communities.

The second variance request is to Section 10-2-43 of the Subdivision Ordinance which requires a 10-foot wide public general utility easement along front lot lines and any lot adjacent to public right-of-way and requires at least a 10-foot wide public general utility easement centered on the sides or rear of lot lines. Note that the applicant's June 27, 2022 letter states that they are requesting a variance to not provide any public general utility easements; however, during review, staff commented that public general utility easements would be required, but a variance can be requested to modify their locations. The applicant has shown that a 10-foot-wide public general utility easement will be provided on both sides of the private street (Craftsman Drive) to serve the townhomes. Public general utility easements are provided for utilities, including water, sanitary sewer, storm sewer, electric, natural gas, television cable, telephone cable, and others deemed a utility by the City.

The public general utility easements provided would not preclude utility companies from negotiating alternative easements with the property owner(s). More or less, the requirements as specified in Section 10-2-43 to ensure that necessary areas are reserved for the needed utilities in traditional subdivisions. Staff does not have concern with the proposed development deviating from this section of the Subdivision Ordinance as it appears all issues typically associated with this requirement are being addressed.

The Zoning Ordinance requires one parking space per dwelling in the R-8 district. At this time, the applicant plans for each townhouse to have one car garages with side-by-side driveway parking.

With regard to meeting Zoning Ordinance's dimensional requirements, on day that this report was to be published, staff questioned whether Lot 226 meets the minimum lot width requirement of 18-feet wide measured at the required 10-foot front yard setback line. Staff also questioned the property line identified as "C5" on the preliminary plat. The applicant's engineer was able to describe how they will be able to address these matters, however, they were not able to submit a revised preliminary plat prior to publication of the staff report. The revised preliminary plat is forthcoming and will be provided to Planning Commissioners (PC) and posted on the City website prior to the August 10 PC meeting.

Aside from the variances requested to allow the 33-townhome lots to not have public street frontage and to deviate from public general utility easement requirements, and the forthcoming revisions described above, the development meets all other requirements of the Subdivision and Zoning Ordinances. As townhomes are allowed by an approved special use permit in the R-8 district and the preliminary plat meets the proffer of the 2021 rezoning of no more than 40-units, staff recommends approval of the preliminary plat and variance as requested.

Chair Finnegan asked if there were any questions for staff.

Commissioner Armstrong said I am confused as to how the City of Harrisonburg letter from Public Works dated February 26, 2018 seems to be at odds with this presentation.

Ms. Dang said this letter, the TIA has been accepted by this development. The TIA had been completed prior to the rezoning and all of this was completed with the rezoning. The applicant included this because it is their evidence with the preliminary plat that they had gone through the TIA process.

Commissioner Armstrong asked what are the conclusions? Some of these issues... not the easements for Public Utilities, but the traffic mitigation of the light there and the complaint that there should be a back access that parallels or enters Pear Street at a different place, the left turn onto Route 42. The traffic situation does not seem to be addressed.

Ms. Dang said I am not prepared to speak with confidence as to what and how all of these things have been addressed. Know that these statements were made previously before the rezoning, and the rezoning has been approved.

Commissioner Whitten said I think this was a dust up between the County and the City streets.

Mr. Fletcher said I am trying to remember all the specifics that were done during the rezoning period. The rezoning in the County happened before the one in the City. There were thresholds of development that would occur that could then trigger when the traffic improvements would come into play. I think there was a component to the amount of money that the developer was going to contribute toward the improvements. I think the traffic signal was discussed at the intersection and Pear Street and Ericson Avenue. I am not sure if the traffic signal will go in there or if it will be a Michigan Left. A Michigan Left is when you come to an intersection and you want to turn left, the road design forces you to turn right onto the street, cross the lane of traffic a certain distance away from the intersection, then turn left across a median. At times, depending on the radius of the turn and the width of the street, there will be a bulb at the other side of the street that allows larger vehicles to make the turning radius. That separate the conflict points of all of the traffic that come to that intersection. We do not have a lot of answers, but a lot of that was worked out prior to the rezoning.

Commissioner Armstrong said that is a terrible traffic stop. It is two lanes. There are railroad tracks. The left turn onto Route 42, which also goes to Wal-Mart is difficult. I do not imagine this number of units is going to blow it up. It is something that I would not want to do every day.

Mr. Fletcher said there was some type of development agreement. I cannot recall if it was the number of units or if it was a certain amount of money that they would contribute to address these issues.

Ms. Dang said with regard to the frontage improvements along street, those have already been addressed.

Commissioner Byrd said I thought it was odd that this letter was in there because I remember when we did the rezoning for the Cobblers Court before it existed. We discussed traffic then. A lot of the other mitigating factors were going to happen in the County. That is that how the road as it is being constructed was agreed upon.

Ms. Dang said, in retrospect, it may be less confusing for staff to write a memo regarding the TIA rather than to include the letter. It is what we typically do, but not as much time usually transpires, with the multiple steps like this.

Commissioner Whitten said on the other hand, that was full disclosure. Did we get any comment from the schools? Which school district is this?

The Commissioners discussed whether the school was Keister Elementary or Stone Spring Elementary.

Mr. Fletcher made reference to HCPS' student generation factor [comment is inaudible].

Ms. Dang said that Kris Vass, Coordinator of Operations HCPS, is one of two people who receive the Planning Commission packets at HCPS. He provided the comment:

Anytime there is the potential for an increase in residential construction within the city it can have an impact on the enrollment in our schools. As everyone is aware, we are over capacity in many of our schools. If the 34 units are ultimately constructed, this particular development at Cobblers Ct would impact enrollment at Bluestone Elementary, Thomas Harrison Middle School, and/or Harrisonburg High School. The location of this development overlaps the city/county line. From our experience anytime there is a neighborhood that is divided like this, it creates confusion among the property owners. Families are understandably unaware and sometimes misled as to which school system their child should attend. This can potentially lead to students attending a school system that is outside of where their property is actually located.

That has happened in other instances. In this case, there is not a property bisected where the property line is going through the property.

Commissioner Whitten asked if the Planning Commissioners received that report.

Ms. Dang said I did not include that in the staff report.

Commissioner Whitten said I would like to start getting those, if they are going to be responding. I think that is helpful.

