

## REGULAR MEETING

APRIL 11, 2006

At a regular meeting of Council held this evening at 7:30 p.m., there were present: Mayor Larry Rogers; City Manager Roger Baker; Assistant City Manager Kurt Hodgen; City Attorney Earl Q. Thumma, Jr.; Vice-Mayor Rodney L. Eagle; Council Members Charles R. Chenault; Hugh J. Lantz; and George W. Pace; City Clerk Yvonne “Bonnie” Ryan, CMC/MMCA, and Police Major Wilfong. Absent: Chief of Police Donald Harper.

Mayor Rogers gave the invocation and led everyone in the Pledge of Allegiance.

Council Member Chenault offered a motion to approve the consent agenda, including approval of the minutes and the second reading of a supplemental appropriation for the Fire Department and a rezoning request from Harrisonburg Hotel Associates Limited Partnership. The motion also included re-enacting Section 4-2-66.1 of the Harrisonburg City Code. The motion was seconded by Vice-Mayor Eagle, and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Lantz  
Council Member Pace  
Vice-Mayor Eagle  
Council Member Chenault  
Mayor Rogers

Absent – None

Planning and Community Development Director Turner introduced a request from Avra Beth Kaslow-Leigh to rezone one, 7.23 acre lot from R-1, Single Family Residential District to B-2C, General Business District Conditional. The property is located on the southeast corner of Neff Avenue and Port Republic Road and can be found on tax map 87-G-1. She said at the City Council’s February meeting this request was returned to Planning Commission because additional proffers had been submitted that Planning Commission had not previous heard. The Comprehensive Plan designates this area as Low-Density Mixed Residential. Mrs. Turner reviewed the surrounding uses in the area. A new revised set of proffers was submitted on April 10, 2006 stating that the development of this site would occur in general conformance with the conceptual plan dated April 10<sup>th</sup> with the possible exception of Neff Avenue entrance location. The entrance location would be determined during the City’s final site plan approval process. She presented a brief overview of the proffers. The proffers include a landscape buffer along the entire length of the southeastern property line, uses restricted to governmental, business and professional offices, financial institutions, and public utilities uses, all exterior night lighting professional offices, financial institutions, and public utilities uses, all exterior night lighting directed to the site, lighting 16 feet in height, no entrance off of Port Republic Road, no hours of operation between 10:00 p.m. and 6:00 a.m., no free standing signs taller than 12 feet in height, architectural style will be Contemporary or Colonial Buildings, brick masonry, and that no

buildings would be more than two stories and 35 feet in height. She said that these revised proffers have addressed several of staff's concerns. However, the size of this development will require a Traffic Impact Analysis as outlined in the Design and Construction Standards Manual (D.C.S.M.) to study how significant development on this site will impact or be impacted by surrounding traffic patterns. She said that there is substantial commercial land left to be developed in this area. It was not intended that Port Republic Road and Neff Avenue be a retail corridor in the City. It was intended to provide enough business zoning classification for neighborhood type business uses, which seem to be currently met by the shopping center and available commercial spaces. At the Planning Commission's public hearing many nearby residents spoke in opposition to the rezoning request. She said Planning Commission recommended denial of the request (6-1) allowing the parcel to develop only as professional uses.

Council Member Lantz asked Mrs. Turner to explain the differences between what the Planning Commission heard at its meeting and what has been proffered at the City Council meeting today.

Mrs. Turner explained that the only difference is the site plan and the layout of the buildings. The buildings will be in substantial conformance with what is shown on the site plan including maximum building area of 9,500 square feet of the three smaller building and the two larger buildings containing approximately 20,000 and 17,000 square feet. There will be several smaller building with green spaces between them. The parking layout shows setbacks from the street and that parking will not be behind the buildings next to the single-family homes.

Council Member Pace commented that Planning Commission had different points of view. Some Planning Commissioners insisted that the area should remain residential, but thought that an R-6 development could be an opportunity, had hoped that they would not include the bank, and if everyone knew what would happen with the Clatterbuck property across the street it might have been approved.

Vice-Mayor Eagle asked, "What are the hours of operation?"

Mrs. Turner said that no use would be permitted between the hours of 10:00 p.m. and 6:00 a.m.

Council Member Chenault said, "What is going to be the determinant of where the entrance off of Neff Avenue is located?"

Mrs. Turner said some of it would look at the Traffic Impact Analysis and what it says about how far back maybe it should be from the entrance. It may also depend on what would be known when a more defined construction plan for this site is developed.

At 7:48 p.m., Mayor Rogers closed the regular session temporarily and called the evening's first public hearing to order. The following notice appeared in the Daily News-Record on Monday, March 27, and Monday, April 3, 2006.

