

## MINUTES OF HARRISONBURG PLANNING COMMISSION

January 9, 2013

The Harrisonburg Planning Commission held its regular meeting on Wednesday, January 9, 2013 at 7:00 p.m. in the City Council Chambers, 409 South Main Street.

Members present: Richard Baugh, Gil Colman, MuAwia Da'Mes, Judith Dilts, Deb Fitzgerald, Jefferson Heatwole, and Henry Way.

Members absent: None

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

Chair Fitzgerald called the meeting to order and welcomed new Planning Commission Members Jefferson Heatwole and Gil Colman, along with welcoming back Council Member Richard Baugh. She then determined there was a quorum with all members in attendance and asked if there were any corrections, comments or a motion regarding the minutes from the December 12, 2012 Planning Commission meeting.

Mr. Way moved to approve the minutes as presented from the December 12, 2012 regular Planning Commission meeting.

Dr. Dilts seconded the motion.

All members that were present at the December 12, 2012 voted in favor of approving the minutes (4-0).

### New Business

#### ***Rezoning – 1310 Garbers Church Road R-1 to R-2***

Chair Fitzgerald read the request and asked staff to review.

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

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

Site: First Assembly of God church and single family dwelling zoned R-1

North: Across Erickson Avenue, a single family dwelling and vacant lots, zoned R-1

East: Non-conforming single family dwelling and vacant lots, zoned B-2

South: Berea Christian School, zoned A-2 (Rockingham County)

West: Across Garbers Church Road, Whitesel Brothers Incorporated and vacant lot owned by the City, zoned R-1

The First Assembly of God church (the Church) is requesting to rezone their 4.86-acre parcel from R-1, Single Family Residential District to B-2, General Business District. The property is located at the corner of Garbers Church Road and Erickson Avenue; its southern parcel line is also a boundary between the City and Rockingham County. As noted by the document submitted with their

application, the Church's main purpose in wanting to rezone the property is to gain the ability to install an LED message board sign.

In 2009, the Church was compensated for property acquired by the City for the Erickson Avenue/Stone Spring Road improvement project. The compensation package included funds to relocate their existing advertising sign as the planned improvements to Erickson Avenue will eliminate the sign. (Note: The survey submitted by the Church was completed in 2002 and does not reflect the existing property boundaries.) Given this situation, they would like to take this opportunity to install a modern sign, one that includes LED message board technology. However, the Church's existing R-1 zoning district requires the illumination of signs to be in keeping with the intent and purpose of a residential district. LED signs are not in keeping with a residential district, and thus are not permitted. Generally, illumination regulations for signs on non-residentially zoned properties are not as restrictive as those that are residentially zoned and allow LED-type signs.

If rezoned to B-2, the Church would also gain the ability to install signage at a maximum height of 35 feet (29 feet higher than permitted in the R-1 district) and based upon their parcel's street frontage, the Church could erect a sign with the maximum permitted 240 square feet in area (216 square feet more than permitted in the R-1 district). Although there is no cost for review for non-profits, the Church must still submit a sign permit application to ensure their sign conforms to all applicable regulations. Regardless of the outcome of the rezoning, the Church should coordinate with the Department of Public Works with regard to the intended sign location to ensure it is in an appropriate location and not in conflict with the road improvement project.

The Church should be aware as noted by Section 11-7-3 (6), no flashing signs are permitted in any district, and as also defined by the Sign Ordinance, flashing signs include devices that have light that is not maintained stationary and constant in intensity and color at all times when in use. Nonetheless, a sign which has letters or numbers that change at intervals of not less than five seconds are not considered a flashing sign. In other words, if the property is rezoned and the Church installs an LED message board sign, the message must appear and remain in place for five seconds before the message can change to another.

If the property is rezoned, the Church would also gain more flexibility with setback regulations. Church buildings in the R-1 zoning district have 50-foot setbacks from all property lines whereas church buildings in the B-2 district have 30-foot front yard requirements and 10-foot requirements for all other yards. In the past, the City's R-1 setback regulations have caused building location issues for the Church as they were originally unable to build their planned additions for a gymnasium and larger sanctuary in the location desired by the Church. In 1997, the Board of Zoning Appeals (BZA) approved a sideyard setback variance for the Church's planned improvements. The BZA granted a 40-foot variance, essentially creating a 10-foot sideyard setback, which if the rezoning to the B-2 district is approved, is the standard sideyard setback for that district.