Ms. Dang searching her files for staff's comments on HCPS' student generation factor said to Mr. Fletcher that neither of us made comment on that because this rezoning had already been approved.

Mr. Fletcher said the comments from the HCPS are what they send directly to us. What we have been doing under other rezonings is using... We preface it with we have not been informed that the number of per unit determination that is used is the one that should be officially be used because...

Commissioner Whitten said they came up with that big white paper.

Mr. Fletcher said they worked with us, and we discussed different ways to go about it. We have unofficially been commenting and using that spreadsheet to determine what those numbers are. If you would like for us to include that information, we could create a new section in the staff report to provide that information. We make those comments that go into the folder, and we have those numbers. We are looking at the North Dogwood Street and Wilson Avenue rezoning that is for another time. We made those comments.

Councilmember Dent said, to be clear, the rezoning for this is already done? This is strictly for the subdivision? Usually, we do them in tandem.

Ms. Dang said that is correct.

Councilmember Dent said since we almost always have the same variances, we should put it in the Code as we are reworking the Zoning Ordinance.

Ms. Dang said we will consider that.

Chair Finnegan asked if there were any more questions for staff. Hearing none, he noted that this is not a public hearing; however, he invited the applicant or applicant's representative to speak to their request.

Carl Snyder, Valley Engineering, called on behalf of the applicant. I would like to clarify that this is a request for approval of the subdivision plat. The rezoning was completed quite some time ago and approved. We did not do the preliminary plat at that time because there were a few things

that we wanted to flesh out with the layout. Traditionally, they are done together, but we separated them in this instance. With regard to the traffic, that too was addressed and approved by the City Public Works Department at the time of the rezoning. To answer some of the questions, the developer agreed, by proffer which Public Works accepted, to make a cash contribution. There are milestones where the developer would deposit cash into an escrow account that the City has time to call upon later for improvements to the intersection and a signal. The approved proffers are in place for that. The improvements for Pear Street have been completed. The widening and sidewalk improvements are all in place. We ask for your approval, this evening, of the subdivision plat.

Chair Finnegan asked if there any questions for the applicant and asked if there was anyone who wished to speak to the request. Hearing none, he opened the matter for discussion.

Commissioner Byrd said it is good to see that someone is going to build something on this soon after we approved the road getting put in. I have been in neighborhoods where they have adjusted those variances so that the buildings are closer to the roads. It is interesting. People walk more in their neighborhood because the cars are generally out of the way. Everyone has to use the garages that the developers built. I would likely vote in favor of this preliminary plat.

Commissioner Whitten moved to recommend approval of the preliminary plat with the requested variances.

Commissioner Orndoff seconded the motion.

Chair Finnegan called for a roll call vote.

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

The motion to recommend approval of the preliminary plat passed (7-0). The recommendation will move forward to City Council on September 13, 2022.

A motion was made by Whitten, seconded by Orndoff, that this Action Item be recommended for approval to City Council, due back on 9/13/2022. The motion carried with a recorded roll call vote taken as follows:

Yes: 7 - Finnegan, Orndoff, Byrd, Whitten, Armstrong, Dent and Washington

No: 0

5.b. Consider approving a request from Stephen W. and Faith R. Hottle to close two sections of public alley located behind 267 Campbell Street

Mr. Fletcher said the following land uses are located on and adjacent to the property:

Site: Undeveloped public alleys, adjacent properties are zoned UR
North: Single-family detached dwelling, zoned UR
East: Undeveloped extensions of the public alleys, adjacent properties are zoned UR
South: Undeveloped properties, zoned UR
West: Undeveloped extensions of the public alleys, adjacent properties are zoned UR

The applicant is requesting to close portions of two separate, undeveloped alleys that are adjacent to two properties that they own. One of the properties they own includes their residence, which is located at 267 Campbell Street and identified as tax map parcel 26-P-45. The second property they own, which is an undeveloped, wooded parcel identified as tax map parcel 26-P-38, is located south of tax map parcel 26-P-45 across an undeveloped 15-foot-wide alley. Both parcels are approximately 89 feet in width.

The first undeveloped portion of the first alley they wish to close (from this point forward known as the “northern alley”) is the area of the alley that is located between the two parcels they own. The northern alley is +/- 1,359 square feet in size and is approximately 89 feet in length and 15 feet in width. The second undeveloped portion of the second alley they wish to close (from this point forward known as the “southern alley”) is south of their undeveloped, wooded parcel. The southern alley is also +/- 1,359 square feet in size and is approximately 89 feet in length and 15 feet in width. The “northern alley” is part of a larger alley that is parallel to Campbell Street and stretches the entire length of the block between South Mason Street and Ott Street. This alley also has two intersecting, perpendicular alleys that connect to Campbell Street, one of which continues south to another undeveloped alley to which the “southern alley” is a part. The “southern alley,” as noted, is part of a larger public alley that is also parallel to Campbell Street and stretches almost the entire block between South Mason Street and Ott Street. This alley, on the eastern end, terminates at the property line of tax map parcel 26-P-40 (which includes a single-family dwelling at 445 Ott Street), and thus the alley does not extend to Ott Street.

As identified in their application materials, the applicants hope to close both portions of the undeveloped alleys and to add the areas to their properties.

Staff’s research indicates these alleys were likely created around 1905, and that the City likely does not own the underlying land but instead holds a public easement or right of passage across the alley. Approval of the applicant’s request would result in the City vacating all its interest in the alley; however, the City cannot guarantee that title to the alley would pass to the applicant. The applicant may wish to seek a court judgment to determine title to the alley in the event the City vacates its interest.

The Department of Public Utilities has noted that closure of the alleys would block the adjoining

tax map parcel 26-P-39 access to public sewer by gravity and recommends maintaining the alley to retain gravity sewer options to the lots between the subject property and Ott Street.

Regardless of the complexity of this situation and the actions needed for the applicant to acquire the public alley areas, as has recently been discussed in other Planning Commission meetings, staff has begun evaluating public alleys in a new light and believes that maintaining ownership of these spaces is generally in the best interest of the community. While there will be times that there is a compelling reason to close an alley (as was recently done for the small alley between Port Republic Road and East Fairview Avenue), generally staff believes alleys offer the public a benefit. In this location, given the surrounding network of alleys and how they are laid out for this neighborhood, it seems most appropriate to retain the right of passage through the alleys for the public and to be able to provide access for property owners to the rear of their parcels in this block.