## NOTICE OF PUBLIC HEARING

The Harrisonburg City Council will hold public hearings on April 11, 2006 at 7:30 p.m., in the Municipal Building, City Council Chamber, 345 South Main Street, to consider the following:

*Rezoning – Kaslow-Leigh Property (Neff Avenue and Port Republic Road)*

Public hearing to consider a request from Avra Beth Kaslow-Leigh, Trustee to rezone one, 7.23 acre lot from R-1, Single Family Residential District to B-2C, General Business District Conditional. The property is located on the southeast corner of Neff Avenue and Port Republic Road and can be found on tax map 87-G-1.

The Comprehensive Plan designates this area as Low-Density Mixed Residential. These large undeveloped areas located at the edge of the city are planned for residential development containing a mix of large and small-lot single family detached dwellings and attractive green spaces.

The Zoning Ordinance states that the R-1, Single-Family Residential District is intended for low-density, relatively spacious single-family residential development. The residential density ranges from 1 to 4 units per acre, with a minimum lot size of 10,000 sq. ft. The B-2, General Business District is intended to provide sufficient space in appropriate locations for a wide variety of retail shopping, commercial, automotive, miscellaneous recreational, and service activities. No minimum lot size restrictions exist in the B-2, General Business District.

Mayor Rogers called on anyone desiring to speak for or against this rezone request.

Ray Nicely, Director of Planning with Valley Engineering, representing the applicant said this property has a lot of history. As a result of the comments from Ashby Heights residents and Planning Commissioners a lot of changes have been made to the application. He said that low-density residential development as indicated by the Comprehensive Plan is not appropriate for this property. The proposed limited professional office and financial institution is the best use. The developer's intent for the project and the conditions are proposed to insure limited impact on the residents of Ashby Heights. This seven acre tract was the remaining portion of a larger tract that has been in the applicant's family for 25 years. In recent years the property has been vacant, but has been affected by the changes occurring in the area. After Neff Avenue was installed to connect Port Republic Road to the mall area this piece of property became a major traffic intersection in the City. Although, we do not know what will happen on the City owned tracts, it is reasonable to assume that it will not developed as residential property. The relocation of the Rockingham Memorial Hospital on Port Republic Road will have a major impact on this area. He said with these proffers in place there will be a minimal impact on the existing residential property nearby. We don't agree with staff proposal for residential development entering the site from Westmoreland Drive. The most significant proffer is the use of the property, which is restricted to governmental, business and professional offices or financial institutions as well as public utilities, telephone exchange and transformers only. He also reviewed the remaining proffers.

Avra Kaslow-Leigh owner of the property fronting on Neff Avenue said, “My husband Kevin Leigh and I are requesting a conditional B-2 rezoning of this tract. We are presenting a plan that incorporates architectural, landscaping, light commercial use and numerous other proffers to insure that our business center will be a compatible and complementary asset to the residential community of Ashby Heights. We have gone to great lengths to accomplish this goal to which we have addressed specific concerns of residents and the City regarding down lighting, primary access, hours of operation and trash service, and dumpster locations.” In 1992 the City of Harrisonburg adopted the Comprehensive Plan. Two years later we were contacted by the City and notified that the original connector street to the current Valley Mall from Port Republic Road was being relocated further east and would run along side and through our property. The connector road became Neff Avenue. These changes allowed for future development of what is now Stone Spring Elementary School and Forbes Commercial center. In April 2000, my husband and I began our first attempt at rezoning these 23.7 acres. The request is to rezone from R-1 to B-2 Conditional. The Planning Commission did not recommend the rezoning request and it was withdrawn. She reviewed excerpts from that public hearing. During 2004 and 2005, the City of Harrisonburg and James Madison University were considering joint development efforts to expand the financial and cultural opportunities for the community. The university was bursting at the seams with the need for a new sports complex, athletic fields, and additional parking. The City was looking to expand its financial base and provide a multi purpose convention center for City residents. The result was the City purchase 34 acres from the George Clatterbuck property and 16.5 acres from mine. It is now 2006 and the population in our area continues to grow. There is demand for more elementary schools and the City has just completed a new high school. JMU will increase its student population to 20,000 by the year 2010 if not sooner. There is a multitude of residential subdivisions in various stages of construction within the City and particularly in the County. RMH is relocating on the 254-acre Harman farm at the intersection of Port Republic Road and Reservoir Street with completion set for 2009. Both the City and County have confirmed plans to widen Port Republic Road. The future is already upon us. Here is an opportunity to be proactive rather than reactive. To encourage smart growth and quality development. To plan for well designed self contained and self supporting neighborhoods where residential subdivisions are attractively buffered from light commercial zones that provide the services to these residents such as doctor offices, lawyer offices, banks, groceries, etc. Don't we want to have a positive and determining influence in the shape of that future growth? In the past two months we have heard more one than commissioner take note of the quality of the business center we are proposing. We are offering an attractive and low impact professional center with a natural buffer zone similar to the mix of professional and residential along Evelyn Byrd Avenue. Our plan comes without the uncertainty of an R-6 housing project. Yet some consider the mixed use of commercial and residential to be a problem. There is no protection in R-6 from the pit falls of investment buyers. The very worries that plague City staff and residents regarding multi family could easily affect R-6. In fact, an R-6 community with a moderate priced housing would be a likely target for eager investors in today's market place. We are at a difficult cross roads. To repeatedly suggest that my husband and I develop our remaining 7.4 acres as R-6 is trading one problem for another. The R-6 community would be left to suffer the impact of heavily traveled road. We have an opportunity to move our community forward to a future that does have a constructive and effective plan of development. Also, to have smart growth with an attractive mix of commercial and residential with natural buffer zones. Again, our property is not conducive to residential now or in the