In 2009, after property acquisitions for the Erickson Avenue/Stone Spring Road improvement project were completed, a second setback variance was approved by the BZA making the church building conforming to setbacks along Garbers Church Road—now at 28.8 feet from the property line. That variance request did not make the existing single family dwelling conforming to setbacks. Unrelated to setback issues, if the property is rezoned, the Church should understand the single family dwelling can no longer be used residentially.

Overall, staff believes rezoning this property to B-2 is good planning and zoning practice and we do not have concern with the additional zoning and sign provisions afforded to this property. In fact, this parcel was one of a handful of properties along Erickson Avenue that received a new Land Use Guide designation during the 2011 Comprehensive Plan update. Prior to the 2011 update, the property was designated Low Density Mixed Residential but is now designated Commercial; therefore, rezoning the property to B-2 conforms to the Comprehensive Plan.

Staff recommends approving the rezoning from R-1 to B-2.

Chair Fitzgerald asked if there were any questions for staff.

Mr. Way asked about a parcel located adjacent to the Church property.

Mr. Fletcher explained the parcel was a remnant parcel from right-of-way acquisitions and was owned by the City.

He continued by adding that he did not point out one item within the staff report; the strict regulations regarding flashing signs. These are often problematic signs and staff wanted to include this within the report to make certain that it is understood that flashing signs are not permitted; but a sign that holds an image for five seconds, or longer, is not considered flashing. I just wanted to make everyone aware of this issue.

Chair Fitzgerald asked if there were any other questions for staff. Hearing none, she opened the public hearing and asked if the applicant would like to speak.

Steve Parsons, 683 Silver Lake Road, Dayton, I am the Business Administrator for the church. I think our application is very straight forward and staff has done an excellent job with their report and we understand conditions regarding the type of sign we want. We would very much appreciate your favorable consideration of the application and if you have any questions for me I would be happy to answer them at this time.

Mr. Da'Mes asked what is your vision for the size of the sign.

Mr. Parsons said we are looking into that. We are looking at the LED portion being three feet by six feet or four feet by eight feet. Above the LED we would have our church name, which would also be illuminated and about two feet by whatever length ends up being. The height would depend upon where we end up locating the sign on the property; our property somewhat slopes downward from the road and we want it high enough so that it is visible to traffic driving past.

Chair Fitzgerald asked if there were any further questions. Hearing none, she asked if there was anyone else wishing to speak in favor of the request. Hearing none, she asked if there was anyone wishing to speak in opposition of the request. Hearing none, she closed the public hearing and asked for discussion or a motion from Planning Commission.

Mr. Da'Mes said what the church is considering for signage is about fifty square feet; I am trying to visualize a business district, or corridor, that is not there now, but may be in ten years or so. Is this an opportunity for us to set some parameters in terms of signage usage, size, and more, in an area that the City sees as a business area, but it is more of a gateway into our City. Maybe we do not want to have the same type of signage appearance like what is along East Market Street or South Main Street. What are the limitations once a sign is established and placed at this site; would future signage be allowed, what is the process for additional signage, what are the limitations within the B-2 for signage?

Mr. Fletcher said B-2 offers our most affording regulations for signage. This property has two street frontages and would be allowed to have two freestanding signs; however, only one could be within the thirty-foot setback. There is a tremendous amount of street frontage for this property and it would allow for maximum signage, if they so choose. Signs are allowed to be double-faced and we only count the square footage of one side.

If Planning Commission wants to set some type of standard or viewscape you could do so. Staff did not see the need for this; the area has been planned for commercial. It is a corridor into the City; yet, we want to promote some flexibility for the businesses that are out there. There are corridors where we have concerns regarding signage, such as Port Republic Road. Port Republic Road corridor is not designated commercial and that is why staff puts up a bigger fight regarding signs and sign height. This section of Erickson Avenue we had planned to be commercial and that is why we did not look at it from a perspective of restricting signage.

Mr. Way asked if it was within Planning Commissions per-view to look at things like the sign ordinance.

Mr. Fletcher replied yes. The sign regulations are part of the building code; but, it very much relies on the zoning code, because the regulations are determined based on what the zoning district is.