Furthermore, and with regard to the “southern alley” closing, if this section were closed, there would be an awkward scenario, where a portion of the alley to the east of the “southern alley” would be inaccessible to the public and unable to be used for the intended purpose.

Staff recommends denying closing both portions of the alleys.

Chair Finnegan asked if there were any questions for staff.

Commissioner Whitten said retaining ownership is really not the correct term because the City does not actually own them. Correct?

Mr. Fletcher said it appears that is the case. The more correct terminology is retaining its interest in the space.

Commissioner Whitten said if there is a problem in terms of ruts, holes, if they become impassable, and I know they are used quite a bit, who takes care of that.

Mr. Fletcher said unless the City improves it, and that can be a number of different things. Often times it is some type of pavement, gravelling, some type of impervious surface space and those spaces are easily identifiable and you would know that the City is maintaining them, then those spaces we will maintain. Spaces such as these that are undeveloped or someone at some point might have put down gravel, dirt or rocks created the space, the City does not go in and maintain those. If they want to keep them passable, then it would be the surrounding property owner’s responsibility. They might collectively go together if there are multiple people using them. It is on whoever is interested in passing over that space to maintain it.

Commissioner Whitten said it would be like a private road or drive that has lots of houses on it. You get together and kick in for the cost of it, but you do not have to. It is a little bit complicated, but I understand.

Chair Finnegan said there are also shared driveways that are gravel driveways where two residences use the same driveways.

Commissioner Washington asked so it is not the City's responsibility to maintain it? But the City wants to stay public?

Mr. Fletcher said that we would like to maintain the City's interest in its ability to maintain the easement and right of passage for the public. We recognize that the original intent, back at the turn of the 20th century was to create this passable area for the public to be able to use. If it is vacated, if we release that interest, then the public then no longer has the right of passage.

Commissioner Washington said if the neighbors decide not to take care of it and it becomes impassable, then...?

Mr. Fletcher said in many spaces like this across the City, many of them are impassable with large trees, vegetation. There are a lot of spaces that unless you know that they exist, they look like side or rear yards. They exist on paper, which is why we call them paper street or paper alleys.

Commissioner Washington asked if someone gets hurt, who is liable for that?

Mr. Fletcher said I do not have an answer for that. There is a lot that has to do with when it was platted and what the ownership of the space is.

Mr. Russ said it would depend on what caused the injury, who knew about it, who should have done something about it. If someone had frequently been maintaining it and then stopped. Probably you are out of luck if you get hurt in an alley that has not been developed and maintained by the City. The City always has the right to go in, bulldoze whatever is in the way, pave it and start maintaining it, unless the City relinquishes its interest. That is something that the City could do at some point in the future. I do not know that we have any plan of doing that anywhere. There are probably a handful that sit along areas that are potentially useful for a shared use path.

Mr. Fletcher said there is, in our planning efforts, which you often do not get to see unless we get grants, we talk with Public Works and Public Utilities about how we want to use these spaces. We talk about traditional neighborhood development. We debate about the need from a planning and philosophical perspective of creating more alleys and maintaining more alleys. There is a lot of complexity that comes with that because there is the maintenance and the cost. As an independent City, we received funding from the state. We receive a certain amount of money per lane mile, that is a street lane mile that is in the City, to maintain our streets, but not to maintain the alleys.

Chair Finnegan said this comes up just about every time there is an alley closure request from a private property owner. I do think that there may have to be some outside organizations involved. I do think that there is opportunity to do something with these alleys. I also feel that there are

streets that maybe used to be alley, like Ash Tree Lane, Federal Alley, and Jackson Street.

Mr. Fletcher said Layman Avenue has a similar scenario.

Chair Finnegan said these run the gamut from overgrown with trees, where you do not know there is an alley there, to those which are maintained.

Commissioner Whitten said those are maintained. They are plowed. The garbage is collected.

Commissioner Washington asked who does that?

Commissioner Whitten said the City. The City maintains those.

Mr. Fletcher said what Chair Finnegan is talking about is that there are certain spaces that look like alleys or have become streets, like Layman Avenue or Ash Tree Lane.

Chair Finnegan said they are extremely narrow streets where there is no place for parking. It looks like a paved alley. We have a few of those.

Councilmember Dent said people live on them.

Mr. Fletcher said there is a document that we did a study on back in 2013 that has been pushed away. It referred to how we can use these spaces from a perspective of pedestrian facilities. We looked at all different sections across the City, about 400 sticks in my mind, different sections of alleys. At that time, we thought that they could have been used for something. As we have continued to experience things, this document is not reliable anymore. It is irrelevant because so much has happened.

Commissioner Whitten asked how much undeveloped land exists? I realized that it is all chopped up and with different ownership. How much undeveloped land exists in that?

Chair Finnegan asked in the alleys?

Commissioner Whitten said the access is from those alleys, but all that...

Mr. Fletcher said I could not tell you. To give a perspective, these two parcels, the northern parcel where the residence is has 0.3 acres, a third of an acre. The next one has 0.4 acres. Then you look at the bigger picture.

Councilmember Dent said there are four or five of them that are landlocked in the middle.

Mr. Fletcher said some are in separate ownership. Some are owned by the same individuals that own the properties on Campbell Street or Paul Street. I am not sure how many in there are

owned separately from a nearby parcel.

Councilmember Dent said I am interested in the potential for the paper alleys to become real streets for development back there. I think it would be valuable to reserve that right.

Mr. Fletcher said there is a lot that comes with that. Over the years, in other areas of the City we have answered questions. There are definitely things that come up because of infrastructure challenges, such as you would have to construct public water and sewer back there. You would have to design turning around movements for apparatus and garbage trucks. Do you widen the alley to be a public street? How wide does it need to be? If it is as wide as our minimum standards, then it is quite wide. There is going to be a lot grading necessary in some spaces back there. There is a lot that comes to it, but I would not discount it. We are moving in different directions as we move forward in needing more housing in the City.

Commissioner Whitten said right now it is this beautiful refuge with trees and grasses and animals.