future. We feel very strongly that our proffers for a future business center will be the better development plan for Ashby Heights and the City rather than an R-6 housing project. We are offering a low impact professional business center able to provide services for the residential community. It is a plan that will sustain future commercial and residential property appreciation and it is a solid revenue base for the City without the impact and demand on City services. This proposed plan with the guaranteed proffers will be one of the most attractive commercial centers in Harrisonburg. The Comprehensive Plan has been referred to as the final gauge of measure. First and foremost the Comprehensive Plan was not followed when the City determined that presently located Neff Avenue would become the intersecting road between Route 33 and Port Republic Road. Our community is at a turning point in its history. We are providing a plan for smart growth and quality development that will bring balance to the residential and business community. It is an upscale business plan that not only offers an attractive natural buffer between a residential area and professional business center, but also provides the supporting services such as a doctor's office or bank to nearby residents. "We have addressed the major issues of concerned Ashby Heights residents. We hope that the City Council will agree and give our rezoning request a favorable consideration."

Kevin Leigh said over a 30-year period in the City of Harrisonburg it is doubtful that any other property has been significantly impacted by so many changes. Thirty years ago James Madison University was a college of 5,000 students and nearly all of the students were housed on campus. Today it is a university of approximately 17,000 and approaching 20,000. The exploding enrollment and housing demands are being met by off campus housing that is mushrooming all around our Neff Avenue property. We in the City accommodate and tolerate these additional 10,000 off campus students with their annual college parties, speeding traffic, and property issues that greatly effect the quality of life for all full time residents in the surrounding neighborhoods. Twenty-five years ago the City annexed this property from the County and kept it as R-1. Because of other surrounding property owners Neff Avenue was reconfigured and moved East and goes through and along side our property. We had no choice but to cooperate with the City to enable Neff Avenue to become the connector for the Valley Mall, student housing and business corridor of Port Republic Road. We worked with City officials on permitting construction and utility placement. At that time, Neff Avenue was to be a limited access road with a minimum of 400 feet between access points along this road. By 2005, the City has nearly doubled in size. There will be many changes in the future by building a new hospital and other construction. There is not a single piece of property in all of Harrisonburg that has been so negatively impacted. There is no quality of life or any enjoyment that any homeowner can possible expect. Taking all the expected changes this is one property that needs reclassification and rezoning. We have brought before you this evening our proposed rezoning plan that addresses these changes and takes into consideration the existing neighborhood of Ashby Heights, but also protects their investment and quality of life. It is a plan that is more in line with the existing zoning immediately along Port Republic Road and the future planning of property above us and across Neff Avenue. It is a plan that also provides a good transition buffer zone for the existing residential neighborhood and makes good economic sense for the City. We are bringing an upscale B-2 Conditional business center that addresses an even balance between commercial and residential. We ask City Council to look beyond the emotional issue and approve this rezoning request to bring balance to an area that is in such need.

Rodney Good said that he spends many mornings walking his dog. He said that smart, slow and well thought out development makes for a City that flows. “Wait until the hospital is finished because I think this will a major turn lane into the hospital.” We should slow down and make this an ongoing project. We need to see what traffic flow the hospital will bring to this area.

Neil Meneffe said the rezoning request is contrary to the City Comprehensive Plan and is not consistent with what residents were told by City Council and Planning staff when they purchased property over a number of years. At the Planning Commission public hearing on January 11<sup>th</sup>, we heard the applicants say that the site is not suited for residential development, but that commercial development would be appropriate. Planning staff recommended against the requested rezoning based on the Comprehensive Plan and suggested that something of the transitional nature perhaps using the new R-6 classification. We have yet to hear why something like the R-6 classification is not workable on this property. Many of us bought land and built homes in the area with promises and commitments from City officials that the property on the South side of Port Republic Road at this intersection would be commercially developed while the property on the North side would be residential. Good planning and zoning are suppose to protect us against this type of development that approving this request would endorse.

Barbara McKee said, “I do not support B-2 or R-6.” The land is zoned R-1 and has been for 30 years. She said this area could be developed residentially regardless of its proximity to a busy road because there were other homes in the City that have built near busy roads. She pointed out that the area does water drainage problems. “Trust your judgment in this rezoning request.”