Mr. Way said I believe in this particular instance the sign suggested makes sense; but one day in the future I feel we should think more about sign strategy and how we look at entrance corridors into the City.

Mr. Baugh said we have not considered this previously, but there are other locations that have something called Corridor Overlay Districts. You are allowed by State law to have more restrictions on these aesthetic type issues in corridors. We do not have any such ordinance and we have not seriously debated doing such. I believe Staunton has one, but I have no idea whether they are happy or unhappy with it. That would be an option; it allows you to focus specifically on your access corridor roads.

Mr. Fletcher said reviewing the sign ordinance would be quite an undertaking; it is quite complicated.

Mr. Da'Mes said it may be something we want to put on our "to-do" list for Planning Commission.

Mr. Fletcher said it is not a bad idea; we first must get through the business garden proposal and telecommunications, and then if desired take a look at it.

Chair Fitzgerald asked if there was further discussion on the rezoning request.

Mr. Way made a motion to recommend approval of the rezoning request.

Dr. Dilts seconded the motion.

Chair Fitzgerald said there is a motion and a second, she then asked for a voice vote on the motion.

All voted in favor of the motion to recommend approval of the rezoning request (7-0)

Chair Fitzgerald said this item will move forward to City Council on February 12, 2013.

### **Unfinished Business**

None.

## **Public Input**

None.

## **Report of secretary and committees**

Mrs. Banks said Zoning Inspectors visited the Garbers Church Road area of the City where nine violations were found. These violations consisted of inoperable vehicles and discarded materials. Next month our inspectors will be in the Spotswood Acres area.

## **Other Matters**

Chair Fitzgerald said the next item is under other matters – Horticultural Businesses on Residential Property. She then asked staff for a discussion.

Mr. Fletcher said after taking into consideration the comments from Planning Commission and the public last month regarding the issue of allowing horticulture-related businesses on residential property, and in performing more research on the matter, staff has prepared language to begin receiving additional feedback on how to address this use.

In brief, we are proposing identifying this practice as a “business garden” having a definition that includes being classified as a home occupation. The definition also includes a reference to Article BB, a proposed new article of the Zoning Ordinance that would outline the use regulations and requirements. In this proposal, since it would be classified as a home occupation, business gardens would be allowed by-right in every district that allows home occupations—essentially that would be all residentially zoned property, and as proposed, also in the B-1 district.

Mr. Fletcher said the proposed amendments are as follows for the Business Garden Proposal:

Note: Code additions are underlined.

Add and amend the following definitions in Section 10-3-24. Definitions:

*Business Garden:* A home occupation, where areas of a parcel are managed and maintained by individuals residing on the same parcel or adjoining parcels under the same ownership, used to cultivate fruits, vegetables, herbs, or flowers for sale purposes. This definition does not include cultivation only for personal consumption or use. (See Article BB. Business Gardens for operating regulations.)

*Home Occupation:* Any occupation or activity which is clearly incidental to the use of the premises for dwelling purposes and which is carried on wholly within a main building or accessory building, other than business gardens as defined, by a member of a family residing on the premises, in connection with which there is no advertising on the premises, and no other display or storage or variation from the residential character of the premises, and in connection with which no person outside the family is employed and no equipment which is deemed to be in conflict with the intent of this definition. A home occupation shall not include beauty parlors, barber shops or doctors' offices for the treatment of patients. The foregoing notwithstanding, providing professional counseling services by appointment only for not more

than ten (10) clients per week, and giving music lessons shall constitute home occupations.

Add Home Occupation in the B-1, Central Business District Section 10-3-84. – Uses Permitted By Right:

(13) Home Occupations.

Add a New Article as Shown Below:

Article BB. Business Gardens.

Sec. 10-3-189. – Purpose.

The regulations set forth in this article are to regulate Business Gardens as defined in Section 10-3-24. Definitions.

Sec. 10-3-190. General Use Regulations and Requirements.

- (1) Individuals operating business gardens shall apply for a home occupation permit.
- (2) The residential character of all parcels involved shall be maintained.
- (3) All transactions shall occur off-site.
- (4) No on-site advertising is permitted.
- (5) Apiculture or other animal husbandry is prohibited.
- (6) Areas shall be maintained in a healthy growing condition, free of refuse, debris, overgrown weeds, and dead or spent plant materials. Such areas are subject to Section 16-6-58 Weeds, etc. on Lots.
- (7) Compost shall be used only to support onsite operations.

