MINUTES OF HARRISONBURG PLANNING COMMISSION
September 12, 2012

The Harrisonburg Planning Commission held its regular meeting on Wednesday, September 12, 2012, at 7:00 p.m. in the City Council Chambers, 409 South Main Street.

Members present: Charles Chenault, Judith Dilts, MuAwia Da'Mes, Deb Fitzgerald, Henry Way, and Bill Jones.

Members absent: Alan Finks.

Also present: Stacy Turner, Director of Planning and Community Development; Adam Fletcher, City Planner; and Alison Banks, Senior Planner and Secretary.

Chairman Jones called the meeting to order and determined there was a quorum with six of seven members in attendance. He then asked if there were any corrections, comments or a motion regarding the minutes from the July 11, 2012 and August 8, 2012 regular Planning Commission meetings.

Mr. Da'Mes moved to approve both sets of minutes as presented.

Mrs. Fitzgerald seconded the motion.

All voted in favor of approving the minutes (6-0).

New Business

Rezoning – HRHA East Gay Street Project R-2 to R-3C; Special Use Permit – HRHA East Gay Street Project (Multi-Family); Zoning Ordinance Amendment – 10-3-48.4(3) Reducing Required Parking; Special Use Permit – HRHA East Gay Street Project (Reducing Required Parking)

Chairman Jones read the requests and stated that all four items are related; therefore, we will hear one combined staff report and public input. After that each request will be acted upon separately. He then asked staff to review.

At this time, 7:02 p.m., Mr. Chenault recused himself from the meeting and left the room.

Mr. Fletcher said the Comprehensive Plan designates this area as Neighborhood Residential. This designation states that 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 existing character of the neighborhood. These are older neighborhoods, which can be characterized by large housing units on small lots.

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

Site:	Twelve non-conforming multi-family residential units within three buildings, zoned R-2
North:	Multiple duplex units fronting Hill Street, Lincoln Circle, and Kelley Street, zoned R-2
East:	Detached single family homes and duplex units fronting Summit Street, zoned R-2
South:	Detached single family homes fronting East Rock Street, zoned R-2
West:	Across Hill Street, detached single family homes fronting Hill Street and East Gay Street, zoned R-2

The applicant is hoping to gain permission to build 29, one-bedroom multi-family units on 2.95 +/- acres of property with frontage along the northern and southern sides of East Gay Street and the eastern side of Hill Street. The subject property is currently zoned R-2, Residential District and is improved with three, non-conforming four-unit multi-family buildings for a total of 12 units.

The R-2 district does not permit multi-family units; therefore, the property owner is requesting to rezone the property from R-2, Residential District to R-3C, Medium Density Residential District Conditional. As most are aware, the R-3, Medium Density Residential District does not permit multi-family development by-right, but rather by special use permit (SUP) per Section 10-3-48.4 (6). Simultaneously with the rezoning application, the applicant is requesting the SUP to allow multi-family development within the R-3 district. Although there are other zoning districts that permit multi-family development by-right, staff suggested the applicant pursue the R-3 rezoning and SUP approach believing that if the City desired to allow more multi-family in this area of the City, such zoning would be a better fit for this neighborhood than an R-4 or R-5 zoning classification.

As part of the rezoning, the applicant has proffered the following:

1. The number of occupants in the new units shall be limited to one person per unit or two persons per unit if the occupants are married.
2. The number of units is limited to 10 units on the north side of Gay Street and 31 units on the south side of Gay Street. All new units will be one bedroom units.

If the above described applications are approved, the property owner can build the planned 29 multi-family units, but it does not give them the ability to construct the exact layout they desire. The applicant would like to provide less parking than is required by the Zoning Ordinance, but because such a provision does not exist for this type of use in the R-3 district, the applicant is requesting to amend the Zoning Ordinance Section 10-3-48.4 (3), which currently allows reduced parking areas only for professional offices by SUP. The applicant is simply proposing to amend this section to permit all uses in the R-3, Medium Density Residential District the ability to apply for reduced parking areas. Concurrently with the Zoning Ordinance amendment, the applicant is requesting the SUP per Section 10-3-48.4 (3) (as proposed for modification) to permit fewer than the required number of parking spaces. An existing stipulation of this SUP, which will remain in place if the amendment is approved, requires that an amount of open space equal to the amount of space that would have been used for parking be left available in the event that City Council determines more parking is needed in the future.

Before describing the details of the planned development, it is prudent to understand the history of the existing development and to be aware of how previous requests to build more multi-family on this property have been handled.

The subject property has been zoned R-2 since at least 1963 at which time property owners could build single family dwellings or two, three, or four family dwellings. In other words, properties could contain detached single family homes, duplexes, or three or four-unit multi-family (apartment) buildings. Seven thousand square feet of lot area was needed for single family dwellings and 4,000 square feet of lot area per unit for each duplex unit or multi-family unit was required. These regulations remained in place until 1987 when the City amended the Zoning Ordinance limiting R-2 development to detached single family homes with at least 7,000 square feet of lot area and duplexes with at least 11,000 square feet of lot area. The City provided a two-year

window of opportunity to build under the previous regulations by allowing property owners to obtain building permits until 1989.

It was during this transition period that the previous owners (the Forkovitches) obtained the building permits and built the existing three, four-unit, three-bedroom multi-family buildings. Essentially, as soon as the units were finished in 1989, they were non-conforming. Although the Forkovitches' comprehensive site plan demonstrated they were planning to construct five more four-unit buildings (eight buildings in total comprising of 32 units) they did not obtain the building permits in time. In 1991, the Forkovitches applied to the Board of Zoning Appeals (BZA) for a variance to the expiration of time to allow four-unit dwellings as was permitted prior to the 1987 Zoning Ordinance amendment. The BZA denied the request.

In 2001, the Forkovitches requested to rezone the property from R-2 to R-3C. In short, they proffered to develop what they had originally planned to build: five more four-unit apartment buildings. They also proffered to only allow a family or up to three individuals per unit. Staff recommended denial of the rezoning stating the proposed use was incompatible with the majority of the neighborhood and that it was not conforming to the Comprehensive Plan. Planning Commission unanimously recommended denial. The request was never heard by City Council as the applicants eventually withdrew the request.

Then, in 2004, the same property owners tried to rezone the property again from R-2 to R-3C. For this request they proffered in addition to the existing multi-family buildings to construct not more than 16 duplex units (eight buildings) and to limit occupancy to not more than a family or two individuals. Staff again recommended denial of the request because it was not conforming to the Comprehensive Plan, because of the zoning of the surrounding neighborhood, and because the rezoning would have made the existing units conforming to the Zoning Ordinance. Planning Commission recommended denial with a 4-3 vote. Once again the request was not heard at City Council because the applicants ultimately withdrew the request. (Note: The unit density in each of the earlier rezoning requests was less than the applicant's current proposal.)

The current requests are from Franklin Heights, LLC (an entity owned by Harrisonburg Redevelopment and Housing Authority (HRHA)), which has owned the subject property since December 2010. As mentioned earlier, they are requesting four separate applications. The first two applications include rezoning six parcels, totaling 2.95 +/- acres from R-2 to R-3C (see proffers above) while simultaneously applying for a SUP per Section 10-3-48.4 (6) to allow for the construction of 29, one-bedroom multi-family units and to bring the existing 12 multi-family units into conformance with the Zoning Ordinance. If these two requests are approved, the applicant must vacate all internal lot lines on both sides of the street to achieve their desired density. To view the layout of this plan of development see Sheet Number C2-02 of their submitted plans.