Nancy Voas said she and her husband were new residents. They moved to the area in 2005 and retired. She had 20 years of real estate experience, has been on a zoning board, and landmarks commission. She said they bought their home knowing the area was zoned R-1, but believed the Comprehensive Plan would be supported. She expressed concern about the domino effect by rezoning parcels.

Gary Green said he strongly opposed this rezoning request. “I have lived in the area for 41 years.” This request has been denied twice. We have heard staff report two different times recommending against this rezoning. “I urge Council to vote against this rezoning request.”

There being no others desiring to be heard, the public hearing was declared closed at 8:45 p.m., and the regular session reconvened.

Vice-Mayor Eagle said that he has lived on Port Republic Road since 1948. “I have seen a lot of change in the area and I have gotten along very well with my neighbors in Ashby Heights. I have had cattle shot, run over, fences cut, and gates taken, but I have gotten along well with my neighbors. Speaking as a citizen I would prefer to have businesses rather than houses. However, changes are taking place especially with the new location of Rockingham Memorial Hospital and this intersection will be a major intersection. This plan offers a good alternate. It would be foolish to rezone the property to R-6. These proposed businesses will not be open on weekends. I am speaking as a citizen and would prefer professional offices to housing.

Council Member Lantz commented that all cities change over a period of time especially 30 years. The Port Republic Road area has changed dramatically during the last 30 years. This request came before City Council in 2000 and has been before this body twice. It is wrong to say that this is a quick decision. This is not spot zoning because across the street is a big commercial development.

Council Member Chenault said, “This is a public safety issue pure and simple. If I knew that this proposed development would generate less traffic than the current zoning I might be able to support it. But, I don’t know that. I can’t support this development with basically an un-proffered entrance on Neff Avenue and the fact that a financial institution is proffered as a permitted use.”

Council Member Pace said we do have a role to protect existing neighborhoods where people have purchased property, built homes and made a large investment. “I think one should not go and rezone property given that type of investment unless there is an urgent need to develop on that property. I don’t see an urgent need.”

Vice-Mayor Eagle offered a motion to approve the rezoning request as submitted. The motion was seconded by Council Member Lantz, and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Lantz  
Vice-Mayor Eagle  
Mayor Rogers

No - Council Member Pace  
Council Member Chenault

Absent – None

Planning and Community Development Director Turner introduced a request from Jose and Marissa Cortes to rezone one, .50 acre parcel from M-1, General Industrial District to B-2C, General Business District Conditional. The property is located at 877 North Main Street and can be found on tax map 41-L-7. She said that the property located at the corner of North Main Street and Ashby Avenue is currently zoned M-1, General Industrial District and does contain a single family nonconforming home. The Comprehensive Plan designates this area as Commercial. Mrs. Turner reviewed the surrounding uses in the area. The applicant plans on removing the existing building and then construct a building to be used for a family restaurant. The applicant has proffered the following: The applicant proffers included mercantile establishments, government, business and professional offices, religious, educational, charitable, or benevolent institutional uses, service or repair shops, warehousing, storage facilities, research and development activities, plant nurseries and public uses. Additional proffers include that the applicant also has the option to apply for any uses permitted by special use permit, hours of operation will be between 6:00 a.m. to 12:00 a.m., option to apply for an alcohol permit to allow beer and wine only, seating capacity would not exceed 100 people, down-lit lighting will be used for the parking lot, dumpster will be located to the rear of the property, and a ten-foot wide

evergreen buffer provided and maintained along the length of the north property line adjoining the City alley right-of-way to screen from the surrounding residential uses. She said the applicant is aware that a restaurant use will require one parking space for each 100 square feet of gross floor area. They are also aware that the number of entrances and their locations could be restricted due to sight distance or safety concerns from the proximity of the north Main Street and Ashby Avenue intersection. Rezoning these parcels would be consistent with the Land Use Guides' Commercial designation. She said that Planning Commission recommended approving this request.

At 9:01 p.m., Mayor Rogers closed the regular session temporarily and called the evening's second public hearing to order. The following notice appeared in the Daily News-Record on Monday, March 27, and Monday, April 3, 2006.

### **NOTICE OF PUBLIC HEARING**

**The Harrisonburg City Council will hold public hearings on April 11, 2006 at 7:30 p.m., in the Municipal Building, City Council Chamber, 345 South Main Street, to consider the following:**

***Rezoning – 877 North Main Street***

**Public hearing to consider a request from Jose & Marissa Cortes, with representative Benner and Associates, Inc., to rezone one, .50 acre parcel, from M-1, General Industrial District to B-2, General Business District. The property is located at 877 North Main Street and can be found on tax map 41-L-7.**

**The Comprehensive Plan designates this area as Commercial. This designation states that these areas include uses for retail, wholesale, or service functions. These areas are found along major travel corridors and in the Central Business District of the City.**