Sec. 10-3-191. – Area and Yard Restrictions.

- (1) Land used for business gardens shall be no larger than fifty (50) percent of the area of the parcel involved including areas of multiple, adjacent parcels under the same ownership. Cultivation in accessory structures such as hoophouses, green houses, cold frames, etc. and areas used for exterior activities such as storage, compost and disposal areas shall be included in the allowable area. Activities on or within principal buildings including covered and uncovered porches and decks, enclosed accessory storage structures, upon rooftops, and vertical growth areas are exclusive of the allowable area.
- (2) All areas used for business gardens shall maintain at least a five (5) foot separation from all property lines unless such areas are enclosed with a wall or fence of at least three (3) feet in height.

Sec. 10-3-192. – Accessory Structures.

Accessory structures shall be governed by Section 10-3-114 Accessory Buildings of this chapter.

Sec. 10-3-193. – Storage and Screening.

Storage of equipment, materials, and compost and disposal areas shall be inside a primary or accessory structure or screened from general public view and adjoining properties.

Sec. 10-3-194. – Abandonment.

Business gardens which have ceased permanent operation or been abandoned shall be cleared, all structures removed and the area re-vegetated no more than thirty (30) days after the date of discontinued operations unless otherwise specified by the Zoning Administrator not to exceed ninety (90) days.

Amend subsection (a) of Section 16-6-58. – Weeds, etc., on Lots:

- (a) Between April first and November first of each year, every owner of real estate situate in the city shall, at his sole expense, cause to be cut therefrom all grass, weeds and foreign growth, with the following exceptions:
- (1) Farm land, not including business gardens, on which crops are being grown or land used to pasture livestock.
  - (2) Acreage not farmed or pastured but which is not subdivided and of which no subdivision plat has been recorded. However, on such unused acreage, the owner shall mow a strip twenty-five (25) feet wide adjacent to any street or adjoining property on which a residence is located.
  - (3) Subdivided and recorded residential lots fronting undeveloped public street right-of-ways.

Mr. Fletcher then asked Planning Commission for discussion, comments or questions.

Mrs. Turner said looking at this, even if every square foot of a lot was taken up with a business garden there would still be a large house on the property; so it still maintains a residential look. Even a property with two vacant adjoining lots and the lots are used as a business garden; it still has a lot with a house, a yard, and maintains a residential appearance. Once you fill up the both vacant lots and the remaining parcel with a business garden the appearance becomes more of a business garden that has a house on it.

Mr. Fletcher said I know there have been tall grass and weeds discussions mixed in with the business garden conversation and I want to point out that staff would like to keep these two issues separate. We believe they are two different things that are occurring and we do not want to complicate the matter.

Mr. Colman asked about the separate, non-adjacent, empty lots; if a lot is empty and not adjacent to the owners home, can it be used or counted as part of their property for a business garden?

Mr. Fletcher replied you would not be able to use it at all.

Mr. Way said back to the residential character issue; this is a phrase that you say is understood within the ordinance.

Mr. Fletcher agreed and said staff uses their best judgment when reviewing this type of thing.

Mr. Way said you do not feel we need to define residential character.

Mr. Fletcher replied I do not feel it needs to be defined.

Chair Fitzgerald said when we left the meeting in December one of the suggestions that we tossed around was the idea of looking at large and small urban gardens, making a set of rules based on the total lot size, and then dividing them into the small and large categories. Was there something in particular that moved staff away from starting with that approach?

Mr. Fletcher said honestly, we do not have that many properties that are “that” large. We decided this is the most simplistic approach and a good working document that we might get some strong consensus on.

Chair Fitzgerald asked why the fifty percent.

Mr. Fletcher replied that staff looked at other options like square footage of the garden or perhaps no regulation, allowing the entire yard to be garden; but once we started applying the rule we started to see what impacts these options would have. Even with the fifty percent many of the lots within the City could use their entire lot area. Fifty percent is just a control mechanism to keep scale in relation to what the surrounding properties are. If you have one acre it is possible that you reside in an area where the neighbors have one acre; so scale means something different in those circumstances.