Commissioner Washington said with all of this being said, and going back to this being of public interest to stay open, we are asking the property owner of these two parcels to maintain this out of the kindness of his heart?

Mr. Fletcher said no. What the request is that it they wish is to have the City vacate its interest. Purchase it from the City, so that they can officially own it, or attempt to own it, in this case. We cannot guarantee that they will receive title to the property because of the way that it was platted. In this specific case, these properties could still be in the ownership or the assigned heirs and successors of the original dedicator of the subdivision.

Chair Finnegan said I live on a corner lot. I do not have an alley, but there is a sidewalk on one side with grass. I need to mow that. There is grass on the other side. I need to mow that. I need to maintain it. It is a public right of way. It is kind of my property and kind of not.

Mr. Fletcher said the applicants are here this evening. They have maintained it. It is like an extension of their property. Many people do. Many people maintain these spaces. Some may have it grassed and they mow it. You can walk up this alley and see that some people just let the vegetation take over. We are not requiring them to do anything. They are requesting to have an opportunity to have it become part of their own property. It would prevent individuals from being able to walk or drive through those spaces if that were to happen.

Commissioner Washington said if he decides to stop maintaining it and it is no longer walkable... Yes, public space in terms of walking through, that would be great. Folks use this space all of the time, but it should it not be the responsibility of the City or shared folks to keep it available for everyone to continue to use it? At this point, it sounds like he has been doing this by himself, that is why he wants to enjoy this space for himself and his family rather than continuously spending money to maintain it for other people to use?

Commissioner Whitten said I would suspect that a lot of those property owners would have the same story. They would say, yes we maintain our part too. Everybody can do what they would like to. They do not have to. Nobody is forcing you to, but if you want to be able to use it, if you want to be able to bring mulch in...

Chair Finnegan said another analogy is that if you have a sidewalk in front of your house, the City is not going to come shovel it for you. You need to shovel your own sidewalks. I think that alleys always create these conversations where the not quite public, not quite private space...

Commissioner Whitten said it is confusing and complicated.

Chair Finnegan asked if there were any more questions for staff. Hearing none, he noted that this is not a public hearing; however, he invited the applicant or applicant's representative to speak to their request.

Steven Hottle, 267 Campbell Street, came forward to speak to his request. Thank you for the opportunity to appear before you today to speak on behalf of my request and address the concerns of our neighbors and the City. It should be noted that we are seeking to vacate the easement to our backyard and referenced as the north alley parallel to 267 Campbell Street and the not the entire alley, as the City notification sign indicated at first glance. I would like to address the concerns of our neighbors as indicated by the letters received by the office of Community Development regarding this request. First, access to all properties will remain. Two existing north-south alleys from Campbell Street and will remain and allow access to all properties. If the concern is turn radius, be aware that all scenarios require 90 degree turns regardless of access entry, whether it is Mason Street or off of Campbell Street. Second, 445 Ott Street is not serviced by the north alley. The south alley would be the apparent design access for that property, although that would take extensive work. 451, 457 and 469 Ott Street are not served by the north alley and cannot be accessed without crossing private property. 441 Ott Street will not have access changed. 285 Campbell Street will not be changed. Service trucks have used the alley on the west side of this property to access properties east on the alley. Gravity service should not issue for two reasons, the owners of the property have given verbal assurances that they will never develop that property, and more importantly, it would be far more cost effective for a developer or the owner of the property to run a small, two-inch forced main from the property to Campbell Street, than to run 900 feet of sewer line all the way down the alley to Mason Street. In closing, I suggest that maintaining the Old Town area is our most important concern. If I may also address the City's concern about access to Ott Street for the northern alley. Right now, I do not think that the state guidelines would allow the grade that is required to access Ott Street. I believe that is also the reason that Campbell Street has the wall at the end. Physically, it is almost impossible.

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

Commissioner Armstrong asked why is it important to you to close these two spaces?

Mr. Hottle said I do not think that anyone enjoys having traffic run through your back yard and vehicles run through the grass that you worked and tearing up the grass. As the City has noted, they do not maintain it. When we moved there, there were large gullies, almost impassable. At our expense, and the neighbors to the east did the same thing, we put in big stone and small stone on top of that. Over the years, it has just enough topsoil that the grass will stay there. If you drive over it once or twice, it goes back to just the stone and starts eroding again.

Commissioner Armstrong asked drive over with what kind of vehicle?

Mr. Hottle said any kind of motorized vehicle short of a bicycle.

Commissioner Armstrong asked what motorized vehicles drive through here?

Mr. Hottle said that is the whole point. It is now and all of these prior concerns were concerned with access.

Commissioner Armstrong said this is wide enough to drive. I did not realize that.

Councilmember Dent said I have heard you say a couple of times “through your back yard,” but the alley is not your backyard.

Mr. Hottle said that is correct. That is what I am trying to change.

Commissioner Whitten said they own both of those lots.

Councilmember Dent said it is between their lots.

Faith Hottle, 267 Hottle Street, came forward in support of the request. We would like to have quiet possession of it because we do have commercial trucks that go up and down that alley. When our children were quite young, a dump truck came up pulling a loader and parked there, unaware that there are four little kids running around. There was no concern. Not their problem. On two occasions, I called the City. I believe it was in 1998 and in 2006, to ask about having the alley graded and that we had quite large ditches. We were told that it was our responsibility to do that. We spent quite a bit of money trying to maintain that. It is grass. We do have folks that walk down there with pets. I spend quite a bit of time going through the lot and the alley picking up pet excrement so that we can mow and enjoy it without small children running into that.

Mr. Hottle said that occasionally people use the second lot behind the house thinking that it is a park. It is not a real problem, but it does happen.

Ms. Hottle said we have come home and found a large group of folks when we went on vacation. They built a fire in the middle the of that back lot. They thought it was a park.

Commissioner Armstrong asked have you thought of fencing? Fencing would make that clear.

Mr. Hottle said we have not and would prefer not to because indeed it is a park atmosphere that we would like to preserve. The City does have some concern about future development and they are absolutely right in that if we are granted this property back again, it will curb the potential for development back there.

Commissioner Armstrong said I think that one of the photos that you showed, showed the end.

