MINUTES OF HARRISONBURG PLANNING COMMISSION
November 14, 2012

The Harrisonburg Planning Commission held its regular meeting on Wednesday, November 14, 2012, at 7:00 p.m. in the City Council Chambers, 409 South Main Street.

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

Members absent: Judith Dilts and Alan Finks.

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

Chairman Jones called the meeting to order and determined there was a quorum with five of seven members in attendance. He then asked if there were any corrections, comments or a motion regarding the minutes from the October 10, 2012 Planning Commission meeting.

Mr. Way moved to approve the minutes as presented from the October 10, 2012 regular Planning Commission meeting.

Mrs. Fitzgerald seconded the motion.

All voted in favor of approving the minutes (4-0), with Chairman Jones abstaining from the vote.

New Business
Rezoning – 143 West Rock Street

Chairman Jones read the request and asked staff to review.

Mrs. Banks said the Comprehensive Plan designates this area as Mixed Use Development. This 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 instead of separated. These areas are prime candidates for "live-work" and traditional neighborhood developments. Live-work developments combine residential and office/service uses allowing people to both live and work in the same area, which could be combined in the same building or on the same street. The gross residential density in areas outside downtown should not exceed an average of 15 units per acre, though all types of residential units are permitted: single family detached, single family attached and apartments. Apartments are permitted only if single family detached and/or attached units are also provided and together cover a greater percentage of the project site. Residential densities in downtown may be higher than an average of 15 units per acre, and commercial uses would be expected to have an intensity equivalent to a Floor Area Ratio of at least 0.4, although the City does not measure commercial intensity in that way.

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

Site:	Vacant, single family dwelling, zoned M-1
North:	Across West Rock Street, single family and duplex dwellings, zoned R-2
East:	Vacant parcels, zoned M-1
South:	Vacant lot, zoned M-1
West:	Apartment building, zoned R-3

The applicant is requesting to rezone one parcel, of approximately 3,680 square feet, from M-1, General Industrial District to R-3C, Medium Density Residential Conditional. The property is located along the southern side of West Rock Street, between North High Street and the Norfolk Southern rail line. The site

contains a single family dwelling built prior to the City's adoption of building code and zoning regulations. Furthermore, City records indicate this property was zoned B-2 Business, Manufacturing, and Industrial District upon the adoption of zoning regulations in 1939; making the single family dwelling a non-conforming use. As with any non-conforming use of land existing at the time of the enactment or amendment of the zoning regulations, it may continue, as long as the use is not discontinued for a period of twenty-four consecutive months.

In August of this year, the applicants submitted a building permit application to upgrade and renovate the house at 143 West Rock Street with the intent of renting to a family, or unrelated individuals. After much discussion with planning staff, it was determined that the property had been vacant for more than two years; therefore, the use would need to conform to the industrial zoning classification in which it was located. As a result, the applicants applied for a rezoning to R-3C, Medium Density Residential Conditional, with the following proffers:

- Single family dwelling unit with occupancy of a family or not more than three persons, with parking adequate for three parking spaces;
- Professional offices as defined by Article F;
- Charitable and benevolent institutions;
- The owner shall provide the minimum parking spaces necessary for actual use as a professional office or a charitable and benevolent institution.

The area where the site is located is comprised of a mixture of zoning classifications and, not only does the Comprehensive Plan call for Mixed Use Development in this area, the neighboring R-3 properties could also be professional office uses by right.

Staff has no concerns with the proposed rezoning to R-3C as it would make this site conforming to the use which it has always been – a single family dwelling. Staff recommends in favor of the request as presented.

Chairman Jones asked if there were any questions for staff. Hearing none, he opened the public hearing and asked if anyone would like to speak in favor of the request. Hearing none, he asked if there was anyone wishing to speak in opposition of the request. Hearing none, he closed the public hearing and asked Planning Commission for discussion or a motion.

Mr. Way asked if R-3C makes the most sense for this property in terms of what they are trying to do.

Mrs. Banks replied yes.

Mr. Da'Mes said staff stated that the applicant owns other properties; is it just the next property with the garage, or what?

Mrs. Banks outlined to the Commission the six parcels owned by the applicant.