**The Zoning Ordinance states that the M-1, General Industrial District is intended primarily for manufacturing, processing, storage, and distribution activities, which are not properly associated with, nor compatible with, residential and institutional development. No minimum lot size restrictions exist in the M-1, General Industrial District. The B-2, General Business District is intended to provide sufficient space in appropriate locations for a wide variety of retail shopping, commercial, automotive, miscellaneous recreational, and service activities. No minimum lot size restrictions exist in the B-2, General Business District.**

**CITY OF HARRISONBURG  
Roger D. Baker  
City Manager**

Mayor Rogers called on anyone desiring to speak for or against this request. There being no one desiring to be heard, the public hearing was declared closed at 9:02 p.m., and the regular session reconvened. Council Member Pace offered a motion to approve this rezoning request. The motion was seconded by Council Member Chenault, and approved with a recorded roll call vote taken as follows:



Vote: Yes - Council Member Lantz  
Council Member Pace  
Vice-Mayor Eagle  
Council Member Chenault  
Mayor Rogers

Absent – None

Planning and Community Development Director Turner introduced a request from Gary Turner to rezone a 1.69-acre portion of the lot located at 1620 Virginia Avenue from B-2, General Business District to R-3 C, Multiple Dwelling Residential District Conditional. The applicant intends to create 16 townhouses lots for individual sale. The remaining front section of the parcel would remain zoned, B-2. The Comprehensive Plan designates this area as Commercial. She reviewed the surrounding uses in the area. The applicant has proffered the following: 1) Dwelling units may be occupied by a family or not more than two (2) unrelated persons. 2) The façade of fifty (50) percent of the structures shall be brick veneer. There will no exposed corrugated steel or block masonry on structures. Buildings shall be limited to two (2) stories and thirty-five feet in height. 3) The property will be used for single-family detached homes or single family attached dwellings. The applicant is aware that when this plan is submitted for preliminarily plat approval it will involve a variance to request that the lots not front on a public street. She said that Planning Commission recommended approving the request.

At 9:09 p.m., Mayor Rogers closed the regular session temporarily and called the evening's third public hearing to order. The following notice appeared in the Daily News-Record on Monday, March 27, and Monday, April 3, 2006.

### NOTICE OF PUBLIC HEARING

**The Harrisonburg City Council will hold public hearings on April 11, 2006 at 7:30 p.m., in the Municipal Building, City Council Chamber, 345 South Main Street, to consider the following:**

***Rezoning – 1620 Virginia Avenue***

**Public hearing to consider a request from Gary Turner, with representative Valley Engineering, to rezone a 1.69-acre portion of tax map parcel 52-A-3 from B-2, General Business District to R-3, Multiple Dwelling Residential District. The property is located at 1620 Virginia Avenue.**

**The Comprehensive Plan designates this area as Commercial. This designation states that these areas include uses for retail, wholesale, or service functions. These areas are found along major travel corridors and in the Central Business District of the City.**

**The Zoning Ordinance states that the B-2, General Business District is intended to provide sufficient space in appropriate locations for a wide variety of retail shopping, commercial, automotive, miscellaneous recreational, and service activities. No minimum lot size restrictions exist in the B-2, General Business District. The R-3, Multiple Dwelling Residential District is intended for medium- to high-density residential development and**

**other uses intended to respect the residential character, which are aesthetically compatible within the district by means of architectural expression, landscaping, and restrained traffic flow. The residential density ranges for R-3 are single-family, 6,000 sq. ft. minimum; two-family, 4,000 sq. ft./unit; multi-family, 3,000 sq. ft. minimum per unit; townhouses, 2,000 sq. ft. minimum per unit; and other uses, 6,000 sq. ft. minimum.**

**CITY OF HARRISONBURG  
Roger D. Baker  
City Manager**

Mayor Rogers called on anyone desiring to speak for or against this request.

Ray Nicely, Director of Planning with Valley Engineering, and representing the applicant said the staff report covered all of the basic issues of the request. There being no others desiring to be heard, the public hearing was declared closed at 9:10 p.m., and the regular session reconvened. Council Member Pace offered a motion to approve this rezoning request. The motion was seconded by Vice-Mayor Eagle, and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Lantz  
Council Member Pace  
Vice-Mayor Eagle  
Council Member Chenault  
Mayor Rogers

Absent – None

Planning and Community Development Director Turner introduced a request from Eighty One, LLC, to modify the Comprehensive Plan's Land Use designation. She said this is a request to change the Comprehensive Plan's Land Use designation from Low Density Residential to Low Density Mixed Residential for five parcels at the intersection of Betts Road and East Market Street. She said that the Comprehensive Plan designates this area as Low-Density Residential. This designation states that these areas consist of single-family detached dwellings with a maximum density of 1 to 4 units per acre. Low-density sections are found mainly in well-established neighborhoods and are designed to maintain the existing character of neighborhoods and to provide traditional areas for home ownership. She reviewed the surrounding uses in the area. The applicant are requesting that these parcels be designated as Low Density Mixed Residential. The Comprehensive Plan defines these parcels as large undeveloped areas located at the edge of the City and planned for residential development containing a mix of large and small lot single-family detached dwellings and attractive green spaces. Planned "open space" is also encouraged. The intent is to allow innovative residential building types and permit creative subdivision design solutions that promote neighborhood cohesiveness, walkability, connected street grids, community green spaces, and protection of environmental resources. Density would range from 1 to 6 dwelling units per acre. She reviewed previous attempts to rezone this area. The developer decided to look at a newly created R-6 zoning classification to further advance some ideas of the Comprehensive Plan for innovative subdivision. Staff suggested that the developer might want to request to amend the Comprehensive Plan Land Use Guide. She said that the land use guide sets out the land uses in the City for the next 20 years. The City's