Mr. Hottle said I already addressed that.

Chair Finnegan asked if there were any questions for the applicant. Hearing none, he asked if there was anyone in the room or on the phone wishing to speak to the request.

Kim Rutherford, 451 Ott Street, came forward to speak regarding the request. Our major concern is access to our backyards. As Mr. Hottle pointed out, and perhaps this is correct information, the wall at Campbell Street is very indicative of the slope from Ott Street to the back of at least three or four properties on Ott Street. Currently, my husband and I and the neighbors on both sides are at the mercy of the good graces of our neighbors to access our backyards. You can see from the picture, there is also the big structure, the big white rectangular structure, that sits right next to my house. I believe that house is 445 Ott Street. They are very interested in repair, remodeling, perhaps removing that structure and returning that to green space. As you can see my house next door. I have an inground pool. When I had to have that pool surfaced in the past, I did have to go through the neighbor's backyard. Removing that far alley, closing that section, is going to limit the access to our backyards. The neighbor on my other side is completely landlocked. I would ask that it is taken into consideration. We love Old Town. We want to maintain these properties. They are old properties. They need some care, but without that access, that is one less method for getting a heavier piece of equipment back there. I do not think that there has been much of that, but to remove that potential, if we would need it, is very concerning to me.

Kathy Schwartz, 457 Ott Street, came forward to speak regarding the request. I am the neighbor on the other side of Ms. Rutherford who just spoke. She mentioned that I am completely landlocked. What she means is that there is a retaining wall between my home and hers. If you look over that retaining wall, there is a 20-foot drop. There is no way that I have backyard access on that side. On the other side, there is not enough room on the edge of my house to put in a driveway or I certainly would. To get to my backyard, I currently either drive down my neighbor's driveway, over their yard and into my yard, or I have to drive completely through their yard which tears up their surface. I have been in my home for 20 years. The yard has been torn up at least two or three times, just for simple construction projects, like working on decks. We also had a clay sewage pipe that burst. The only way that the crew could get back there was going through the yards. Now, I have dead ash trees. I have beautiful trees in the back of the property. I want to salvage those ash trees. The only way to get to them is to bring the equipment

in. Earlier in the meeting it was mentioned that the City could go in and have the right to maintain these rights of way. I would certainly ask that you do that. We do appreciate the greenspace back there. It is lovely. Without the access it is challenging to figure out how to get these projects done. It was also mentioned that we clear our sidewalks when it snows. We are asked to do that by the City and that is public property. The people who have these alleys are asked to clean them, but they do not have to. And, really, should they have to? That is why I would ask the City to please take care of that property.

Mr. Hottle said I do understand the concerns of the speakers. Sadly, neither of those have access to the alleys that we are talking about. They would have to cross private property in any case, to access their property. The only access that they might have closest would be the southern alley. The northern alley has no relationship to their property at all.

Michael Boland, 469 Ott Street, came forward to regarding the request. I came to listen and support my neighbors who were not wanting to close the alleys for basic access to their property. I want to voice a concern that, if everyone that bordered this alley... If Mr. Hottle, who I have not met and am sure is fine man, if he got everybody who was going to be affected by that to come forward and say that they are okay with that and it would not affect them in the long run, that would be great. But I have only heard from him and a couple of other people. I know that Ms. Rutherford would be affected by access to that. I am sure other people without them speaking would potentially lose access to their back yard. I have lived here since I came to college, almost 50 years. People bought properties that zoned a certain way and bordered by alleyways and that is in the back of your mind that if you ever need access, it is there. You might not necessarily need it. Even if somebody did need it and there are some trees to be removed, I would assume that it would be cheaper to come from the back than to come over your house to get there, then you absorb that cost. I am concerned with losing the opportunities for people in the future. Not just the people here tonight, but the people who buy those homes, with an alley there. If the whole alley is vacated, that would be one thing. This is in the middle, and it makes it moot for anybody above the areas that would be vacated. It does not affect me so much. I am one of those neighbors that allows access through my backyard for my neighbors. I am sure any one of you would do the same thing for your neighbor. Having an alley is a cool thing. I wanted to go on record as in support of keeping the interest of the City and the interest of the other individuals who border these things. They do not own it and they have an interest in it. It is complicated, but it is still an interest. If it gets vacated, they lose that.

Donna Schwes, 445 Ott Street, called in to speak regarding the request. My husband and I have recently purchased at 445 Ott Street. There is a significant amount of work to be done in the back yard of that property. Because of that, and the size of the project, access to our backyard is paramount. Our goal is to either repair, replace, and return some of that area to green space. Let me stress that due to the size of the building and the equipment needed to do the work it is of supreme importance that this alley be kept open. I appreciate being given the opportunity to speak in favor of keeping this alley open.

Bob Maphis, previous owner of 445 Ott Street and owner of 441 Ott Street, came forward to speak regarding the request. The people who were just on the telephone are the parties I sold the properties to. From Ott Street down there is a slope of 30 or 40 feet all the way through here, all the way down on all the properties. If you have been on Ott Street and looked down, it slopes off. To get any equipment in from Ott Street to do any work in these back yards, you cannot do it, or it would be economically not feasible. To get to this building... This is an enclosed tennis court and an enclosed swimming pool. The buyers are interested in fixing this up or maybe putting it back to green space. To get to this, you cannot get down through Ott Street. You have to come up this way. I gave them an easement to get over here, but it is very difficult. It is going to ruin my backyard here. It is an option, but right now you cannot penalize this new property owner by limiting how they can work with this structure in the back. All the sewer lines from my properties went down and out Campbell Street. Also, there is Columbia Gas coming through there. There is no gas on Ott Street. It stops at Paul Street. I had to put natural gas lines into these properties coming through here. What I am afraid of is that if we start cutting pieces of these alleyways up, what would happen to the utilities that might be up here? This is a disaster for this building here for a new property owner.

Mr. Hottle said this is another quick reminder that there is access to all of the properties from the alleys that run north and south to the properties that they are concerned with.