Mr. Fletcher said the applicants have slowly acquired the lots along West Rock Street, which is something staff hoped they would do, since their original rezoning request to B-1C for the lots along West Wolfe Street. The R-3C zoning was somewhat staff's idea; the applicants would have preferred B-1. Staff, however, is not comfortable with B-1 at this time; therefore, we led them in the direction of R-3, which you find in the area.

Mr. Way asked why staff would be uncomfortable with B-1 at this location.

Mr. Fletcher replied we just were not comfortable with the idea of "leap frogging" the zoning; going from the downtown B-1 area and then skipping over several M-1 properties to this location for B-1 would not be

good practice. Anything that has been rezoned to B-1 in the City has been adjacent to or across the street from existing B-1. We just were not comfortable with putting a B-1 in the middle of non B-1 properties.

Mrs. Turner said and this site is adjacent to R-3. To support a B-1 zoning we would probably have wanted more proffers.

Mrs. Banks said this rezoning does not necessarily mean the applicants will not be back before this body at some point with a more comprehensive plan for the entire area as a B-1 classification.

Mr. Way asked if this was within the UDA.

Mrs. Banks replied yes.

Mr. Da'Mes asked why are the applicants not considering the other lots at this time.

Mr. Fletcher said it is probably related to financial reasons.

Mr. Way moved to recommend approval of the rezoning request with the submitted proffers.

Mr. Chenault seconded the motion.

Chairman Jones asked for a voice vote on the motion to recommend approval.

All voted in favor (5-0).

Chairman Jones said this request will move forward to City Council on December 11, 2012 with a favorable recommendation.

Zoning Ordinance Amendment – Section 10-3-50, 56.5, 57.5, & 58.5 (Contiguous or Across the Street From)

Chairman Jones read the agenda item and asked staff to review.

Mr. Fletcher said staff is proposing modifications to the Zoning Ordinance Sections 10-3-50, 56.5, 57.5 and 58.5 to clarify, for consistent interpretation purposes, how the minimum land area needed for the master planned communities within the R-4, R-6, R-7, and MX-U zoning districts should be applied. (Staff was also considering related modifications as was advertised to Article G. Off-Street Parking Section 10-3-26, however, we decided to remove those changes from consideration.)

Section 10-3-50 specifies the purpose of the R-4 zoning district and Sections 10-3-56.5, 57.5, and 58.5 regulate, among other things, the minimum district sizes of the R-6, R-7, and MX-U zoning districts, respectively. Each of the identified sections currently specify a minimum, contiguous acreage needed for property owners to develop a master planned community within the respective zoning districts. What has been interpreted for many years, but is not absolutely clear within the existing language, is that the contiguous acreage may include properties that are located across streets or alleys. Therefore, staff is proposing to add language to each of the identified sections stating that the contiguous property may include properties located directly across public or private street or alley right-of-ways from one another.

Staff recommends approving the proposed Zoning Ordinance amendments to Sections 10-3-50, 56.5, 57.5, and 58.5.

Chairman Jones asked if there were any questions for staff.

Mr. Way asked if the properties had to be owned by the same individual or developer.

Mr. Fletcher said it does not have to be owned by the same person. If someone is rezoning, it could be multiple property owners, as long as everyone is consenting to the same zoning classification.

Chairman Jones opened the public hearing and asked if anyone would like to speak in favor of the request. Hearing none, he asked if there was anyone wishing to speak in opposition of the request. Hearing none, he closed the public hearing and asked Planning Commission for discussion or a motion.

Mr. Chenault moved to approve the ordinance amendment.

Mrs. Fitzgerald seconded the motion.

Chairman Jones called for a voice vote on the motion.

All voted in favor of the motion to recommend approval (5-0).

Chairman Jones said this will be heard at City Council on December 11, 2012.

Zoning Ordinance Amendment – Reduced Parking SUP (All Residential Districts & MX-U & U-R)

Chairman Jones read the request and asked for staff to review.

Mr. Fletcher said staff is proposing to amend the Zoning Ordinance by adding a special use within the R-1, R-2, R-3s, R-4, R-5, R-6, R-7, MX-U, and U-R zoning districts to allow application for reduced parking areas.