Comprehensive Plan was last updated in February 2004. At the Planning Commission meeting there was some debate whether Planning Commission felt the Comprehensive Plan for five lots was appropriate. If this request is adopted it will not change the zoning classification of this property. This property would remain R-1 regardless of whether this is its current low-density to a low-density mix or a business classification. It is going to remain R-1. Any use other than R-1 on that property will require seeking a rezoning. She said that Planning Commission voted to amend the Comprehensive Plan amendment by a vote of 4-3.

At 9:19 p.m., Mayor Rogers closed the regular session temporarily and called the evening's fourth public hearing to order. The following notice appeared in the Daily News-Record on Monday, March 27, and Monday, April 3, 2006.

### **NOTICE OF PUBLIC HEARING**

**The Harrisonburg City Council will hold public hearings on April 11, 2006 at 7:30 p.m., in the Municipal Building, City Council Chamber, 345 South Main Street, to consider the following:**

***Comprehensive Plan Land Use Guide Amendment – Betts Road & East Market Street***  
**Public hearing to consider a request from Eighty One, LLC, with representative Blackwell Engineering, to modify the Comprehensive Plan's Land Use designation from Low Density Residential to Low Density Mixed Residential for tax map parcels 74-B-2-6. The properties, zoned R-1, Single Family Residential District, are located on the southeast corner of East Market Street and Betts Road.**

**CITY OF HARRISONBURG**  
**Roger D. Baker**  
**City Manager**

Mayor Rogers called on anyone desiring to speak for or against this request to amend the Comprehensive Plan.

Dick Blackwell representing the applicant said that this lot has a lot history. He said they were requesting the Comprehensive Plan change at the request of staff. They are planning to ask for a R-6 zoning development. We are working on that plan, which could include smaller homes on smaller lots. He mentioned some of the improvements that would be made during the development if the rezoning were approved.

Jay Burns Earle, III said that he represented about 200 homeowners in the Fairway Hills Subdivision. He said we are hoping we can work with the development of this property. We have been involved, examine and mention to the developer our concerns regarding the property. An application for this rezoning is coming within the next three months. "What has really changed that would warrant changing the Comprehensive Plan?" Changing the Comprehensive Plan is the first step in rezoning this property and it is an unnecessary step. There being no others desiring to be heard, the public hearing was declared closed at 9:29 p.m., and the regular session reconvened.

Council Member Pace said, “In terms of disclosure I live in Fairway Hills and I voted a firm no at the Planning Commission meeting. I agree very little has changed.” This item does not need to be in front of this body unless we are going to consider the entire property that runs from the edge of the Frazier property all the way to the golf course in the context of whether all of that should be R-6. That would be a significant change. Following further comments, Council Member Pace offered a motion to deny this request. The motion was seconded by Vice-Mayor Eagle, and approved with a recorded roll call vote taken as follows:

It was clarified that the motion was **to deny** the request.

Vote: Yes - Council Member Lantz  
Council Member Pace  
Vice-Mayor Eagle  
Council Member Chenault  
Mayor Rogers

Absent – None

Planning and Community Development Director Turner introduced a request from Interstate Properties II, LLC, to modify the Comprehensive Plan’s Land Use designation from Commercial and Mixed Use Development to Medium Density Residential, Medium Density Mixed Residential, and Commercial for tax map parcels 13-B-3,4,6 and 30-A-1-4, 6, 7. The Comprehensive Plan designates this area as a mixture of Commercial and Mixed Use Development. She reviewed the surrounding uses in the area. The properties are currently undeveloped; several were once part of a rock quarry. The current land use designations for these properties consist of Commercial on the parcels near County Club Road, and Mixed Use Development for the parcels toward Smithland Road. The Mixed Use Designation includes both existing and proposed new mixed-use areas. These areas are intended to combine residential and non-residential uses in planned neighborhoods where the different uses are finely mixed area instead of separated. These areas are prime candidates for “live-work” and traditional neighborhood developments. The City currently does not have a zoning classification that matches the Mixed Use land use designation. The developer intends to limit the commercial use in this area and use the area for a combination of single-family detached and attached dwelling units. Rezoning it to allow for any type of residential uses and mixed or not with commercial uses has a large impact on the City’s transportation, education and other facilities. A development of this size would have to have a very substantial comprehensive development plan come before Planning Commission and ultimately City Council. She said Planning Commission approved this request by a vote of 6-1.

