

MINUTES OF HARRISONBURG PLANNING COMMISSION
May 8, 2013

The Harrisonburg Planning Commission held its regular meeting on Wednesday, May 8, 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 determined there was a quorum with all members in attendance. She then asked if there were any corrections, comments or a motion regarding the minutes from the February 13, 2013 Planning Commission meeting.

Mr. Heatwole moved to approve the minutes as presented from the February 13, 2013 regular Planning Commission meeting.

Dr. Dilts seconded the motion.

All members voted in favor of approving the February 2013 minutes (7-0).

New Business

Alley Closing – Ridgeway Mennonite Church (Adjacent to 27-L-8, 8A, and 16 Through 20)

Chair Fitzgerald read the request and asked staff to review.

Mr. Fletcher said the applicant is requesting to close two portions of undeveloped public alley right-of-ways. The first area includes a 12-foot in width section totaling 2,897 square feet located parallel and between Franklin Street and Hawkins Street. The second area includes a 10-foot in width section totaling 1,773 square feet located off of and perpendicular to Hawkins Street. The applicant, Ridgeway Mennonite Church, is the owner of all properties adjacent to the areas requested for closure.

As noted, the alleys are undeveloped and therefore not maintained by the City. The areas are not used for trash pick-up nor are there any public or private utilities within the right-of-way, and thus no easements would be needed if the City chooses to approve the request.

As noted by a letter submitted by a trustee of the church, the church hopes to make future building and parking lot improvements to the site. The applicant should be aware their property has two separate zoning classifications: R-2 and R-3. Any principal building built on the R-2 zoned area of their property must provide 50-foot setbacks from all property lines, while principal buildings built on the R-3 portion of their property must have 30-foot setbacks from public street right-of-way lines, 10-foot setbacks from side property lines, and 25-foot setbacks from rear property lines. Depending upon how the parking lot is improved, the church could be required to comply with parking lot landscaping requirements per Section 10-3-30.1 of the Zoning Ordinance.

The letter also requests the City consider waiving the requirement to purchase the public alleys. This decision is made by City Council.

Staff has no concerns with this request and recommends closing the paper alleys.

Chair Fitzgerald asked if there were any questions for staff.

Mr. Da'Mes asked if the alley was "on the radar" for part of the pedestrian bicycle path plan.

Mr. Fletcher replied no. On the plan to which you are referring, these alleys are listed as ones that could possibly be released or sold.

Chair Fitzgerald asked if there were any further questions. Hearing none, she said this is not a formal public hearing; however, if the applicant would like to come forward to speak or answer questions they may do so at this time.

Mr. James Shank, Trustee with Ridgeway Mennonite Church, said he would like to thank the Planning Commission Members for taking into consideration the request for the alley closings. I feel it has been very accurately reported by staff as to what our intent is with the parking area. The parking is our primary focus; we do not have a plan for whether or not we will be building. Right now all of our attention is focused on the parking area to make it a bit more convenient for our congregation.

Chair Fitzgerald asked if there were any questions for Mr. Shank. Hearing none, she asked if there was anyone else wishing to speak. Hearing none, she asked Planning Commission for discussion.

Mr. Da'Mes made a motion to recommend approving the requested alley closings for Ridgeway Mennonite Church.

Mr. Way seconded the motion to approve.

Chair Fitzgerald asked for a voice vote on the motion.

All voted in favor of the motion to recommend approval of the alley closing requests (7-0).

Chair Fitzgerald said this will move forward to City Council on June 11th.

Preliminary Plat – The Village at Forest Hills

Chair Fitzgerald read the request and asked staff to review.

Mrs. Banks said the Comprehensive Plan designates this area as Low Density Residential and Medium Density Residential. The Low Density designation states that these areas consist of single family detached dwellings with a maximum density of 1 to 4 units per acre. Low density sections are found mainly in and around well established neighborhoods and are designed to maintain the existing character of neighborhoods and to provide traditional areas for home ownership. The Medium Density Residential designation states that these areas are designated in areas near major thoroughfares or commercial areas. Most of these areas have been developed or are approved for development of a variety of housing types such as single-family, duplex, and in special circumstances, apartments. Depending on the specific site characteristics, densities in these areas may range from 1 to 15 units per acre.

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

Site: The Village at Forest Hills townhomes; zoned R-4

North: Single-family dwellings; zoned R-1

East: Forest Hills Manor and University Fields Apartments; zoned R-4

South: Convenience Stores and vacant land; zoned B-2C

West: Harrington Heights townhomes; zoned R-4 and Gas service stations; zoned B-2

The property owners of the Village at Forest Hills, a student housing complex located along the private street Village Lane, are requesting to preliminarily subdivide a 6.11 +/- acre common area parcel into two lots. The proposed subdivision requires Planning Commission approval because it is greater than five acres in size and further requires City Council approval because a variance from the Subdivision Ordinance Section 10-2-42 (c) is needed to allow lots to not have public street frontage. Currently, this common area does not have road frontage and is accessed only from the private street.