Dan Newberry, representing Kimberly Durden, 295 Campbell Street, came forward to speak to the request. She sent in an email. She has a garage in the back, which is not in use, but the only access that she has to her backyard is through this alley. I know that there is an alley three lots down, but sometimes we cannot get a truck in and make that turn enough to get up in there. I have had to come from Mason Street. I have run into problems with the people who want to change it because they have it blocked. I have had to go talk to them. For whatever reason, he was not happy. I want to voice thought on her being able to get to the back of her house to get stuff done.

Chair Finnegan asked if there was anyone else wishing to speak. Hearing none, he opened the matter for discussion.

Commissioner Washington said I would like to see this stay accessible to those who need it, but also, I think the muddiness and lack of clarity around who is supposed to maintain it is a lot. If it is in the public interest to be used, it should be maintained by a specific someone, whether it is the owners or the City.

Chair Finnegan said as Mr. Fletcher was saying, there currently is not funding from VDOT to maintain this. To do that, we would have to... There are a lot of alleys in the City.

Commissioner Washington said we should fix that.

Chair Finnegan said this is something that comes up again and again. What we are voting on is not

whether the City maintain this, but whether the City should vacate interest in this.

Commissioner Washington said that is part of the focus. In order to keep it of public interest, that is part of the situation. It is not black and white. We are talking about why it is of public interest. It is public access. If I tripped and fell or broke my ankle, who am I going to? I think that is part of the issue in terms of whether or not this should stay accessible. Who is responsible for it? I am all for access. I love back alleys. I grew up on a back alleyway. My family and a few people beside me used it. If someone said to me that it was my responsibility to maintain it and I spent a lot of money to keep it maintained, I would be upset. If it is a public interest to keep it open, it should be a public interest to pay to maintain it.

Chair Finnegan said I am not disagreeing with you. In terms of this particular item, we cannot vote for the City should maintain it. I am in agreement with you. One of the things that I have brought up before is that we do Blacks Run Cleanup Day in Harrisonburg. I would like to see some localized effort at the neighborhood level to clean up some of these alleys. I have some of them in my neighborhood. Some of them are overgrown. Some of them are used. The one on Collicello is used pretty heavily. I think that everyone that lives on the part of Virginia Avenue parks off the alley, which is not publicly maintained.

Commissioner Byrd said I have seen a lot of these alley closing requests in my short time on the board. It amazes me that it is what I have to think about the most. I was concerned with commercial properties. I tend to be more in favor of their closings because businesses do not think they need them, then they do not need them. With residential properties, I am more hesitant because resident's ownership changes over time, as we can tell the reference to who owns this property. All that was set in 1905. The foresight of maintaining the grid, if you look at the image, someone realized that we needed the grid regardless of the fact that they may not have built the roads at that time. Keeping the alleys, maintained as much as possible, in ownership is vital to me. As far as maintenance, I would like to remind property owners that you are residents of the City, therefore you are voters. You have elected officials you can talk to about concerns regarding what the City should or should not be focused on. As citizens of a neighborhood, people say that they are in a neighborhood, but then the neighborhood does not do anything together. If they think that they are neighbors, they might see a common thing that they need to focus on, together, as a people. There are all types of solutions available, but I, from the arguments presented, I would not feel comfortable voting to approve this request.

Commissioner Armstrong said I think that as a terminology... This keeps co

A motion was made by Byrd, seconded by Dent, that this PH-Action Item be recommended for denial to City Council, due back on 9/13/2022. The motion carried with a recorded roll call vote taken as follows:

Yes: 7 - Finnegan, Orndoff, Byrd, Whitten, Armstrong, Dent and Washington

No: 0

6. Unfinished Business

None.

7. Public Comment

Austin Bell, 1024 Chicago Avenue, came forward to speak. I have been talking with my roommates, my neighbors, people who go to EMU, other people within the northwestern neighborhood. I have come to bring up some points that we have all discussed and realized that there has not been much progress on. I have printed out a few pages from the Chicago Avenue Corridor Study from 2013. It is about 40 pages, in depth, looking at Waterman Drive, Chicago Avenue, intersections and roadways. A couple things have been addressed. There is the Northend Greenway that has been added. There have been bike lanes added, Park Road, and some other small things. Mainly I have come to talk about the northern end of Chicago Avenue that I live on which is past Waterman Drive. It is lacking in pedestrian and bicycle infrastructure. I wanted to come forward and see what the process is to help change that and see if there is something that I can do with my community to get the ball rolling on that. There is some construction right now on Chicago Avenue that is, I believe, doing some sewer construction. They are tearing up the road bit by bit. I wonder if in the fallout of that process if there is some way that we can put some of these ideas and plans that people put a lot of effort into almost a decade ago, get that going. A couple of things that they wrote about in the bicycle and pedestrian section was to reconstruct Mount Clinton Pike and provide bike lanes to the western City limits of Virginia Avenue. In particular what I am most concerned about is Chicago Avenue, reconstructing it with bicycle lanes and sidewalks from Gay Street all the way to Mount Clinton Pike. I am a big proponent of what is on the southern side of Chicago Avenue, which has provided a lot of access to pedestrians and bicycles to Waterman Elementary. I would love to see that continue all the way to EMU or to Mount Clinton Pike. That whole intersection there is a work in progress. I am sure that there are many ideas including some that are from this, a decade ago, about potential roundabouts in that area. What process is there to get the ball rolling on that? I know that there are a lot of projects going on around town, a lot of construction and limited manpower, but this is something that people have been talking about for over a decade. I would like to see that improvement. I witness mothers pushing their strollers on Chicago Avenue, handicapped folks in wheelchairs, using the limited shoulder of the road there. It is a difficult spot. I ride my bike up and down Chicago Avenue every day and feel unsafe. That is my main point, the pedestrian and bicycle infrastructure on Chicago Avenue. There is large truck traffic as well. I do not know if there is any fix that can be implemented from your point of view, but there are large trucks that drive down Waterman Drive off of Route 33. I guess they view that as a short-cut rather than taking Route 33 all the way to Route 42. They come barreling down Chicago Avenue at all hours of the day. Is there something that you can do, or that can be recommended to stop those trucks from using that as a thoroughfare?