Mr. Colman said when we are looking at combined lots that utilize just the back portion of the lots for their fifty percent garden, against the smaller one lot property that is utilizing their entire yard, the measure does not seem to be consistent when it comes to residential character; it is more in terms of how much you can garden.

Mrs. Turner said we talked about that; but we would have that same thing happen if we calculated it by square footage. If we allowed 7,000 square foot of garden area, then the smaller lot would have what appears to be much more garden area than the house with the double lot. You get the same type of thing happening. Anytime you put a number on something, there is always the question as to why are you using that number. The scale or the magnitude of it in relation to the use of the property as a residence is kind of why we went with the fifty percent. We would be open if everyone is in favor of going back to a square footage; but I do not think it would take care of the nature of this concern of residential character.

Mr. Colman said my concern is more from the standpoint of if I have a large property I can now use that property for a business. It is not a matter of competing with my neighbors to see who has the most property covered with a garden; but more the idea of using the potential that is there. If someone has a large lot do they now look at it as I can have a business here now, is that residential character. On a different note, the neighbors are limited to their smaller lot and cannot use the neighbor’s lot, even if the neighbor would allow for them to use it. I realize that is a different argument at this time.

Dr. Dilts said in terms of residential character did staff talk at all about limiting gardening to only in the back yard and not within the front yard.

Mr. Fletcher said yes, we discussed not allowing it in the front yard at all; but we agreed with the given scale and requiring the fencing it would be okay. Think about flower beds that are planted

along the base of homes or sidewalks, sometimes there are tomatoes or peppers planted in those beds. That is usually within a front yard. We wanted to make this flexible for folks.

Mr. Heatwole said I just want to make certain that I understand this correctly. The fifty percent rule applies to all the lots with the same owner that are adjacent to one another and also have a house located on them.

Mr. Fletcher replied yes that is correct.

Mrs. Turner said with the front yard issue I want to add that staff did talk about this and we knew if we proposed something that did not include the front yard it would generate a lot of opposition. So we just decided that was an area we could give on; it was not something we felt was a sticking point that we had to have.

Chair Fitzgerald said some localities restrict what you can plant in a market garden within the front yard. That is one way to get around it, allowing some things but not all.

Mr. Fletcher said this would be a use that other than obtaining a home occupation permit, and knowing that a business is being operated there, staff is not going out and asking to see that it meets all requirements. It is a self and community regulating ordinance. If I start my business garden at fifty percent, as allowed, and over time it begins to grow and becomes seventy percent, I can either cut it back to fifty percent or wait and let my neighbors complain about it. Staff will not know unless it is a complaint.

Mr. Colman said I have another question that may be a technicality. What if I have fifty percent that is my business garden; but this other twenty-five percent is my personal garden that I feed my family with.

Mrs. Turner replied that staff did discuss that issue and we decided once you enter into a business garden that is what you have. No longer do you have a personal garden, you are a business garden only.

Mr. Da'Mes asked about having a community garden. If I am a resident of a home and I obtain a home occupation for a business garden but I have more than one interest in the garden; how does this work? I am the primary owner, but I have five or six people who work with me on this.

Mr. Fletcher said the short answer is you cannot do that. You must reside on the property to operate the business garden.

Mr. Da'Mes said how are community gardens addressed.

Mr. Fletcher said we are not addressing community gardens. If Planning Commission wants us to address them we can attempt to do so. We were asked to look at business gardens; but can look at community gardens if you feel the need.

Dr. Dilts said the community garden idea is not an occupation; it is for personal use and not for sale.

Mr. Fletcher said yes, and it is possible that folks are doing community gardens now.

Mrs. Turner said if a handful of neighbors who reside on adjacent lots, or within four or five lots of one another, and have a garden on one of the lots, we would probably not get a complaint about that type of community garden. Staff would never know that something like this was going on. If instead a non-profit organization from elsewhere in the City had a garden within a neighborhood where they were donating the food to somebody and three times a week multiple people, in multiple

cars, came into the neighborhood to work the garden, we would probably receive questions from the neighborhood about that. Staff would question that situation and honestly, I do not know where we would come down on that situation at this time. It could be that the lot owner was renting the lot out to that non-profit and that is a business of leasing land. It could be someone just donating their land for the use by the non-profit organization, who is then donating the food that is produced; therefore, is that a business? It is still a disruption to the neighborhood when all these folks drive in to work at the garden. Is it more of a disruption than the person who conducts a weekly bible study group in their home that has 15 or 20 participants? So we are not really sure what we would say about that type of use at this time.