The parcel on the northern side of East Gay Street would have 10 units—four existing three-bedroom units and six new one-bedroom units. Under the R-3 lot area requirements, this would be one unit less than the permitted maximum density. The parcel on the southern side of East Gay Street would have 31 units—eight existing three-bedroom units and 23 new one-bedroom units—maximizing this parcel's density under the R-3 requirements. The development would also incorporate a 1,000 square foot community center building including space for group meetings, activity space, and an office area for individuals providing support services to those that live in the development. The planned development of 29 new units and the community center building will be one story and, as described by the applicants, is intended as "permanent supportive housing" and is

designed to address the needs of "medical vulnerable persons with disabilities encountering housing instability." For further information and details regarding this type of housing, carefully read the applicant's submitted narrative and additional attachments.

In sum, 78 parking spaces are required for the existing and planned units and the layout as shown on Sheet Number C2-02 demonstrates that all parking spaces can be provided. Sidewalk will be constructed along all street frontages and alongside the units and parking areas. A public transit bus stop location is already established along the subject property on the northern side of East Gay Street. As part of the proposed development, a bus shelter will be built for the transit stop. As shown on the submitted plans, in several locations the sidewalk along the street frontage is partially on public street right-of-way (ROW) and partially on the subject property. In addition, the sidewalk specifically shown on the northern side of East Gay Street reveals utility poles are currently in the direct path of the planned sidewalk. So long as the property owner dedicates public easements for the placement and use of the sidewalk, City staff is comfortable with the sidewalk being partially on private property and is also comfortable with the sidewalk along the northern side of East Gay Street either meandering around the utility poles or being constructed further from the public street. A note on the plan of development states their intent to provide the necessary easements.

As of September 1st, the City's new parking lot landscaping regulations have been in effect. The applicants have been aware of these new provisions and it appears they could accommodate those new regulations. Beyond the required parking lot landscaping regulations, the applicants have also provided detail of additional landscaping planned for the development (see Sheet Number C6-01). Staff appreciates the applicant's intent to provide additional landscaping and believes their landscaping would be aesthetically pleasing for the neighborhood and lessen the overall visual impact of such a development.

Sheet Number C4-01 demonstrates the preliminary layout for water and sewer infrastructure. If the plan of development is approved, the site must meet the requirements of the Design and Construction Standards Manual. Upon a citizen request, included within the packet of information are two letters written to this nearby citizen, upon their request, who had concerns regarding sanitary sewer infrastructure within this neighborhood. The first letter was provided in 2004 and the second letter was recently provided in August 2012.

As noted above, if the applicant is successful in rezoning the property and receiving approval of the SUP to build 29 multi-family units, given that the individuals who would occupy these units would rely on public transportation or may not own a vehicle, the property owner would like to provide less parking than is required by the Zoning Ordinance. To do this, the applicant is proposing to amend the R-3, Medium Density Residential District's list of special uses Section 10-3-48.4 (3) as shown below:

> (3) Reducing required parking areas to permit fewer than the required number of parking spaces for <u>any use,</u> ~~professional offices permitted in residential districts,~~ provided that an amount of open space equal to the amount of space that would have been used for the required number of parking spaces is left available for parking in the event that, at the discretion of the city council, it is needed at some time in the future. Open space used for this purpose shall be so noted in the deed and shall not be used to meet any conflicting requirements of the zoning ordinance.

Concurrently with the Zoning Ordinance amendment, the property owner is requesting the SUP to permit fewer than the required number of parking spaces. As shown in the existing ordinance

language, the amount of space that would have been used for parking shall remain as open space and this space shall not be used to meet any conflicting requirements of the Zoning Ordinance. If approved, rather than supplying 78 parking spaces, they would provide 49 parking spaces. This would be a 37 percent reduction in what is required for the development as a whole.

If this SUP is approved, the development would basically meet the required parking for the existing three-bedroom units, which is 30 spaces (2.5 spaces per unit), and then provide four spaces for the community center building, which also meets the required minimum. The reduction would be applied by providing one space for every two units of their new, one-bedroom units, which is 15 parking spaces rather than providing the required 44 spaces (1.5 spaces per unit). If they are permitted to reduce their parking areas, the design of the site would not change, except for the fact that more open space and landscaping would be provided.

If approved, and regardless of the design that is built, the applicant should be aware of a couple of things. First, when they are ready to submit their subdivision request to vacate the internal lot lines, per the combination of requirements within Sections 10-2-41, 45, 66, and 67 of the Subdivision Ordinance, this subdivision would trigger requirements to dedicate public street ROW and to build required street improvements, if necessary. The standard 50-feet of street ROW width is already in place for East Gay Street. Hill Street, however, is only 40-feet in ROW width meaning ROW and street improvements would be required for this street. Nonetheless, City staff has already evaluated this situation and has determined that additional street ROW would not be necessary nor would additional street improvements be necessary, other than sidewalk construction. At this time, City staff believes Hill Street would not warrant significant street improvements given its current and foreseeable use. Because of this situation, the property owners will be required to submit a preliminary plat and, to build their plan as shown; they must request variances to the above described Subdivision Ordinance sections. City staff would be prepared to support such requests noting (per Section 10-2-41 (a) (1)) that the proposed alternative for the function of the street would better balance the needs of pedestrians and vehicles and better achieve the goals of the Comprehensive Plan.

Secondly, from an engineering site design point of view, the proposed project is very similar to the original Forkovitch East Subdivision project from 1989. Those plans and calculations implied compliance with the Virginia Erosion and Sediment Control Program Minimum Standard (MS-19), which addresses management of stormwater runoff increases caused by development. Engineering staff visited the site and reviewed these calculations and concluded the previous calculations were improperly formulated, and the proposed detention facility from the previous plans was never properly constructed. As a result, the City is not able to accept that the existing site conditions have adequately addressed stormwater runoff from the previous construction. Therefore, for the purpose of showing compliance with MS-19, the City will require the new plans and calculations to consider the pre-developed condition—the site conditions prior to any development (pre-1989)—and the post-development condition being the combination of the previous and currently proposed improvements. These considerations would be for meeting the water quantity provisions. Compliance with water quality requirements can be evaluated based on pre-developed conditions being what exists at the site today.

As part of the review as to whether the SUP for multi-family development should be approved in the R-3 district, the Zoning Ordinance outlines several conditions within Section 10-3-48.6 (e) to utilize as measures of evaluation for such development proposals. As noted by the applicant's

submitted narrative, they are contending these conditions have been met. Although arguments can be made the development could meet some of the conditions, staff does not entirely agree.

While the subject property has 12 existing multi-family units and multi-family units exist around and off of the cul-de-sac of East Gay Street, which is over a block away from the subject property, all of these units are non-conforming. Plus, there is no property planned for multi-family development, or townhouse development, within a quarter-mile of the subject site. In addition, although the units would be one-story, the scale of the buildings and the density of the development is not compatible with the surrounding single family home and duplex neighborhood.