In early October, after staff and Planning Commission had recommended against two of four requests that would have allowed the Harrisonburg Redevelopment and Housing Authority (HRHA) the ability to build 29 multi-family units off of East Gay Street, HRHA withdrew all four of their applications from consideration before they were heard by City Council. One of those applications included an ordinance amendment that would have modified the Zoning Ordinance Section 10-3-48.4 (3), which currently allows reduced parking areas by special use permit (SUP) for professional office uses only, by proposing to allow all uses in the R-3, Medium Density Residential District the ability to apply for reduced parking areas. Although staff and Planning Commission recommended denial of the multi-family project, both groups recommended approval of the Zoning Ordinance Amendment that was part of the overall project request. When this application was withdrawn, staff decided to move forward with the request on its own initiative but also to extend this ability for many of the City's other zoning districts.

If approved, the above listed zoning districts would have the following use, which is the same SUP that currently exists for the B-2 and M-1 zoning districts, within their list of special uses:

<u>Reducing required parking areas to permit fewer than the required number of parking spaces for any use, 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.</u>

Staff believes having reduced parking areas as a SUP is good planning and zoning practice as such requests can be evaluated on a case by case basis, where the result could allow property owners to save money on development costs while also increasing the amount of green space and reducing the amount of impervious surfaces in the City. As noted in the language, if problems arise regarding insufficient parking, the City retains the ability to require the property owner to install the minimum required parking.

If approved, the above described language would be in all existing zoning districts where off-street parking is required. Staff recommends approving the proposed Zoning Ordinance amendments.

Chairman Jones asked if there were any questions for staff.

Mr. Da'Mes asked how this might effect the recent landscape regulations.

Mr. Fletcher said it does not affect it at all. If anything, it adds more landscaping, because you cannot count the open space that would have been used for parking towards meeting the landscape requirement.

Chairman Jones opened the public hearing and asked if anyone would like to speak in favor of the request. Hearing none, he asked if there was anyone wishing to speak in opposition of the request. Hearing none, he closed the public hearing and asked Planning Commission for discussion or a motion.

Mr. Way said in this entire process is the applicant allowed, perhaps by special use permit, to not provide the open space. I am thinking if it is a tight lot or some situation where increased density means there may not be area to even leave open space available.

Mr. Fletcher replied that when uses go on properties they must take into consideration that there is a minimum parking requirement; therefore, they would not be able to go onto a site unless that parcel has enough area to provide the minimum parking. Also, keep in mind that we have recently provided additional flexibility in the zoning ordinance to count parking that is on adjacent parcels.

Mr. Da'Mes said I really like the concept of this amendment and I think it does create smart planning and zoning and I move to recommend approval of the ordinance amendment.

Mrs. Fitzgerald seconded the motion.

Chairman Jones called for a voice vote on the motion.

All voted in favor of recommending approval of the ordinance amendment (5-0).

Chairman Jones said this will move forward to City Council with a favorable recommendation on December 11, 2012.

Zoning Ordinance Amendment – 10-3-180 U-R (SUP for Increased Fence Height)

Chairman Jones read the agenda item and asked staff to review.

Mr. Fletcher said staff is proposing to amend the Zoning Ordinance by adding a use to the list of special uses available in Section 10-3-180 of the U-R, Urban Residential District.

Recently staff became aware the U-R zoning district's list of special uses did not include the ability for property owners to request for walls and fences to exceed the height regulations as otherwise permitted by the Zoning Ordinance. In April 2011 the City amended the Zoning Ordinance with the intent to add this particular special use to every residential district's list of special uses. However, upon review staff realized that we neglected to include Section 10-3-180 in that proposed modification.

Therefore, staff recommends approving the proposed amendment that would allow property owners in the U-R district the ability to request for walls and fences to exceed the height regulations as is otherwise permitted as subsection (9) within Section 10-3-180.

Chairman Jones asked if there were any questions for staff. Hearing none, he opened the public hearing and asked if anyone would like to speak in favor of the request. Hearing none, he asked if there was anyone wishing to speak in opposition of the request. Hearing none, he closed the public hearing and asked Planning Commission for discussion or a motion.

Mr. Way moved to approve ordinance amendment.