Mr. Fletcher said we did think about it enough that we had working language, but there were way more questions than we had answers for in the short period of time we had to look at it.

Chair Fitzgerald said to the extent that they exist today, and we all know that they do, there have not been those types of issues that were just mentioned, have there?

Mrs. Turner said not that we are aware of.

Mr. Way said with the no on site transactions, did staff consider the pros and cons of allowing such?

Mr. Fletcher replied we did and decided not to allow it because we want to keep it on the same level as home occupations currently operate.

Mr. Way asked if there was a fee associated with a home occupation permit.

Mr. Fletcher said no fees.

Mr. Colman said I still see the fifty percent restrictive for some larger lots.

Mr. Way said could we go to seventy-five percent for larger lots.

Mr. Fletcher said I suppose we could; but remember if you go greater than fifty percent on these larger lots you begin to have a small operational farm.

Mr. Da'Mes said two things come to mind for me. The containment of compost and equipment; do we have thoughts about those items?

Mr. Fletcher said that is covered in the language. If you look at storage and screening under 10-3-93 you will see where that is covered.

Chair Fitzgerald said one of the things that I have read about while doing some research on this is about farming on soil that has a lot of history underneath; in particular, soils that may be contaminated. Is that an issue that we have to worry about?

Mr. Fletcher said I would suggest that is not an issue we would want to get involved with. It sounds very much like a DEQ issue and it is not something that we have training on.

Chair Fitzgerald said when the dead or spent garden needs to be re-vegetated there is nothing in here that says what it has to be re-vegetated with.

Mr. Fletcher said that is correct.

Chair Fitzgerald asked if there was any further discussion or comments as to direction moving forward from here.

Mr. Colman said I would like to look at the possibility of using lots that are not adjacent. I understand that perhaps it would be a business for the property owner as well as the person, or non-

profit, leasing the lot; but could we look into something like that. I realize more restrictions would need to come in to play with this.

Mr. Fletcher said I suppose we could look to see if other localities allow something like this. The community garden definition has a lot of different variations. Staff did discuss this and decided against it; but we can look at this again and come up with something to bring to you. It would essentially be a business where persons would have to travel to it, they do not reside there.

Dr. Dilts said it seems to me that one of the values of having it only on the lot where the residence is would be oversight. You are likely to have more oversight on the lot with the house than something that is multiple parcels down the way; you will care more about what is around your house.

Mr. Fletcher said when we get into parcels that are not where the user resides it takes it away from the home occupation concept. The very first clause of the business garden definition reads a home occupation.

Mr. Baugh agreed and said it really is different thing than what we are discussing tonight. What we are discussing tonight does fit under the rubric of existing home occupation and whatever happens with the lot down the block, across the road, is not a home occupation.

Mr. Colman asked if there was any zoning district within the City where something like that could be done.

Mr. Fletcher said no.

Mrs. Turner said that is kind of a whole different twist on this. Right now agriculture is not a permitted use within the City; therefore you cannot establish a commercial farm in the City unless it is a current non-conforming use that came into the City as such and has remained as such. If we start branching off too much from something that is kind of incidental to your home, then does it get to be grossly unfair to people who want to be commercial farmers within the City.

Chair Fitzgerald said please note for the record that Commissioner Da'Mes had to leave at this time for another appointment. We do still have a quorum.

Mr. Colman said do we see this as a new trend; community gardens or agriculture within the City. If that is the case should we try to look at a way of allowing this in certain areas of the City?

Chair Fitzgerald said aside from just the residential use.

Mr. Colman said yes.

Mr. Fletcher asked if that was a consensus among the Planning Commission.

Mr. Way said are we talking about a separate zoning category or within an existing zoning district.

Mrs. Turner said adding more agricultural uses back into our zoning ordinance, where we had previously removed them.

Chair Fitzgerald said this is a one thing at a time issue, especially since we have other items on our "to do" list. How would we like to proceed with the business garden home occupation proposal?

Mr. Way said he would like to thank staff for getting this together so quickly over the past month and I would be open to going ahead with a public hearing next month. I am not sure that a work session would be helpful and in terms of timing it would be nice to get it moving. There will be the option of discussing this further as people speak at the public hearing.