Staff appreciates the applicant's and the applicant's engineer's openness, and their willingness to accommodate as many of staff's suggestions as possible. If approved, staff believes the units could be attractive and well built, but we believe the design and feel of the development is more of an institutional-draw than it is a design consistent with single family and duplex neighborhoods. The subject property, and most of the surrounding neighborhood has been designated Neighborhood Residential since at least 1991. This Comprehensive Plan land use designation is most closely associated with R-1 and R-2 type development. From a development perspective, the existing neighborhood has maintained the vision called for by the Comprehensive Plan.

It should be known the Comprehensive Plan also specifies the importance of providing affordable housing and to partner with HRHA in their endeavor to address these needs. Specifically, Goal 4 of the Plan states: To meet the current and future needs of residents for affordable housing. Related objectives of the Plan to achieve this goal state: To partner with HRHA to address community housing needs throughout the region (serving the elderly, disabled, homeless, low/moderate income families, etc.), and to support the development and adoption of a Ten Year Plan to end chronic homelessness in the City of Harrisonburg, as part of the goal to end chronic homelessness and help to move families and individuals into permanent housing (Objectives 4.2 and 4.5, respectively). However, staff does not believe this goal and these objectives outweigh the many other goals and objectives of the Comprehensive Plan to warrant rezoning this property and approving a SUP to make way for this development at this location.

Given the history of how the Zoning Ordinance was amended to prevent multi-family development within the R-2 district, how the subject property was developed, the actions and opinions of staff and Planning Commission on past proposals, and the long-term plan for this neighborhood to remain a single family and duplex neighborhood, staff recommends denial of the rezoning from R-2 to R-3C and denial of the SUP for multi-family development. If it is desired to approve the rezoning and the SUP, staff recommends the following conditions be attached to the SUP:

1. The site shall be developed in substantial conformance to the submitted plan per this application, except as changes would allow if subsequent special use permits are approved.
2. The landscaping plan shall be implemented as shown, except where conflicts arise between the design that accommodates all of the required parking areas and the design that allows for reduced parking areas.

Although staff is not recommending in favor of the rezoning or the SUP for the multi-family development, staff is recommending approval of the ordinance amendment to allow all uses within the R-3, Medium Density Residential District the ability to request reduced parking areas. Staff is also recommending approval of the corresponding SUP to allow fewer than the required number of parking spaces. Staff believes offering a SUP option for such situations is good zoning practice and

this is just one example of when there could be factors such as the intended occupancy of the units that would justify a reduction in parking requirements. Plus, in this particular situation, about 10 percent more open space would be provided, which is on top of the 56 percent they would already be providing. Having so much open space is more aesthetically pleasing for a single family and duplex neighborhood and reducing the parking areas helps in not overwhelming the neighborhood with so much pavement.

Chairman Jones asked if there were any questions for staff. Hearing none, he opened the public hearing and asked if the applicant or applicant's representative would like to speak.

Mr. Michael Wong said he is the Executive Director of the Harrisonburg Redevelopment and Housing Authority (HRHA) and would like to first show a video to the Planning Commission. After watching a three minute video on homelessness, Mr. Wong continued, 100,000 Homes is a national initiative to end homelessness. It utilizes permanent support housing as one of its methods to end homelessness. It has been proven to address and end homelessness for chronically homeless individuals. What makes this different in regard to other types of housing; it makes certain you provide supportive services, such as case management services, peer support, and access to many ancillary services that may be needed to help them maintain independence and self sufficiency. The HRHA currently has memorandums of understanding with the Harrisonburg-Rockingham Community Service Board, the Valley Association for Independent Living, and we are currently working on one with the Harrisonburg-Rockingham Community Health Center. This helps us to provide supportive services to these individuals if this proposed project is approved.

In addition to this being a national initiative, it is also a statewide initiative. Governor McDonnell, in his housing plan included the goal of adding permanent support housing. The permanent support housing initiative is also reflected in the ten year plan to end homelessness and within the Comprehensive Plan. Our hope is to meet the objectives of both with this project.

We have a team here tonight and they will go through some of the specifics in regard to the project and I will have them answer those questions you may have. First, though, I wanted to make sure you understood what the housing is about and make you aware why we feel that this is something different and unique. I would be happy to answer any questions that you may have in regard to why we have chosen this site. We did look at different properties across the City to develop this type of program and we selected this one because of location, accessibility to services, and proximity to downtown. The site does adjoin HRHA property to the north and although it is zoned as R-2, it is truly to some degree multifamily. As well, HRHA owns the property to the east of this proposed project. I bring this up to emphasize that we feel this property is somewhat of a "gateway" into the northeast community and we have been very successful in developing and enhancing our projects to make them nice entrances into the community. With the proposed development, I believe we can make a very attractive project at this site. Through our work with the Franklin Heights Development we were able to receive the Governor's Housing Best Affordable Project Award in 2010. Our design team is also a recipient of that award, multiple times. We are committed to design excellence, and I believe the history of our work shows that. We care about the neighborhood and want to make the neighborhood nice.

We did go through a market study for this project, and we did look at other properties. What we found was another reason why this property was attractive; it is the efficiency that it provides us with regard to property management and the ability of this property to synchronize with our other work. To make these permanent support houses work they need to be cost effective with the

emphasis on the services. To be able to provide those levels of services you have to reduce the costs of the project as much as possible and free up the operating income.

HRHA has been asked about the proposed tenants for this project and we have, through our point-in-time process, identified over 88 homeless individuals, consistently, in the last several years. Out of those we have identified 55 with multiple disabilities and health conditions. We know that providing this type of housing would stabilize these individuals. Our focus will be on people with disabilities or medical conditions and they would be able to stay within this housing for as long as necessary, hopefully until they stabilize those conditions.

Mr. Wong asked Planning Commission if they had any questions for him.

Mr. Way asked how would you respond to the general idea that there is enough of this type of multifamily housing in this area already.

Mr. Wong said we did do an analysis of multifamily housing within different sections of our area. There are a few more of this type unit in the northeast community; a majority of those are from a private subsidized housing project, the 200 units of Harris Gardens. HRHA historically only had 68 units in the northeast community until 2010 when we acquired the Forkovitch properties, in an effort to renovate and try to improve the neighborhood. I would say that this is the first new construction that HRHA has done since the 1980s when it did the Lineweaver Annex; everything else has been renovation work.

Mr. Way said we have also received crime figures for the area, how do you respond to the question of crime.

Mr. Wong said I think our properties are as safe as any of the properties in the area. We had consultants who conducted a study of crime prevention through design review and through that we did an emphasis with regard to security cameras, lighting, front porches, all of which we feel has made a significant improvement into the neighborhood. I know that our crime figures are much lower than it is for the student housing areas along Port Republic Road.

With no further questions, Mr. John Neel of Gay and Neel, Inc., engineer for the proposed project, introduced himself and said he has had a great relationship working with staff on this project. I would like to go over just a few items from the design team and give you our perspective on things. One of the things I would like to point out, and I think it is important to note, is that HRHA owns a significant amount of property in this area. The HRHA office is a resident of the neighborhood as well; therefore they have a presence in the community.

Mr. Neel discussed the housing “make-up” and characteristics of the neighborhood. There are existing multifamily housing units currently on the site which would be incorporated into the project. There is a transit bus stop right along East Gay Street at this location, which is a vital part of a project like this and the community we are trying to serve. The site is 2.95 acres and the density in the R-3 zoning is one unit for every 3,000 square feet of lot area. The number of units we are proposing is 29; this does not include the existing units.