At this time the applicants would like to subdivide the common area parcel into two lots as they are preparing to re-finance the property and would like for the rear common area portion (the area closest to Port Republic Road) to not be part of the new loan. As well, they are in discussions with property owners along Port Republic Road whom would like to purchase portions of the rear common area lot and include it as part of a potential development along Port Republic Road at some point in the future.

To completely understand staff's position on this request, a brief history of this area should be explained. The Village at Forest Hills was part of a larger master planned development within Rockingham County called Harrington Heights. Harrington Heights was proposed to be made up of the townhomes, single-family dwellings (along Greenbriar Drive), apartments, a retail component located at the corner of Port Republic Road and Devon Lane and common area. When the City annexed this area in 1983 it was given the zoning designation of R-4, Planned Unit Residential District; this district most closely matched the development and the zoning classification in the County. Through the years, parcels have been sold off from the original acreage and rezonings have occurred. Greenbriar Drive homeowners requested a rezoning to R-1, Single Family Residential Conditional and the corner of Devon Lane and Port Republic Road is now zoned B-2C, General Business District Conditional.

A requirement of the R-4 zoning classification is that there is designated open green space area of at least fifteen (15) percent of any plan of development. The subject 6.11 +/- acre common area is the open green space for the R-4 development. Simply subdividing this area into two lots is not of concern to staff, so long as the area is left open and undeveloped as it was always intended for on the master plan. However, the applicants desire to possibly sell a portion of the common area for development at a future date does give staff concern that the fifteen percent open green space requirement would no longer be met. Therefore, the applicant has included a note on the Preliminary Plat that states: *"The subject property and resultant lots cannot be used for anything other than open, green space for the Village Lane development, unless the properties are involved in a future master plan amendment"*. This same note shall also be on the final plat.

During the review of the Preliminary Plat it was also noted that there is an existing, eight inch water main that travels along Village Lane to serve the development. This main is not within a public waterline easement; as well, Village Lane is not a public street. Therefore, the City desires an easement be established over the waterline. The applicants have added a note to the Preliminary Plat indicating that the water main would be surveyed during the Final Plat process and a 20-foot easement, centered on the water main and hydrant, would be provided.

Other than the requirement of Section 10-2-42 (c), the plat meets all the requirements of the Subdivision Ordinance. This property has never had public street frontage and would continue to

be accessed and function in the same manner after subdividing. Therefore, staff supports a favorable recommendation to approve the Preliminary Plat with a variance to allow the lots to not have public street frontage.

Chair Fitzgerald asked if there were any questions for staff.

Dr. Dilts asked if the current total of 6.11 acres was more than the required fifteen percent for the open green space.

Mr. Fletcher said yes, there is a significant amount of green space here and it counted towards much of the development described earlier in the presentation. The idea is that you cannot keep carving away at that green space. Once the property owners subdivide this, and possibly sells a portion in the future, then they will significantly reduce this green space and would need to prove to us that they can continue to meet the fifteen percent requirement of the overall area.

Mr. Colman asked if the fifteen percent related to the entire plan or only what is zoned R-4.

Mrs. Banks replied only the area zoned R-4.

Chair Fitzgerald asked if there were any further questions. Hearing none, she said this is not a public hearing, however, if the applicant or their representative would like to speak they may do so at this time.

Mr. Dick Blackwell, Blackwell Engineering, said I feel staff has explained this very well. If you have any questions for me I would be happy to answer them at this time.

Hearing no questions, Chair Fitzgerald asked the Planning Commission for discussion or a motion on the request.

Dr. Dilts moved to recommend approval of the preliminary plat, with the requested variance.

Mr. Jefferson seconded the motion.

Chair Fitzgerald called for a voice vote on the motion.

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

Chair Fitzgerald said this will also go before City Council on June 11th.

Special Use Permit – Maryland Avenue (J.D. Land, LLC) 10-3-40(7)

Chair Fitzgerald read the request and asked staff for their review.

Mrs. Banks 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: Duplex dwelling units; zoned R-2

North: Across railroad right-of-way, single-family homes; zoned R-2 and apartments; zoned R-3C

East: Across Blacks Run, undeveloped lot owned by C & W Railroad; zoned M-1

South: Across Blacks Run, undeveloped lots owned by C & W Railroad; zoned M-1 and R-3 and City of Harrisonburg fire station; zoned R-3

West: Across Maryland Avenue, railroad right-of-way and undeveloped lots owned by C & W Railroad; zoned R-2

The applicant is requesting a special use permit (SUP) per Section 10-3-40 (7) of the Zoning Ordinance to allow occupancy other than permitted by right within the R-2, Residential District. JD Land, LLC is specifically requesting to be allowed to rent to three unrelated persons per three bedroom duplex unit at the subject property, which has three duplex structures. If approved, up to eighteen unrelated persons could reside in the three duplex structures on the site.