Chair Finnegan said usually Public Comment is not meant to be a dialogue. It is a time for you to record your concerns and thoughts. I will say that the Harrisonburg-Rockingham Metropolitan Planning Organization (HRMPO) is having a meeting about a bunch of different road projects. I

do not remember if Chicago Avenue is on that list. It might be. They are meeting on August 18th from 4:00 to 6:00 p.m. at Lucy Simms. I think it is an open house type situation where you can talk to folks there. Also, January or February we review the Capital Improvement Program (CIP).

Mr. Fletcher said if you google search City of Harrisonburg CIP you will obtain quite a bit of information. On page 47 of the existing CIP is the Chicago Avenue Improvement Project. I do recognize that it is a future project, meaning that it is not on the five year horizon. I anticipate that it will likely end up in the same location again this year. It is a \$13.2 million dollar project. Predominantly, funding sources are the enterprise fund of \$2 million where bond proceeds would be the majority of that. The project's improvements include, widening Chicago Avenue from Mount Clinton Pike in the north to Third Street in the south, to create two lanes with a center turn lane, install sidewalk, curb, gutter, and bike lanes. Of course, this requires significant storm drain system construction from Mount Clinton Pike to Waterman Drive and along Waterman Drive to West Market Street. We even talked about some of the flooding that occurs on Waterman Drive. There are significant amounts of infrastructure improvements that would be needed. This is all about improving traffic flow between Mount Clinton Pike and Gay Street and Waterman Drive. Also, assisting the traffic movement from West Market Street to Virginia Avenue. Your comments are well received and definitely ones that we have heard over the years. Of course, it is in the Bicycle and Pedestrian Plan to make improvements for that corridor. From the Land Use Guide perspective, we recognize trying to promote more mixed-use opportunities and creating a setting that is more pedestrian friendly. We have mixed-use land use plans promoting that area to be changed in that direction.

Commissioner Whitten asked what number did it get in the CIP?

Mr. Fletcher said I suspect that it was a priority two.

Commissioner Whitten said there are a lot of twos.

Mr. Fletcher said there are more twos than anything.

Commissioner Whitten said we do see things moving every year. I compliment you for coming, for showing up, and for caring about it. It is important.

Commissioner Byrd said I would encourage you to remember that "Capital Improvement Program." It comes up at the beginning of every year. We also review it ourselves, then City Council reviews. There will be opportunities to comment on it. Find all those citizens and let the elected officials know.

Mr. Bell said we talked about some trees in a couple of the other issues that came up. There are a couple of massive trees on Chicago Avenue that I would love to see stay even through some of these lane improvements and things. Obviously, that is something to talk about later on in the

process. One last comment, the Christian Light Publications is a massive publisher and printing business. My backyard is bordering their largest warehouse project that just completed. That was another impact on wanting to come forward on some of these things. They put in some 10,000 square foot warehouse but we do not have sidewalks on the street. I will continue to push forward and get some more support for that. I would love to see some progress.

Commissioner Whitten said it could be where some of those trucks are going.

Mr. Bell said there are turkey trucks and all sorts of things that have no business on Waterman Drive or Chicago Avenue and are just passing through. Do you know who to talk to about traffic.

Chair Finnegan said call the Public Works Department. Tell them who you are and what street you are talking about, and they should direct you to the right person.

Mr. Bell said thank you for your time.

Councilmember Dent said I second the suggestion to come to the HRMPO. They just presented last night at City Council on their long-range transportation plan, along with a survey that you can zero in on a project and comment on it. If you come to that August 18th meeting at Lucy Simms you can find out more about that, or you can go to their website <https://www.hrvampo.org/>. You can find the survey and respond to that particular set of projects.

Chair Finnegan asked if there was anyone in the room or on the phone wishing to speak. Hearing none, he closed the public hearing.

8. Report of Secretary & Committees

8.a. Proactive Code Enforcement (On hold)

8.b. Rockingham County Planning Commission Liaison Report

Commissioner Armstrong said it was a difficult meeting because they had to change rooms. In the room they had to use there was no microphone for the commissioners. It was a little hampering. The first item was a bookkeeping ordinance amendment that passed (5-0). A rezoning request by McGaheysville Volunteer Fire Company to do a rezoning that would allow them to do some additional fundraising on their property passed (5-0). The Cathcart Properties project on Apple Valley Road and Stone Spring Road got recessed (5-0) because there were some problems locating the bus stop and some of the access roads need to be altered. If I understood it right, it was a VDOT issue. They recessed that, fix it and bring it back to the Planning Commission.

They went into unfinished business. There was a rezoning that got taken up again. There were some proffers added that was then approved (5-0). There was no public comment on it.

The big comment was the Gas City LLC project which was taken up again. The first thing was

Commissioner Flint who represents that area gave a long comment. He said that in the beginning he was in favor, but having visited the site a number of times, talked to a lot of people who lived there, he decided he was opposed to the project. There were the same kind of issues that I reported last month, traffic, lack of City water and sanitation on the site. Those are the reasons he gave for opposing the project. There was one other opposition. There were three ultimately who voted to approve the project. The reasons for the approval were summarizing that they felt that it was not the zoning commission's purview for some of this stuff. They separate the SUP and the zoning. One of the commissioners said that it meets BX-Business Interchange zoning, so he will vote yet. It will be up to the Board of Supervisors to approve any specific projects. Another big reason to support it was the need for these long haul truck drivers to have rest areas. That was pushed by these three. The problem is that the project that is going to come up for application on this is not just a rest area. It is a truck wash also. It has several wash stalls on it with no City water and no City sewer. It is also a truck repair shop. I know that there is a commercial trout fishing stream that is behind this lot. There is a lot of concern from them about toxic runoff from the truck repair and how they would manage the wastewater management when there is no City access. Ultimately, these three said that it was DEQ's responsibility and VDOT for the traffic. They said it was not their responsibility. They were only concerned with whether this meets the BX zoning or not. There was also a response to a number of people who had referenced their Comprehensive Plan. One of these three commissioners said that this BX zoning did not exist at the last Comprehensive Plan review, so it was irrelevant. The comments from the public were referencing the priority in Rockingham County to maintain the health and the quality of the environment. That certainly is relevant to this. They did pass it.

What happened then was interesting and different from our chairman's style. Right after they voted, there was no public comment allowed. Forty or more people left. They were clearly confused that the tabling from last month meant that public comment was closed. No one was allowed to comment through this fairly good discussion. It was not explained to them that this was procedural. They were just told that they could not comment. There was frustration and confusion.