Two of the items that you will be voting on tonight, and I believe staff recommended in favor of this, are the parking issues. During the neighborhood meeting we had for this project it was brought up that a concern was stormwater management for the parking area. One of the reasons we feel we can support 29 units and the parking is that we are proposing language to reduce the required parking. This would make for a tremendous reduction in the potential impervious area and

ultimately stormwater management. The community that this project would serve has been shown to not have vehicles, they either have someone driving them or they utilize the public transit system.

Another item that we looked at for this project is density. The Zoning Ordinance and staff talk about density as the number of units that can be constructed. When I think about density for a project like this, I look at the number of bedrooms. So one unit could have just one bedroom, or one unit could have three bedrooms. Bedrooms could have one or two persons in each; therefore with a three bedroom unit you could have as many as six persons. Thus with density, I am thinking about bedroom numbers. With the existing conditions we have 2.95 acres and 12 existing dwelling units, three bedrooms in each for a total of 36 bedrooms. With the current zoning you could have an additional 11 dwelling units, with three bedrooms in each for an additional 33 bedrooms; that is a total of 69 bedrooms for the current zoning. If we rezone to R-3 and designed to the maximum standard, we would end up with 174 bedrooms. We are not asking for this. What we want to do on the site is keep the existing 12 units, with 36 bedrooms, and add only 29 more bedrooms. We are only talking about a total of 65 bedrooms for the site. As you can see with the current zoning, you can do more bedrooms than what is proposed.

Mr. Neel said we are very pleased with the landscaping and are willing to make that a condition if you feel it is needed. We are providing a landscaping buffer along the single family home area. As staff mentioned we are proposing sidewalks throughout the project, this is going to be a walking development. We feel the architecture of this project fits in with the neighborhood, even though they are attached dwellings.

Within the City's Comprehensive Plan, Chapter 6, Goal 4 is set to meet the current and future needs of residents for affordable housing. It further describes the objective to support the development and adoption of a Ten Year Plan to end chronic homelessness in the City, as part of the goal to end chronic homelessness and help to move families and individuals into permanent housing; this is exactly what we are proposing with this project.

I want to thank you for your time and I would be happy to answer questions. I envision that some of the neighbors may have questions regarding stormwater and I would be happy to follow-up with answers after they speak.

Dr. Dilts asked if there were any type of open park space that would be available to the residents of the development.

Mr. Neel said we have grassed areas as you can see from the renderings; but, as far as a specific, dedicated park space, we do not have that planned.

Chairman Jones asked if there were any further questions. Hearing none, he asked if there was anyone wishing to speak in favor of the request.

Mr. John Stahl, 409 Summit Street, said he was the associate pastor of Immanuel Mennonite Church, he is retired now, and he moved into this neighborhood with the hope that he could see improvement in the community. I was very impressed when I saw the design of what is being proposed for this project. The buildings are attractive and energy efficient. I think the most significant thing is what you saw in the film clip that you were shown; my understanding is that in this type of program 80% of homeless people that enter the program are later able to assume responsibility for themselves and live independently. That to me is a very, very remarkable result. I have seen good results with a number of persons that are homeless, are in trouble with the law, alcoholism, mental illness, and I have seen them rehabilitated. I am aware that our churches

provide sleeping quarters for homeless individuals and that population is not going down; this project would make a very significant dent in the number of homeless people out on our streets. I feel the merits of what is being attempted here, warrant the changes that are being proposed. Now, I will say I do respect my neighbors who may feel opposed to the project because of concerns regarding density and water runoff. I think if we have people recovering hope, that creates a positive community and that is the kind of thing I will support. I have lived in this neighborhood since 1996 and I was opposed to the 2004 rezoning because I felt that it was taking the neighborhood to a lower level. What I am seeing now I feel would be a great advantage to our neighborhood and our City as a whole. That is why I am supporting this.

Chairman Jones asked if there was anyone else wishing to speak in favor of this project. Hearing none, he asked if there was anyone wishing to speak in opposition of the request.

Ms. Eliza Hoover, 335 Hill Street, said her property is located directly across from the property on Hill Street. All of us want to eliminate homelessness in our City; none of us are against that goal. As well, all of us want what is best for our neighborhood and in that way we are all one, we just do not agree on a way to get there. I support the goals of this project whole heartedly, but I cannot support the location of it. This is a very, challenged neighborhood and I chose this neighborhood to live in ten years ago because I know the richness of the racial and economic diversity of this area and what it could bring to our lives. At that time there were already 97 units of subsidized housing in the area and I am not opposed to neighborhoods with subsidized housing. I like this project, but I am reminded of a medical directive that all physicians are very aware of, “do no harm”. I think this would be a very easy place to put this project, but easy is not always best.

If you rezone this property, these three buildings that are currently non-conforming would be allowed to be reconstructed if they are destroyed. These units are inappropriate in our neighborhood. The non-conforming units further behind this site are also inappropriate.

Increased density in our neighborhood simply would add to the challenges. One of the reasons this neighborhood is so challenged is that Mr. Wong has an absolutely impossible job. There are 97 units owned by the HRHA and as you can see almost all of it is in this neighborhood. The residents of these units are supposed to be moved out within five years; they are supposed to be moving towards self sufficiency. If the services we are talking about for this new project were available to the existing people, then perhaps Mr. Wong would have an easier job; but, I question whether or not these people are being educated and encouraged.

A friend gave me this sentence which I feel is quite special and appropriate, “healthy neighborhoods have a strong proportion of good neighbors to model positive community values to those who have not had the good fortune to live in a positive community”. When I go out to pick-up trash, which I do most every day, it is a good discipline for me to remember that for many people survival is all they can do. They did not have the benefit of being raised with beauty and pride in their surroundings. When I walk by the porches of these people and I’m picking-up trash in front of their home and they wave, it touches me when the little four year old comes over and picks up the squished beer can and proudly places it in my trash bag. People need to be educated and encouraged in community pride.

I believe the northeast has a threshold, and I believe we are hovering at it now. To keep adding density and subsidized housing is to continue to burden a very, challenged neighborhood. I ask you not to place this project, which appears to be a very, valuable project, at this location. There are other neighborhoods which have the appropriate zoning.

At this time Ms. Hoover showed pictures of trash and items in the yards and along the streets of the subsidized housing area in the northeast. Many of you have heard me talk about the stormwater problems within the neighborhood. This is a photo of my front lawn after a storm. There is also the issue of public sewer backup into this area. Water rushes down Hill Street from both sides and into the alley next to my house. Ms. Hoover showed photos of the Habitat for Humanity homes that have been constructed in the neighborhood and noted this is what we need more of in this area. Do not let the northeast area down; please do not add more burden.

Mr. Da'Mes asked what would be the replacement opportunity for the existing multifamily dwellings on this site if they were removed after being rezoned to R-3C as requested.

Mr. Fletcher said if I understand your question correctly, if the existing multifamily units were removed they would essentially have to be rebuilt. The condition of the special use permit is what is submitted within this application. The application includes making the existing multifamily conforming to the zoning ordinance; therefore, if approved with the condition, you could only reconstruct what is there now. The unit density would have to be what is provided now, ten on the north parcel and 31 on the southern parcel.

Chairman Jones asked if there were further questions. Hearing none, he asked if there was anyone else wishing to speak in opposition.