By right, occupancy regulations within the R-2 zoning district allows owner occupied dwellings to include rental of space of not more than two additional boarders. Nonowner occupied dwellings may include rental of space of not more than one additional boarder. Therefore, a family (or individual) could own and reside in a house and have two unrelated persons residing with them or a family (or individual) could lease a house and have one unrelated person residing with them. The applicant does not reside at the subject property, and currently leases the properties under these regulations. Only by SUP in the R-2 district can the occupancy be increased up to four unrelated persons.

A requirement of the requested SUP is that one parking space per tenant be provided on site. With this request each parcel must provide the appropriate number of spaces on that individual lot. The applicant's engineer has submitted a site plan showing that spaces are provided as required on each individual parcel.

The Comprehensive Plan designates this as Neighborhood Residential, which means 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. Because this particular development is bounded by the rail road, apartments, Blacks Run, and the Fire Department it is somewhat isolated from any neighborhood and staff does not feel it is setting a precedent for density for the nearby neighborhoods.

Staff recommends in favor of the requested Special Use Permit for three unrelated persons per dwelling unit.

Chair Fitzgerald asked if staff had given any consideration to the additional traffic that may occur or the close proximity to the elementary school across the street with children walking or riding a bike to school.

Mrs. Banks said no, staff had not looked at that issue.

Mr. Da'Mes asked if there was sidewalk on Maryland Avenue.

Mrs. Banks said there is sidewalk along the south side of Maryland Avenue.

Chair Fitzgerald asked if there were any further questions for staff. Hearing none, she opened the public hearing and asked the applicant or their representative to speak.

Mr. Dick Blackwell, Blackwell Engineering, said that staff has explained this quite well; this is a rather isolated area. The way this is set-up now is that two unrelated persons can live in a unit, or a family and one unrelated. The owner has had a number of siblings and a friend in units, but would prefer to have it allowing three unrelated persons by right. Honestly the traffic probably would not

be much different than it is now, because of leasing to family members and one unrelated in the past. There is room to establish the additional parking. Being in an unusual and isolated area, it seemed like a reasonable request to ask for. I would be happy to answer any questions you have.

Mr. Da'Mes said with the proximity to James Madison University (JMU) and the increase in density, it may change the demographics of who the dwellings are being rented to. It would give someone the opportunity for student housing. There is a single family housing neighborhood nearby and for me it is not a question of traffic, but the demographics of possibly having students in the neighborhood now.

Mr. Fletcher said staff believes it is already student housing. It was built for student rental and that demographic is not going to change.

Chair Fitzgerald asked if there were any further questions for Mr. Blackwell. 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 to this proposal. Hearing none, she closed the public hearing and asked for discussion.

Mr. Colman said the question I have is whether we are setting a precedent on this. I live up the street and there is a lot of traffic here and a lot of students that live in those houses there. The area is changing from ten years ago and would increasing the density here be setting a precedent for the other side of the railroad.

Mr. Fletcher said for staff this is our threshold; this is the line we are comfortable with. This is a very circumstantial situation based upon where it is located, how it is zoned and what is located around it.

Mr. Colman asked if there are any other properties nearby with this special use applied.

Mr. Fletcher said the closest to this would probably be on West Market Street; staff recommended denial of the special use believing it was part of a neighborhood, but it was ultimately approved.

Mrs. Turner said Roosevelt Square, although not a special use permit is probably the closest thing like this in this area.

Mrs. Banks said Roosevelt Square actually is by special use permit for portions of the development. Several units were constructed after the occupancy change in the ordinance and the owner received a SUP in order to have four unrelated persons in the new units. With this request the owner is asking for only three unrelated persons in each unit.

Mr. Way asked if there had been any contact with staff from persons within the neighborhood.

Mrs. Banks replied no.

Mr. Way said staff's contention is that the rail road is more of the barrier for the limits of density, rather than the creek.

Mr. Fletcher replied yes. It is an entirely different dynamic with these R-2 parcels. They are their own little island surrounded by Blacks Run, the rail road, and a large industrial parcel.

Mr. Da'Mes asked if any consideration given to possibly putting up a physical barrier; perhaps a solid fence along the rail road side.

Mrs. Banks replied no, there is a slope up to the rail road. It is not an easy crossing, not to say people do not do it, I am sure they walk along the tracks at times.

Chair Fitzgerald said staff does not feel traffic is an issue.

Mr. Fletcher said no we do not.

Chair Fitzgerald said staff is not worried about children walking to and from school in this area or that the neighborhood is going to be harmed by this SUP.