Mrs. Fitzgerald seconded the motion.

Chairman Jones called for a voice vote on the motion.

All voted in favor of the motion (5-0).

Chairman Jones said this request will move forward to City Council on December 11th, with a favorable recommendation from Planning Commission.

Mr. Da'Mes said before we move on I have a question about the mixed use area requiring three acres. What was the rationale behind that number? It seems to me there are many situations where the mixed use would be appropriate; but, three acres is not available.

Mr. Fletcher said there are arguments to be made for both sides of that issue. When we were considering adopting the MX-U District, there were Planning Commissioners that were interested in doing a separate classification that was similar, but had a smaller minimum requirement. Ultimately we decided against it with the rationale being that if you have one property owner that requests to go to MX-U and they have very small or no setbacks, it could be very burdensome on the surrounding property owners.

Mr. Da'Mes said I was just thinking about the WRockStreet property; it is not three acres, but it is adjacent to B-1 and would make a nice transition to a mixed use.

Mr. Fletcher said if there is a strong feeling to reduce the minimum area, it could be looked at. We do not have any property zoned MX-U at this time, it has not been available long enough to really say if it is working or not.

Mrs. Turner said when you have something that is a mixed use area you want it to have a little cohesion to it. You do not want it to be too spotty. You want it to have a comprehensive cohesion where you can walk from one place to another. To assure that you have pedestrian coordination between the two and that the parking lots are connected between the different uses. The three acres promotes a little cohesion to whatever the mixed use plan is and not make it just a spot commercial use with a bit of residential thrown in.

Mr. Da'Mes said about a year ago we saw one on Water Street, near the Runners Corner, and the MX-U was not even on their radar, they did not even consider it. It would have made a good location and transition from B-1.

Mr. Fletcher said those properties may have been rezoned before the MX-U zoning was even available. But they did rezone to B-1, which is a mixed use classification.

Mr. Way asked what the zoning was for the 865 development on Port Republic Road.

Mr. Fletcher said it is R-5 Conditional, which is the high density residential classification. It also received three special use permits; one to go taller, one to have more than twelve units per building, and one to allow a mixed use building.

Mr. Way said so there are other ways to get at this type of mixed use zoning. I too question whether the three acre minimum is a disincentive sometimes.

Mrs. Fitzgerald asked how long has the MX-U classification been in place.

Mr. Fletcher responded eighteen months to two years.

Mrs. Fitzgerald said therefore it has not had a whole lot of time yet.

Mr. Fletcher said true; I can only think of a few times that I have discussed this classification with someone.

Mrs. Fitzgerald asked do you have any sense that the three acres is a limiting factor, or is the inclination to go in other directions because of other things.

Mr. Fletcher replied I do not really know the answer to that. I remember having this conversation when we were working on the mixed use designation; but the consensus was to go with the three acres. I believe three acres was suggested several years ago by a consultant working with us on this and we just ended up going with that.

Mrs. Turner said I believe the consultant actually recommended more acreage, perhaps five acres. However, we have not had any developer come in and say "if it were just less acreage we would apply." I do not know if it is because they have looked at it and see that it is three acres and they do not bother. I feel it is perhaps that people have just not looked at it.

Mr. Way said there are some spots, for instance the corner of Neff Avenue and Reservoir Street, which are outside of the central area and are just two acres where it might be a good opportunity to have less of a minimum.

Mr. Fletcher said you need to remember what mixed use is, and perhaps it is different for different individuals. For me, mixed use is residential and something else. It is not a restaurant and a professional office.

Mrs. Turner said in answer to that I would say we have had people come in and ask about other lots in the general area behind the mall area. They have said "we would like to do an apartment building in this location with some shops underneath." We already have other undeveloped land that is appropriate for apartment type uses and at this point we have not felt that the area behind the mall is somewhere we would want to encourage apartments. Of course, Planning Commission and City Council may feel differently about that. There is a lot of traffic associated with an apartment use. We have not been encouraging of that type of development behind the mall, regardless if they wanted a Mixed Use classification or something else.

For the particular lot that you are talking about at the corner of Neff Avenue and Reservoir Street, I would just say I do not think we have ever felt that we wanted to open up the whole entire area behind the mall to apartments. I do not know that we would ever have a reason for picking a two acre site and say that one is appropriate; however, the entire rest of the area is not.