Mr. Alan Gould, 410 Summit Street, said he and his wife have lived on Summit Street for over 30 years, right next door and across the street from some of the properties HRHA is responsible for. I find that the responsibility that HRHA has is more than enough, they do not need any further responsibility. I think it is a good idea to build housing for homeless; but, we do not need it in our neighborhood, because he cannot keep up with what he has currently in our neighborhood. I am speaking of Mr. Wong personally. Some of the things that have gone on in the neighborhood right around our house seems as if it is a continuous culture. We are trying to raise up the neighborhood and if he cannot keep up with the responsibility of what is there now, what does that say for building more. Where does that leave the neighborhood?

Ms. Karen Thomas, East Johnson Street, said she is president of the Northeast Neighborhood Association. I have spoken with Mr. Wong and he and I have agreed to disagree on this particular request. I feel that more subsidized housing in the northeast neighborhood would bring more problems than what we are experiencing right now. Since the Northeast Neighborhood Association was established six years ago, I believe we have made a difference. We have worked to make our neighborhood more attractive, safe, and healthy. I believe that a rezoning and more subsidized housing would put us in a downward spiral.

I believe that the people who are currently in the self sufficient housing should be given the chance and once they are self sufficient they should be moving on to buy homes. I believe there is an opportunity here to build homes for homeownership for these people. I believe that people are more proud of their own homes and take better care of them, than that of subsidized housing.

I would hope that this rezoning is not approved.

Mr. Way asked Ms. Thomas if she was speaking on behalf of the neighborhood association or for herself.

Ms. Thomas said of the people she has spoken to on the board, most feel the same way as she does, but I have not spoken with everyone.

Mr. Way said are you reflecting what the majority of the people would say within the neighborhood association.

Ms. Thomas said yes.

Mr. Al Landes, owner of 670 East Rock Street, said he agrees with the idea of this type of housing, it is a good thing. But what we are here for tonight is to decide if this is the best location for this housing and I do not believe it is. If the City had gone through the neighborhood and widened the streets to accommodate the amount of traffic that comes through it might be different. Cars are parked on both sides of the road, you have children playing and riding their bikes in the streets, it is a danger zone just to drive through there. Putting that many more units in and more persons travelling the roads is a big concern of mine.

Mr. Paul Somers, 622 East Wolfe Street, said he has somewhat fresh eyes to this whole situation. I have not been in the know of what is being proposed until just recently. Coming here tonight and listening to the presentations by staff and by Mr. Wong and his design group, I can see a strong will for them to do this type of housing. I can see how they have problem solved through their design and made less parking, have fewer bedrooms and such; however, I do not feel as if it is the right thing to do. I agree with Eliza Hoover and feel as if the HRHA motivation comes out of the simplicity of doing this project there. As a homeowner in the area, like many of the other neighbors, I have seen the situation of the streets, the housing units, and the neighborhood. I have put a tremendous amount of work into my house over the past year to make it more presentable to the neighborhood, it was a foreclosure. I have friends who have done the same thing in this neighborhood and the neighborhood is much better for this.

I grew up in subsidized housing so I feel a bit conflicted saying no to something of this nature, because I do have a lot of understanding for what it is like and the need for this housing. If you look at this as cycling people through housing, then the people that are in housing now need to be moving up, creating an open space for these new individuals; it is an upward motion. Just creating more housing to accommodate societal problems is not the solution.

Karen Munns, East Rock Street, said I do believe that the homelessness issue needs to be addressed in Harrisonburg; but, I do think there are other ways to address it rather than putting it all within the same neighborhood. I do want to make everyone aware that there is flooding every time it rains. We have been told many times by the City that it is Ms. Hoover's problem, it is not her problem, we all get flooded. There is a City drain that is actually on my property, right at the very back of my property. All of my driveway gravels go into that drain, along with Ms. Hoover's gravels, when it rains.

There was just a major sewer back-up consisting of five or six homes just in this one small area. I called the City and let them know I was having a problem. I also paid a plumber to come out, only to find out that it was not my problem, it was the City's problem. It took me three visits from the City before I finally got someone to admit that there was a problem with the City lines. Once the problem was found they had to replace the sewer pipe and put in a new, larger pipe. My concern, are we going to have this issue again if all these units are constructed. I believe this will cause a major issue.

I have owned my home for more than 20 years and I have seen a lot of improvements in this neighborhood. I worked very hard to raise a family here and to make improvements on my home and property. All the homeowners in the neighborhood are trying very hard to upgrade our

neighborhood; however, I believe that rezoning and putting in something like this really opens us up to fall backwards instead of move forward as a neighborhood. There are really good people living in this neighborhood, but unfortunately because there are also those that are almost given a free ride, so to speak, many properties are not taken care of. Often when you are given something for free, you tend not to take as good care of it as you would if you had to pay for it.

Lastly, I do feel the existing HRHA units are not being monitored correctly. If we bring on board more units that are similar to what is existing, who is going to monitor them. These are planned to be one bedroom units with one person or a married couple, who monitors this? Who is to say that only one person is living in that apartment? When I drive by the Lineweaver Apartments there are people hanging out on the street right in front of the building and I am concerned for my neighborhood that we are going to have the same type of situation if these units are approved.

Amanda Zale, 375 Hill Street, said I grew up in Harrisonburg and I remember riding the bus from Spotswood Elementary School through the northeast neighborhood to reach Waterman Elementary where my mother taught. I went to Harrisonburg High School and I did drive up Gay Street in order to avoid the stop lights along Market Street. I am also an alumni of James Madison University and have worked in downtown Harrisonburg for the last several years. Three years ago I was offered the opportunity to establish a new restaurant in downtown Harrisonburg and realized that I was committing to establishing my adult life here. I decided to purchase a house here and I love where I live, I love that my neighborhood grocery store is the Friendly City Neighborhood Food Co-op; I love that I can walk to Klines, the Farmers Market and the Library. I truly love that I live in a diverse, working class neighborhood.

My objection to the proposal is not a “not in my back yard” argument; quite frankly, the proposed rezoning is in my front yard. I am not opposed to subsidized housing and the already established housing units were not a deterrent to my home purchase, but I am opposed to the City dramatically redefining the structure of my neighborhood. Additional subsidized housing in the northeast, my neighborhood, my front yard would be an unhealthy saturation and overdevelopment of multifamily units in a neighborhood that has been designated as a residential community of single family and duplex homes. Therefore, I urge the Commission to oppose the rezoning. Thank you for your time and consideration and for listening to us as a neighborhood.

Jan Unruh, 556 East Rock Street, said he would like to thank Mr. Wong and the HRHA for their work here in Harrisonburg. I think the work you do is important work and I’m sure everyone here wants to support that and work together on projects, despite how we feel on this particular project. Thank you for the work on the Forkovitch properties, I believe they are a work in progress. I look forward to some of the improvements you have mentioned such as landscaping and sidewalks, whether this project goes forward or not.

I have some concerns about this project and I am admittedly somewhat on the fence, I am stepping up on the side of opposing it for now; but, I see a need to address the issue of homelessness in the City of Harrisonburg in a comprehensive manner. Unless I am mistaken, the ten year plan that HRHA is working on is under development and I am a little bothered that it is under development prior to the request for rezoning; this seems a bit backwards to me.

Chairman Jones interjected to say that the ten year plan reflects the City’s hopes to end homelessness.

Mr. Wong said it was approved by both the City and Rockingham County last year.