That same frustration and confusion came up because the commercial dog kennel change was also not, there were several people there who came back from last month who wanted to follow up on that. They did not bring that up. They did not un-table it. They also were told that there would be no further public comment even though that kennel operation was tabled to get better clarification on the definition of commercial and some of the terms of that ordinance change. They still were told that was done. It clearly caused frustration.

They claimed the City replay did not work. The commissioner that was supposed to be reporting on us said the City's replay was inoperable. They did not report on us because they could not access that.

The last thing was that the planning staff is beginning the Comprehensive Plan revision process for the County.

8.c. Board of Zoning Appeals Report

None.

8.d. City Council Report

Councilmember Dent said last night we addressed the 211 Broad Street that we had recommended here a month before. As we did here, City Council discussed at some length the height restrictions that rezoning to B-1 would have allowed 75 feet, but their proffer was down to 52 feet. There was some discussion about whether a future owner might bulldoze the current building and build a 52-foot high building and whether that would work in the neighborhood. There did not seem to be overriding concerns, particularly from the mayor who lives a couple of doors down. Another interesting point was brought up by Councilmember Baugh that the B-1 zoning district not only allows height but allows zero setbacks. Potentially, a building could be built on the whole lot, 52-feet high. Will we still be okay with that? Since the long-range plan is for mixed-use, we thought that even if it comes to that, it would be an indication that the neighborhood is thriving more as a mixed-use neighborhood. There was a comment from a caller that there is a danger of gentrification of some of these redevelopments pricing people out of the neighborhood. I had raised that concern privately to the mayor, talking about it. Again, it is not a current concern, and for the most part the fact that we have a developer finding a way to keep the multi-family house and renovating it is overall a very strong positive. We approved it.

9. Other Matters**10. Review summary of next month's applications**

Ms. Dang said that you have the email that I sent on Monday with the list of the items that are currently on the schedule. There are seven items for four individual sites. The three Wilson Avenue requests go together. Two items for Pleasant Hill Road also go together.

Chair Finnegan said staff is recommending having one meeting. Correct?

Ms. Dang said that is correct.

Chair Finnegan asked are we able to set time limits for speakers? Is it in the bylaws?

Ms. Dang said it is not in the bylaws. It is at your discretion. You can set a limit if you see that there are a lot of people. You could say that you have three minutes or five minutes.

Mr. Russ said yes, as long as it is being applied consistently for the same item, not picking and choosing favorites.

Chair Finnegan asked does this body have any thoughts... If we get here next month and it is a packed house, and we have a lot of people who want to speak, what kind of time limit would you feel comfortable defining?

Commissioner Armstrong said it depends on the project. We should play it by ear.

Chair Finnegan said the reason that I ask that now is because it is good to say at the beginning of the meeting to keep comments to two minutes or three minutes.

Commissioner Whitten said I think that three minutes seems reasonable.

Councilmember Dent said on City Council we have five minutes, but that is on general matters, not on the agenda items. It is not about a specific item.

Commissioner Byrd said that the idea was that we were trying to keep the meeting at three hours at the most which is why we agreed that all these things would fit in one meeting. We were able to keep it under three hours.

Chair Finnegan said as a general practice, it is not in the bylaws. We can say it. If you are comfortable placing a three minute limit on public comment, that is something that I am comfortable letting people know. I also want to be sure that we are all okay with that.

Commissioner Byrd said 20 people at three minutes is an hour.

Commissioner Armstrong said I would rather say “if your comment has already been made, hold back. Try not to repeat.”

Chair Finnegan said we have had some very long meetings where a lot of people say the same things. Some people just want their chance to talk. I think it is good to put a cap on that. The exception would be if someone is speaking for a group of people. We have had this happen with Lucy Drive where there was a presentation and a petition.

Commissioner Byrd said that is like the parliamentary structure where someone gives their time to someone else so that they can make a longer statement.

Chair Finnegan said I will do my best to keep it corralled, if needed.

Commissioner Washington asked would there be timer for those three minutes?

Commissioner Byrd said we can make one.

The commissioners discussed the Rockingham County Planning Commission Liaison assignments:

Chair Finnegan October

Commissioner Washington November

Commissioner Orndoff December

Commissioner Byrd January

11. Adjournment

The meeting adjourned at 8:51 p.m.

NOTE TO THE PUBLIC

Staff will be available at 4:30 p.m. on the Tuesday before the next Planning Commission meeting for those interested in going on a field trip to view the sites on the next agenda.

INTERPRETATION SERVICES

Language interpretation service in Spanish, Arabic and Kurdish is available for Planning Commission meetings. To ensure that interpreters are available at the meeting, interested persons must request the accommodation at least four (4) calendar days in advance of the meeting by contacting the City Clerk at (540) 432-7701 or by submitting a request online at: www.harrisonburgva.gov/interpreter-request-form

El servicio de intérpretes inglés-español está disponible para las reuniones públicas de la Comisión de Planificación. Para asegurar la disponibilidad de intérpretes, cualquier interesado deberá solicitar la presencia de un intérprete al menos cuatro (4) días calendarios antes de la reunión comunicándose con la Secretaría Municipal al (540) 432-7701 o por medio de la página por internet al:

<https://www.harrisonburgva.gov/interpreter-request-form>

NOTE TO PUBLIC

Community members will be able to attend the meeting according to best practices and procedures associated with pandemic disaster.

1. Masks are not mandated but strongly encouraged
2. Social Distance rules will apply

The Public can also view the meeting live on:

- The City's website, <https://harrisonburg-va.legistar.com/Calendar.aspx>
- Public Education Government Channel 3

A phone line will also be live where residents will be allowed to call in and speak with Planning Commission during the Public Hearings and the Public Comments portion of the night's meeting. We ask those that wish to speak during the public comment period to not call in until after all the public hearings and public comment on those have been heard. This will avoid anyone calling on any other item from holding up the queue and then being asked to call back at a later time.

The telephone number to call in is: (540) 437-2687

Residents also may provide comment prior to the meeting by e-mailing Thanh.Dang@harrisonburgva.gov or visiting this page: www.harrisonburgva.gov/agenda-comments