At 9:48 p.m., Mayor Rogers closed the regular session temporarily and called the evening’s fifth public hearing to order. The following notice appeared in the Daily News-Record on Monday, March 27, and Monday, April 3, 2006.

## **NOTICE OF PUBLIC HEARING**

**The Harrisonburg City Council will hold public hearings on April 11, 2006 at 7:30 p.m., in the Municipal Building, City Council Chamber, 345 South Main Street, to consider the following:**

***Comprehensive Plan Land Use Guide Amendment – Quarry Properties (Interstate Properties II)***

**Public hearing to consider a request from Interstate Properties II, LLC, with representative Blackwell Engineering, to modify the Comprehensive Plan’s Land Use designation from Commercial and Mixed Use Development to Medium Density Residential, Medium Density Mixed Residential, and Commercial for tax map parcels 13-B-3,4,6 and 30-A-1-4,6. Under the proposal, tax map parcels 30-A-1-4,6 would be redesignated to Medium Density Mixed Residential. Tax map parcels 13-B-3,4,6 would be redesignated as a mixture of Commercial, Medium Density Residential, and Medium Density Mixed Residential. If approved, the new designations for the total acreage would be 9.12 acres of Medium Density Residential, 20.59 acres of Commercial, and 122.89 acres of Medium Density Mixed Residential. The properties, zoned B-2, General Business District and M-1, General Industrial District, are located between Country Club Road and Smithland Road.**

**CITY OF HARRISONBURG  
Roger D. Baker  
City Manager**

Mayor Rogers called on anyone desiring to speak for or against this request from Interstate Properties II, LLC.

Ed Blackwell representing the owner said, “This is a good plan for a Comprehensive Plan change.” It is a monumental task and hearing some input now would be appreciated. This parcel is approximately 150 acres. In the past two large commercial projects have not materialized on this site. We want to reduce the amount of commercial property from about 60 acres down to about 20 acres. He reviewed plans for remainder use of the property. There being no others desiring to be heard, the public hearing was declared closed at 9:54 p.m., and the regular session reconvened.

Council Member Pace said, “Mr. Blackwell can you provide another location of comparable size in the City that would compare to this 20 plus acres for commercial development? Is it bigger than Harrisonburg Crossing?” He said that whatever is developed anywhere near the concrete area of this project there needs to be a significant barrier between the proposed use and the existing uses.

Council Member Lantz asked Mrs. Turner if the Comprehensive Plan’s Land Use designation is approved could the rezoning request be denied at a later date?

Mrs. Turner said that if the plan were adopted then the applicant would probably put forth the effort and time into planning it that way. The way they would address how that site fits in with the rest of the residential and commercial area might be different than if that is developed as something else. If Council has a resolution now it would be better for staff if it was resolved.

She also said that we will be working in conjunction with any school development plans to see how that might line up with the plans for the entrance into the new school site.

Council Member Chenault commented that Council has received information from adjoining property owners indicating that they were willing to work with the developer to try to resolve any conflict and were asking for the opportunity to try and rectify any safety issues.

Following further discussion and comments, Council Member Pace offered a motion to approve this request as presented. The motion was seconded by Council Member Chenault, and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Lantz  
Council Member Pace  
Vice-Mayor Eagle  
Council Member Chenault  
Mayor Rogers

Absent – None

The next item of business was a request from Massanutten Regional Library. Library Director Phil Hearne said that as a result of higher heating and electrical costs during the current fiscal year, Massanutten Regional Library is requesting additional funds from the City in amount of \$9,000.00. He said that Rockingham County is also being asked for an additional \$9,000.00. Council Member Pace offered a motion to grant a supplemental appropriation of \$9,000.00 to cover the energy cost requirements for the library. The motion was seconded by Council Member Chanault, and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Lantz  
Council Member Pace  
Vice-Mayor Eagle  
Council Member Chenault  
Mayor Rogers

Absent – None

Police Major Wilfong presented a request for a supplemental appropriation for the Police Department. He said that these funds were received through two Department of Motor Vehicles reimbursement grants and will be used to purchase four radar units. Vice-Mayor Eagle offered a motion to approve this request for a first reading, and that:

\$6,948.00 chge. to: 1000-33524 DMV Grant Federal

\$6,948.00 approp. to: 1000-310231-46100 Police supplies

The motion was seconded by Council Member Lantz, approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Lantz  
Council Member Pace  
Vice-Mayor Eagle  
Council Member Chenault  
Mayor Rogers

Absent – None

City Manager Baker presented a request for a supplemental appropriation for the Fire Department. He said that these funds were received from the state for the “Four for Life” program. Council Member Pace offered a motion to approve this request for a first reading, and that:

\$6,625.08 chge. to: 1000-32514 Two (Four) for Life

\$6,625.08 approp. to: 1000-350532-46155 Two (Four) for Life

The motion was seconded by Vice-Mayor Eagle, approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Lantz  
Council Member Pace  
Vice-Mayor Eagle  
Council Member Chenault  
Mayor Rogers

Absent – None

City Manager Baker presented the following proclamation for Council’s consideration of approval:

### **ARBOR DAY PROCLAMATION**

**WHEREAS in 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees, and**

**WHEREAS, this holiday, called Arbor Day was first observed with the planting of more than a million trees in Nebraska, and**

**WHEREAS, Arbor Day is now observed throughout the nation and the world, and**

**WHEREAS, trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce life-giving oxygen, and provide habitat for wildlife, and**

**WHEREAS, trees are a renewable resource giving us paper, wood for our homes, fuel for our fires, and beauty in our community, and**

**WHEREAS, trees in our city increase property values, enhance the economic vitality of business areas, and beautify our community, and**

**WHEREAS, trees, wherever they are planted, are a source of joy and spiritual renewal,**

**Now, Therefore, I, Larry M. Rogers, Mayor of the City of Harrisonburg, Virginia, do hereby proclaim April 21, 2006 as Arbor Day in the City of Harrisonburg, and I urge all citizens to celebrate Arbor Day and to support efforts to protect our trees and woodlands, and**

**Further, I urge all citizens to plant trees to gladden the heart and promote the well-being of this and future generations.**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Larry M. Rogers, Mayor**

**Attest:**

\_\_\_\_\_  
**City Clerk**

Council Member Chenault offered a motion to approve the resolution as presented. The motion was seconded by Council Member Pace, and approved with a unanimous vote of Council.

Council Member Pace said that he noticed in the Daily News-Record that John Heubach, Assistant School Superintendent, and Jim Triplett, Finance Director, were retiring. "On behalf of the City Council, I would like to thank them for the public service to the school system and wish them the very best in retirement."

Mayor Rogers reminded everyone of the "Steppin' Out Program" during the week of April 24-30. The intent is to strive to walk a minimum of 70,000 steps in 7 days.

Council Member Chenault reminded everyone that April 22<sup>nd</sup> is Blacks Run Cleanup Day. He encouraged everyone to participate.

City Manager Baker presented a request from the Arts Council for \$5,000 for the Valley 4<sup>th</sup>. These funds will be used to help with the celebration. Council Member Chenault offered a motion to transfer the funds for this request. The motion was seconded by Vice-Mayor Eagle and approved with a unanimous vote of Council.

Council Member Chenault offered a motion that Council appoint Mike Collins, to the Environmental Quality Committee, Lester Seal, to the Finance Committee, Roger Baker and Earl



Thumma, to the General Laws Committee, Kurt Hodgen, to the Human Development & Education Committee, and Reggie Smith, to the Transportation Committee on the Virginia Municipal League policy committees. The motion was seconded by Council Member Pace, and approved with a unanimous vote of Council.

At 10:16 p.m., Council Member Chenault offered a motion that Council enter a closed session for discussion and consideration of personnel and prospective candidates to be appointed to the Harrisonburg Parking Authority, Industrial Development Authority, Harrisonburg-Rockingham Regional Sewer Authority and Tree Advisory Board, exempt from the public meeting requirements pursuant to Section 2.2-3711(A)(1) of the Code of Virginia. Discussion and consideration of the acquisition of real estate to be used for public purposes, exempt from public meeting requirements pursuant to Section 2.2-3711(A)(3) of the Code of Virginia, 1950, as amended. The motion was seconded by Vice-Mayor Eagle Council Member Lantz, and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Chenault  
Council Member Lantz  
Council Member Pace  
Vice-Mayor Eagle  
Mayor Rogers

Absent – None

At 11:35 p.m., the closed session ended and the regular session reconvened. City Clerk Ryan read the following statement was agreed to with a unanimous recorded vote of Council: I hereby certify to the best of my knowledge and belief that (1) only public matters lawfully exempt from open meeting requirements pursuant to Chapter 21 of Title 2.1 of the Code of Virginia, 1950, as amended, and (2) only such public business matters as were identified in the motion by which the closed session was convened, were heard, discussed or considered in the closed session by the City Council.

Council Member Chenault offered a motion that Kathy Holm, 320 Dixie Avenue, be appointed to the Tree Advisory Committee. The motion was seconded by Vice Mayor Eagle, and approved with a unanimous vote of Council.

Council Member Chenault offered a motion that Roger D. Baker, Henry C. Clark, Mike Collins, John R. Gordon, and alternate Kurt Hodgen be appointed to the Harrisonburg-Rockingham Regional Sewer Authority to expire on July 14, 2010. The motion was seconded by Vice Mayor Eagle, and approved with a unanimous vote of Council.

At 11:40 p.m., there being no further business and on motion adopted the meeting was adjourned.

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CITY CLERK

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MAYOR