Mr. Unruh said thank you for that information. I am just southwest of the properties in question and my neighbors are single family homes for the most part. Many first time home buyers are putting equity into their homes, which is one of the reasons I like this neighborhood.

I do have an objection to spot zoning and I see this request as an example of that. I moved to the neighborhood with the understanding that the multifamily units were there as non-conforming and that more would not be put in. When the Comprehensive Plan was updated in 2004, I know there was a lot of discussion about our neighborhood and not increasing density; leaving it as a single family and duplex neighborhood. That is my main objection to this project is that I have a belief that this is what the neighborhood is going to be, not multifamily.

I do have some questions for Mr. Wong; I would like to hear of some of the other options that were looked at for this project. Has anyone looked into the Colonades Building for this project?

Chairman Jones interjected and asked Mr. Unruh to limit his question to what was on the agenda tonight.

Mr. Unruh said he was opposed to the rezoning request.

Chairman Jones asked if there was anyone else wishing to speak in opposition of this request. Hearing none, he closed the public hearing and asked for discussion.

Ms. Fitzgerald asked if there was some sense of what the changes that have been proposed here tonight would do to the kind of runoff pictures we saw earlier to the private property.

Mr. Fletcher said I cannot answer that question and I am not certain if the engineers have evaluated further than what is necessary for a rezoning. We could ask Mr. Neel if he would like to comment.

Mr. Neel said when we had a neighborhood meeting one of Ms. Hoover's specific concerns was the stormwater. At that time we were not aware and I do not believe that staff was aware that the original development by Mr. Forkovitch had some incorrect calculations and had been installed wrong. None of us knew that at the neighborhood meeting and therefore my comment to Ms. Hoover was I do not know if we can improve your situation, but I can guarantee you that today's requirements of water quality and water quantity will not make it any worse. Now that we have heard about the incorrect calculations we are going to be looking at the site as if it were undeveloped, including the existing buildings and parking. I can say without a doubt, Ms. Hoover will see an improvement. Now when I say an improvement it may not be an improvement that she recognizes from a specific storm event or anything like that, but it will improve. In addition to the stormwater quantity, we are also required to treat stormwater quality and an auxiliary benefit of stormwater quality is the storage of stormwater which reduces the rate of stormwater runoff, one of Ms. Hoover's biggest issues that she sees.

Chairman Jones asked if staff knows of any upgrades to the infrastructure downstream from this parcel.

Mr. Fletcher said no, he knows of no improvements.

Mr. Neel said he can actually address that. I spoke with Mr. Rublee, City Engineer, and I have actually walked downstream to the next cross street (Sterling Street). The stormwater path for all of this stormwater here crosses about mid-block, in front of Ms. Hoover's house, and then follows along the alley towards a stormwater inlet at the next cross street. Mr. Rublee has informed me that the facilities between Hill Street and the next cross street are all privately owned, so there are no

existing stormwater easements or anything that is public infrastructure. I think that is a reason there are no plans to do anything in this area.

If I may, I would like to go ahead and address the sanitary sewer, we have been working with Mr. Gray, from the Public Utilities Department. Their camera is currently down, but they are attempting to camera the entire sewer system downstream and evaluate that. We will then go out and shoot the manholes and the structures and prepare a model of the sanitary sewer. We talk to them about the existing conditions and if there were problems, then the City of Harrisonburg would fix the problems. If we specifically tip the scale for this, then it would be on our project to fix that.

Dr. Dilts asked if the existing units would be changed in any way and how many people can live in one of the units. Also, are those units compatible with the intent of the new units; the new units being for disabled and homeless and the existing units are for families?

Mr. Wong said the existing units are quadplexes and each unit within the quad is a three bedroom unit; therefore, it could be a maximum of six people living in each unit. We do not feel like it would be a conflict with the different residents. You want to integrate individuals into your community as much as possible. All the individuals that participate in the program have to meet the housing choice voucher standards; thus, there are restrictions as to criminal activity, sex offenders, and many other criteria. I would say that all those participants that go through our program, also go through multiple orientations and receive education with regard to being self sufficient. I understand that some people would say that it is not reflected, but, we are all dealing with a challenging population group. We do work with the individuals and try to emphasize responsibility for the individuals. They are required to work or do community service activities.

Dr. Dilts said I wonder about the architectural compatibility as well.

Mr. Wong said hopefully it shows how we have renovated those units and the work we have done.

Mr. Fletcher said he wanted to clarify something about the number of people who could live in a unit and of course HRHA has their own stipulations regarding how many people can live in one of those units. A typical three bedroom unit could be occupied by a single family or up to two unrelated individuals as per zoning; but a typical single family could be more than six persons.

Mr. Wong said HRHA does have specific standards regarding occupancy.

Chairman Jones asked if there were any further questions. Hearing none, he said earlier tonight I received a petition from residents opposed to the rezoning request; this is in addition to the petition we already had within our packets. As for the four requests, we will address each one individually, and the first we will consider is the rezoning request from R-2 to R-3C.

Mr. Fletcher said he would like to make one comment regarding the applicant's engineers table that broke down the bedroom and occupancy count. We have been trying to double check some numbers, and they all seem to be pretty accurate. We do however, have some questions with some. The column we are looking at is the "with current zoning" column; what makes this total difficult to determine the exact density that can be built on this site is that a) there are six parcels, b) there are non-conforming units, c) there is not a per unit lot area that we can provide to each of the existing units, the standard they were built under does not exist anymore. When you try to determine today what can be built on this site you must consider that you have six lots that are zoned R-2. When you look at the big picture, each of those properties on its own has the ability to have a single family home or a duplex.

I think Mr. Neel has made an excellent effort in trying to come up with the number of bedrooms there can be with the current zoning; however, I am not sure that I agree with all the numbers provided. In the row referred to as "proposed dwelling units with current zoning", totaling eleven; we were running some numbers and are only coming up with eight. That of course would reduce the bedroom count. Again it all depends on how the properties are broken up and looked at. When the property lines are vacated, you can get what is known as a "Group Housing Designation" within the R-2 zoning district. Actually, HRHA did this with their Franklin Heights Development at the corner of Myers Avenue and Reservoir Street. This designation allows you to build multiple principle structures on one lot, which is what that is at Franklin Heights where they have multiple duplex structures.

I believe there is a good faith effort that all of these figures provided tonight are as accurate as possible, but without having the opportunity to further evaluate, I would just take these numbers with caution.

Mr. Way said to me there are clearly some basic problems here with the nature of the zoning, the matter of spot zoning, the stormwater factor, and clearly how all of this fits in with the Comprehensive Plan. The Comprehensive Plan is a very important document that is endorsed by every member of the City, to help shape how neighborhoods are going to develop in the future. The northeast neighborhood is classified as neighborhood residential and one of the definitions of neighborhood residential is that it is a place that needs careful consideration of the types and densities of future residential development. Obviously that is a very important question in this proposal.

I also think that the bigger question is what makes a healthy neighborhood. I lived in the northeast neighborhood on Rock Street for some time, and when you look at the northeast neighborhood it has great raw materials; it has a great location, the street plan is a wonderful street plan in terms of good practices for contemporary open design. The neighborhood has great facilities and green spaces and the proximity to downtown is very valuable. This is also a mixed neighborhood, as we have heard tonight, and a mixed neighborhood is a very important quality for a healthy neighborhood; having mixed residents, mixed incomes, and different stages of life.