Mr. Way said if a developer really wanted to they could go through the process of rezoning to an R-5 zoning classification.

Unfinished Business

None.

Public Input

None.

Report of secretary and committees

Mrs. Banks said City Inspectors visited the Liberty Street area of the City where they found eleven violations consisting of inoperable vehicles and discarded materials. Next month they will take a look at the Westover area.

Other Matters

Mr. Fletcher said you each have received a copy of the CIP. Staff is looking for guidance as to when you might like to review this. What we did last year was to attach the review onto the regular Planning Commission meeting in December; there are three items on our December agenda.

Mr. Way said just to be clear, our role for this review is we can ask questions regarding things like prioritization or anything like that.

Mr. Fletcher said yes, anything you would want to ask.

Mr. Da'Mes said perhaps I am confused as to what our role is. What is the expectation of the Planning Commission?

Mr. Fletcher said it is a procedural review, to make certain we are looking at capital projects in a way that is comprehensive with the planning concept of the Comprehensive Plan. Capital projects have been increased to $50,000, up from $30,000 last year.

Mr. Da'Mes said as the CIP relates to the overall planning aspect. Council is not just looking at our recommendation and approving it because we have recommended to.

Mr. Fletcher said I do not know how much weight is given to Planning Commission's recommendation; but, I do think Council appreciates the questions that you all bring to the Department Directors. Planning Commission has a different mindset than Council, so you are asking questions that they may not have thought of.

Mrs. Turner said I do not think City Council is looking to Planning Commission to have a whole lot of changes or questions about the fiscal soundness of the CIP. Planning Commission should be looking at things like prioritization.

Mrs. Fitzgerald said last year we had the opportunity to submit questions ahead of time; can we do the same this year?

Mr. Fletcher said yes, please do.

Mrs. Fitzgerald said is a week ahead of time good?

Mr. Fletcher said if we could get questions by the 5th of December, and we could forward them to the Department Directors before the end of the week, that should be sufficient.

Mr. Da'Mes said I for one am not looking to add to anyone's work load; but, I feel it is appropriate to have the Directors do some sort of presentations. That has always been my perspective on this.

Chairman Jones said we used to do that several years ago, where we met with Department Directors on a separate night and they each did a presentation.

Mr. Da'Mes asked if it was it fruitful and created further dialogue.

Chairman Jones said it is more of a requirement of code and not so much of a vetting vehicle for this before it goes to Council.

Mrs. Turner said that is correct, it is in the State Code.

Chairman Jones said we review the CIP so that we fulfill the necessary procedural requirement. These are all budget matters and the Council is going to decide the budget.

Mr. Way asked whether Council read Planning Commission's notes and reviewed our questions.

Mr. Fletcher replied yes.

Mrs. Turner said if you were to decide that you want some type of presentation, please clarify exactly what you are looking for in the presentation. Ages ago each Department did an overall presentation. Then we

just had the Directors present new projects or things that had changed in scope. Please let us know so that we can let the Directors know what to prepare for.

Mr. Way asked if a reminder email could be sent out to remind everyone to send in questions by the 5th.

Planning Commission was in agreement to review the CIP at the December regular meeting. We will have the Department Directors come and Planning Commission can submit questions prior to the meeting.

Chairman Jones asked if there was anything else.

Mr. Fletcher said there is one item. If you visit the City's homepage, under news and announcements, there is a post about the building permit review process. You may find it interesting about the attempts that City Staff has been making towards improvements to the building permit process. The site will provide you with the prerequisite questionnaire, which is essentially when someone wants to apply for a building permit they need to answer the questionnaire to make sure that they fully understand what they are applying for and to help curtail problems that could arise down the road.

Mrs. Turner said this is more for situations where someone is rehabbing an existing building and to get their building permit they do not necessarily have to go through a whole lot of explanation of what they might want to do as they rehab. This is to get someone to think up front about certain situations before applying for a permit.

Adjournment

The meeting was adjourned at 7:50 p.m.

Chairman William L. Jones, Jr.	Secretary, Alison Banks