Planning Commission was in agreement to move this forward as a public hearing next month.

Mr. Fletcher said it will be advertised for public hearing next month. Do you want staff to look more at the community garden idea or the agriculture use as well?

Mr. Way asked if community garden was considered to be a subset of agriculture uses or not.

Chair Fitzgerald said we have personal gardens that are unregulated. We are proposing business gardens that fit into residential neighborhoods as a home occupation. Do we have the idea of community gardens in residential neighborhoods or maybe even more than just a residential use? But, community gardens, by definition, are not for business.

Mr. Fletcher said yes, I am hearing that as one thing, but Mr. Colman is proposing something a bit different.

Mr. Colman said I do not want to question community gardens; this is more looking for a commercial use for independent garden lots as a permitted use. Folks that may think that fifty percent is not enough for their business garden could then find a lot in a particular zoning classification and use it for that purpose. What we are proposing tonight should be limited to residential only. A commercial garden should be in a different zoning.

Mr. Fletcher replied yes, we can take a look at possibly having commercial or industrial zoned property having a permitted garden or farm type use. This would allow someone to set up a building to operate the retail portion of the farm sales; and we are talking horticulture only, not animal husbandry.

Chair Fitzgerald said next item under Other Matters is to appoint a representative to attend Rockingham County Planning Commission meetings.

Mr. Fletcher said Bill Jones held this position and he is no longer on Planning Commission.

Chair Fitzgerald asked when does the County meet.

Mr. Fletcher said I do not know, but I believe there is a County Representative in the audience tonight. The County is actually doing a bit different approach; rather than having one representative they rotate each month.

Chair Fitzgerald said I was going to suggest that. Perhaps each person could take a month that fits their schedule the best.

Mr. Brent Trumbo from Rockingham County Planning Commission said they meet the first Tuesday of every month at 6:30 p.m.

Chair Fitzgerald asked if everyone liked the idea of rotating each month.

Planning Commission agreed to that idea.

Chair Fitzgerald said she would take the February meeting.

Mr. Trumbo said actually the County will not be holding a meeting in February.

Chair Fitzgerald agreed to attend the March meeting. The next item under Other Matters is to consider amending the regularly scheduled site tour. We currently meet at 4:30 on Mondays.

Mr. Fletcher said for staff Monday and Tuesday before the meeting works best; going any earlier than that is just out of the question.

Chair Fitzgerald said does the existing day and time still work for everyone?

Planning Commission agreed that the regularly scheduled time would work.

At this time Dr. Dilts agreed to attend the April Rockingham Planning Commission meeting.

Mr. Fletcher said he would send around an email for sign-up of other dates.

Mr. Baugh said I just wanted to mention at City Council last night, everything that came from Planning Commission was approved unanimously. Those items were the Mercy House rezoning and amendment, the Hoover Penrod rezoning and the special use request on West Market Street. We did have a fair amount of discussion on the Mercy House issue and there were two items that came up. First, is it worth looking at parking in a more comprehensive sense; this is not something Council is thinking needs to be on Planning Commission's "to-do" list, it is just something to think about. The second item was with the Mercy House rezoning and the idea that it was not by Special Use Permit. By making the "fault line" of the rezoning be the fact that it is a non-profit organization, we have now said you can go do this, no matter the size. It was somewhat easy in this case because it is a popular non-profit organization that just needed a break; but not all non-profits always do things that are popular with everybody.

Chair Fitzgerald said I have the sense over the last several years that Council is generally not in favor of putting things up by way of Special Use Permit. I am thinking most recently of the portable restrooms.

Mr. Baugh said I believe that depends on the situation and certainly you hear that. My sense is that it depends on who your likely applicant pool is and I believe that is the thing with the portable restrooms. I personally would not say that it is fair to say that because it looked a certain way with that case that there is now a predisposition on Council not to do Special Use Permit items. I actually think it is just the opposite; I think there is the recognition that in the right case it does give us the opportunity to have the flexibility to review something on a case-by-case basis.

Chair Fitzgerald asked if there were any other comments. Hearing none, the meeting was adjourned.

### **Adjournment**

The meeting was adjourned at 8:15 p.m.

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Chair Deb Fitzgerald

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Secretary, Alison Banks