But the question tonight is, does this development as a whole undermine that balance, does this undermine that mixing and healthiness. We have heard tonight how this development somewhat tips it over that balance and that some sort of a threshold has been met. It is very difficult to quantify a sense of a healthy neighborhood, how do you quantify that a threshold has been crossed. It is very difficult to establish and determine objectively. The only way I can see that you do so in these very subjective matters about the quality of a neighborhood is to listen to the sense of the neighborhood. Very clearly what I am hearing here tonight is the sense of the neighborhood residents, the neighborhood association, is that this does represent the tipping point. Although it is difficult to quantify, the sentiment is there, the feeling is there and the sense is there. For me, that made the request something that is very difficult to support.

We all support the idea of helping those in need; but, the one thing I must go to is the spirit of the neighborhood and what people are saying. Clearly the overwhelming feeling is in one direction on this matter and that is my basis on for a judgment on whether we are crossing the threshold on this matter.

Dr. Dilts said I was struck on the differing views on how one helps someone. HRHA has a way of helping and we have heard very clearly the neighborhood has a way of helping. Each way is very different and both have merit.

Mrs. Fitzgerald said I think Mr. Way has touched on something really important about how to quantify the sense of the neighborhood and I took a brief attempt at trying to do that and counted 54 signatures on the petitions folks brought in. That is one way to get a sense of the neighborhood, as well as the number of people who are here tonight. There is a sense to preserve what you have built, that comes through very strongly in this neighborhood. It is very difficult to weigh the advantages to helping this group of people that we all agree need helping, with encouraging and supporting the development of this neighborhood and the progress that they have already made. It is a very difficult decision, but I, along with Mr. Way, have been very impressed with the neighborhood's feeling about this tipping point.

Mr. Da'Mes said he certainly appreciates this forum, the participants from the neighborhood and I definitely appreciate Mr. Way's perspective. The one thing I think about when I think about development is efficiencies of scale. Without this whole process we would not have learned some of the things we have learned tonight. We would not have learned that the Forkovitch development was undersized, we would not have the attention of the City and the correspondence to say there is a sewage problem and now the area is going to be scoped. That all would not have happened without this proposal, so regardless what happens in the end, we have bettered ourselves.

In terms of a tipping point, I think the neighborhood is well articulated and it shows the strength and the sentiment of the community; what they have been through and the challenges they see before them. But, I always want to look at it from a master stand point, we always talk about the master plan and try to be comprehensive in that plan. I want to go back to Mr. Wong's point in terms of relativity to downtown, to services; they are not coming before us with the project that was proposed in 1995. This is an innovative project, one that we cannot compare to other projects; it is one that solves a major issue of many cities as they grow. One thing that I was looking for was alternatives, and one thing I'd like to hear more about is the alternatives.

I do travel through the neighborhood and I believe what is there now is not good use of the property. There is a lot of green space that is not being used as green space; it is not playgrounds or parks. It is easy to say no to something new here, but what are you going to say yes to. Maybe we can learn from this tonight what is needed here, things we have not heard before. I always think that change is difficult to accept, but once you have it you acclimate to it. I am not here to push something on somebody that is against it, but at the same time once it happens I think you find that it is not as bad as you may think it would be.

Mr. Way said I agree with some of what you said. I feel a good, successful city is a city of neighborhoods. It is a city where decisions are not necessarily taken at the big city level, but at the neighborhood level. The sense and health of a neighborhood is a most important factor in planning. To my mind I think this neighborhood has made a very compelling case.

Dr. Dilts said the Comprehensive Plan looks at this area as a neighborhood and what could be happening is a chipping away at that neighborhood. This is a nice neighborhood.

Mr. Way said the Comprehensive Plan is an interesting thing because it has both, an interest in looking out for the homeless population and trying to improve affordable housing, as well as

looking out for the good of neighborhoods. In my mind this neighborhood has already played its part in providing some of those services.

Chairman Jones said one of the things that we discussed repeatedly during the updates of the Comprehensive Plan was maintaining the integrity of our existing neighborhoods. At the same time we have an issue that we as a City need to do what we can and assist the homeless. It is a delicate balance and I tend to agree with what has been said here earlier. This neighborhood has come out in mass and I think there is a resounding message. I do not think anyone is opposed to helping the homeless, but I see this proposal as a step back from the progress this neighborhood has made. I commend Mr. Wong and the HRHA for the work they do.

I am going to look back at what we discussed during the Comprehensive Plan update and we all agreed that this is the direction we wanted to follow. I see this request as an issue that would have us making a ninety degree turn away from the direction we decided to follow in the Comprehensive Plan. I for one admire the proposal; but, I cannot lend my support to it.

Mrs. Fitzgerald made a motion to recommend denial of the rezoning request from R-2 to R-3C.

Dr. Dilts seconded the motion.

Chairman Jones said there is a motion to deny and a second. A vote in the affirmative is a vote to deny. He then called for a roll call vote on the motion.

Commissioner Fitzgerald – Yes

Commissioner Da'Mes – Yes

Commissioner Way – Yes

Commissioner Dilts – Yes

Chairman Jones – Yes

Mrs. Banks said the motion to recommend denial of the rezoning is approved 5-0.

Chairman Jones called for the next item, the special use request for multi-family housing.

Mr. Way made a motion to recommend denial of the request.

Mrs. Fitzgerald seconded the motion.

Chairman Jones called for a roll call vote on the motion.

Commissioner Da'Mes – Yes

Commissioner Way – Yes

Commissioner Dilts – Yes

Commissioner Fitzgerald – Yes

Chairman Jones – Yes

Mrs. Banks said the motion to recommend denial of the special use permit is approved (5-0).

Chairman Jones asked for a motion on the proposed amendment to the Zoning Ordinance.

Mr. Way made a motion to recommend approval of the ordinance amendment.

Mr. Da'Mes seconded the motion.

Chairman Jones called for a roll call vote on the motion.

Commissioner Dilts – Yes

Commissioner Fitzgerald – Yes

Commissioner Da'Mes – Yes

Commissioner Way – Yes

Chairman Jones – Yes

Mrs. Banks said the motion to recommend approval of the ordinance amendment is approved (5-0).

Chairman Jones asked for a motion on the special use request for reduced parking.

Mr. Da'Mes moved to recommend approval of the request.

Dr. Dilts seconded the motion.

Chairman Jones asked for a roll call vote.

Commissioner Way – No

Commissioner Dilts – Yes

Commissioner Fitzgerald – Yes

Commissioner Da'Mes – Yes

Chairman Jones – Yes

Mrs. Banks said the motion to recommend approval of the reduced parking request is approved (4-1).

Chairman Jones said these items will be heard on October 9, 2012 before the City Council.

Mr. Chenault returned to Council Chambers at this time, 9:25 p.m.

Unfinished Business

None.

Public Input

None.

Report of secretary and committees

Mrs. Banks said we have July and August proactive zoning reports to review. For the month of July inspectors were in the Fairway Hills area where they found two violations; an inoperable vehicle and a sign violation. In August the Smithland Road area was inspected and two violations were noted; both were inoperable vehicles. The North Main Street area will be checked for the month of September.

Other Matters

Portable Restroom Facilities

Mr. Fletcher said I have not created a power point presentation for this; however, everything is here in text for our discussion. Staff has re-evaluated portable restroom facilities and how they could

potentially be regulated, if so chosen. We contacted multiple Virginia localities, as well as localities across the nation and when we were doing this we were somewhat looking at it two-fold. The whole portable restroom thing came up when we were having the discussion about the food cart lots; we were already talking to localities and researching about food cart lots, so we included questions about portable restroom facilities as well. As you can see from the responses very few locations regulate portable restrooms, as we have also not done for many years. Rockingham County is considering placing regulations within their code to reflect their current policy, which is they do not allow them.

As you may recall, staff put these regulations together and we offered them as a special use permit option. This would allow them, outside of temporary events and emergency situations, as permanent facilities by special use permit. Planning Commission recommended in favor of this amendment; however, City Council said no to the special use idea and asked that this be re-evaluated and some standards be put in place. What you see before you is two months worth of research, evaluation, and discussion on what we are recommending to be discussed tonight.

First we are defining the portable restroom facility. The definition remains exactly the same as we proposed several months ago, except we added the statement that they are considered "accessory buildings". With that statement, it points one to the section of the Zoning Ordinance that regulates accessory buildings. We currently have subsections (a) – (f) within the accessory building section of the ordinance. We would then regulate portable restroom facilities within residential, business, and industrial districts under these subsections. We would require that there must be a primary use or principle building on the site where the facilities would be located. Lastly, we are adding subsection (g), (h), and (i). Subsection (g) is speaking to portable restroom facilities within residential Districts and that they are not permitted, unless the use on the residentially zoned lot is non residential. These facilities would then have to meet a thirty-foot setback from all property lines and would need to be screened from public view. Subsection (h) would discuss portable restroom facilities in business and industrial districts; we included the MX-U district within this subsection as well. All portable restrooms facilities in the B-2 and M-1 districts shall be held to the same setbacks required of principle buildings; this is not a new requirement, just new text for clarification of the rule. In the B-1 and MX-U districts, these districts could have zero setbacks; thus, we are suggesting that these have setbacks of thirty-feet from public street right-of-ways and ten from all other side and rear property lines. If the B-1 or MX-U properties are abutting a residential district than the setback would be thirty-feet from all property lines. This is currently a requirement within our zoning regulations. Lastly, in subsection (i) is the exception for all of the temporary or emergency situations.

Mr. Fletcher then asked would you like to move forward with these changes? Do you have changes or additions to this? Or do you not want to move forward with anything at this time? What are your thoughts? We need to report something back to City Council.

Mr. Way said this idea in subsection (h) about thirty-feet back from the public street right-of-way and thirty-feet back from adjoining residential property, are we creating some sort of temple of portable restrooms in the middle of a lot.

Mr. Fletcher said staff took the most conservative approach and if Planning Commission would like to lessen a restriction, so be it.

Mrs. Turner said it is a concern if they could be directly adjacent to the street, the way a building could be. I suppose we could have used a figure between zero and thirty; but we just went with the thirty.

Dr. Dilts said I would like to step back on this issue somewhat. I thought it was telling that State Regulations call these privies, rather than the cleaned-up version of portable restroom facilities. They are privies, there is human waste there, which carries disease and these privies have to be pumped. It is odoriferous when the pumping occurs and there is the potential for spill, which is not something you would want in a business area, by a residential neighborhood, or by food carts. I am somewhat appalled that the City, or whoever is pushing this forward, would even entertain permanent temporary privies. I do not understand how we can call a portable, temporary privy a building.

In the language we have here it discusses screening, but there is no definition of what the screening should be like. There are various types of privies as far as the way the disposal takes place and the types of materials used to dispose of the waste in a privy; some of these materials are hazardous. If we are going to write a regulation, should we not pay attention to the type of privy, or perhaps regulations regarding how often they are cleaned?

I am somewhat against privies altogether and I think if we are going to entertain them, they need to be more regulated than what is listed here. They can be a health hazard.

Mr. Fletcher said in response to your question of whether or not it is a building, it probably does meet our definition of a building. We did not specify the screening, because we wanted to be as flexible as possible, and "screened from general public view" is a statement we use in other sections of the Zoning Ordinance. How you tell someone to screen something when it could be placed on pavement, grass, gravel, or some other material; there are so many options. This is why we use the somewhat broad language.

Mr. Chenault said I agree with Dr. Dilts, I do not understand why we would want to permit portable restroom facilities on residentially used property. Apparently there was some sentiment to allow this downtown. I think staff has done a good job at putting this together, it is not easy to address all the objections there were.

Dr. Dilts said if you were to review the State Regulations they always use the word "temporary"; there is nothing that refers to permanent.

Chairman Jones said portable in and of itself implies to me that it is temporary, not permanent.

Mrs. Turner said one consideration within residential zones would be if you had some type of a non-public athletic field that had facilities.

Chairman Jones said my initial problem with this issue has been taken care of; I felt it should not be a special use permit.

Dr. Dilts asked if there was anywhere within the business and commercial district that you could not have one of these.

Mr. Fletcher replied you could have them anywhere in those districts; the proposed regulations would permit them.

Dr. Dilts said how much discussion has there been as to whether or not this is a good idea in terms of aesthetics and health of the downtown area to do something like this?

Mr. Chenault said the Downtown Dining Alliance has discussed this. That is when they were considering the food cart court.

Dr. Dilts said if the City wants to support food trucks, is it in the City's best interest to perhaps build the facility that would be available to the patrons of the food truck, or any establishment for that matter.

Mr. Chenault said I would prefer to see the property owner who is leasing the property to build the facilities.

Mrs. Fitzgerald said we did discuss that there are other facilities such as the Hardesty Higgins House or Library open with public restrooms.

Chairman Jones said building public facilities can be problematic as well.

Dr. Dilts said I am concerned that this allows for privies in downtown areas without, what seems to me, the proper discussion as to whether it is something we want or not.

Mr. Fletcher said do we want to think about portable restroom facilities more? Do we want to drop it completely, or move forward to a public hearing with this? Staff could bring it back as a public hearing next month if Planning Commission would like.

Mrs. Turner said in thinking about it for another month, you could address what Dr. Dilts has concerns with. Just because the nature of how this came along, staff has not taken a position on whether or not we think this is a good thing or not. Right now you can do this; it is not a use, it is not addressed as a use, you could place one of these anywhere. It is allowed. Because this came to our attention during the food truck court discussion with the City Manager's Office, it was brought up that perhaps Planning Commission should look at something to address this. To get something to you quickly, staff looked at it as a special use permit so that each would be looked at on a case by case basis. We did not just want to insert language stating you could not have these facilities. We did not want to take something away from somebody who could do it now and then quickly insert language in the ordinance so that it could not be done. When that idea went before City Council, Council said they felt it could be taken care of with some simple guidelines, instead of a special use permit. We did not question at any point if it was appropriate for the downtown area.

Chairman Jones asked if there was such an issue that we need to do anything. If it is something that is going to continue, than perhaps it does need some regulation.

Dr. Dilts said I think we should bring it up in a public forum next month.

There was a consensus among the Planning Commissioners that this should be brought back as a public hearing in October.

Mr. Chenault said would you like input from Downtown Renaissance as to how the merchants feel about these. I have an executive meeting tomorrow evening and can follow-up on that question.

Mr. Fletcher said we would be happy to make that part of our review.

Adjournment

The meeting was adjourned at 10:00 p.m.

Chairman William L. Jones, Jr.

Secretary, Alison Banks