Mr. Fletcher said if you stand behind our philosophy, the answer is no. We only make the recommendation, not the decision.

Mr. Colman said what about the potential for rezoning; once you have the higher density is there not the desire to move to an R-3 development.

Mr. Fletcher said that would probably be a tough argument to make with staff.

Mr. Baugh said I believe it was shared with us on the site visit that the applicant originally proposed an R-3 with proffers of occupancy. That really does become spot zoning if you allowed this as an R-3 development.

Mr. Fletcher said that is what happened when the applicant first spoke to us. They were interested in rezoning to R-3 only for the occupancy levels. We suggested that the chances of approval might be better with the special use request rather than a rezoning to R-3. The applicant elected the SUP route; something staff feels more comfortable with.

Chair Fitzgerald said I was skeptical on the site tour Monday and I am less skeptical tonight.

Mrs. Banks said this is a special use permit request so if there is a particular condition that Planning Commission feels may work with this request you could recommend it.

Mr. Fletcher said we have language within a different staff report tonight, that might be appropriate for this if Planning Commission so chooses. It reads: "if in the opinion of Planning Commission or City Council the special use permit implementation becomes a nuisance it may be recalled for further review, which may include additional conditions or revocation of the permit".

Mr. Baugh said I like that. I have very much the same concerns that have been expressed here tonight; but I feel I have ended up where staff is. If you were ever going to consider doing this, this might be the location for one. I would even say I am not really too concerned with the density, traffic, school stuff because you could have families in these units right now that would actually have more people and vehicles than what is being requested. I guess if I were going to make the argument against this, my argument would be that generally we have not favored the increase in density. There is a clear private interest in approving this, I am not sure that there is any public interest being served with this. I understand this helps the property owner and that the standard is not really going to hurt anything; but, is there any benefit to the community by doing this. Are we just increasing density at a time when we said we have some concerns about increasing density elsewhere?

Mr. Way said staff says it is mostly student rentals at the moment. Currently, there is only one way to get to JMU campus and that is coming out Maryland Avenue and turning onto Main Street. There are no other ways to campus from here.

Mrs. Banks said that is correct. There is only one entrance into this development; unless you walk along the rail road tracks, which we do not promote.

Mr. Way said that is my concern with the increase in density. If there were other ways or better ways onto campus from here, I would be more excited about this. As it stands, it is not that well connected.

Mrs. Banks said do not forget that these could be students from Blue Ridge Community College, Eastern Mennonite University, or Bridgewater College; not just JMU.

Mr. Baugh said it also comes back to the fact that you could fill this up with families and have more people living there than you would have with this SUP.

Dr. Dilts moved to recommend approval of the special use permit for JD Land, LLC to have up to three unrelated individual in each dwelling unit.

Mr. Da'Mes asked if the condition previously read by staff could be added to the motion.

Dr. Dilts agreed to add the specific condition read by Mr. Fletcher earlier in the discussion.

Mr. Da'Mes seconded the motion.

Chair Fitzgerald called for a voice vote on the motion with the condition.

All voted in favor of the motion to recommend approval with the condition (7-0).

Chair Fitzgerald said this will go before City Council on June 11th with a favorable recommendation.

Rezoning – Whitesel Brothers, Inc. (Erickson Avenue) R-1 to B-2

Mrs. Banks 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: Whitesel Brothers, Inc. storage building and vacant lands; zoned R-1
- North: Across Erickson Avenue, Garbers Church of the Brethren; zoned R-1
- East: Across Garbers Church Road, First Assembly of God Church; zoned B-2
- South: Whitesel Brothers, Inc. Dealership; zoned B-1 (County)
- West: Vacant land; zoned R-1

The applicant is requesting to rezone three parcels, of approximately 3.79 acres, from R-1, Single Family Residential District to B-2, General Business District. The parcels are located along the southwestern corner of Garbers Church Road and Erickson Avenue; directly adjacent to the City and Rockingham County boundary. As spelled out in the letter submitted with the application, Whitesel Brothers, Inc. would use the property for retail display, sales and service of agricultural, lawn and garden and dairy equipment, parts and related accessories. However, if approved, any use permitted by right within the B-2 zoning would be allowed on the parcels.

In 2009, Whitesel Brothers purchased the corner property, identified as tax parcel 114-B-1, from the City of Harrisonburg; the City had acquired the parcel as part of the Erickson Avenue/Stone Spring Road improvement project. Prior to selling the parcel the City demolished the single-family dwelling on the site and retained the necessary right-of-way and easements needed for the

improvement project. Whitesel Brothers later acquired the land at 1455 Erickson Avenue; giving them ownership of the entire southwestern corner.

During the 2011 Comprehensive Plan update, the applicant suggested a change in their land use designation from Low Density Mixed Residential to Commercial, which they contended matched what the use of the property was, and matched the County use and its land use designation of Commercial. Planning Commission and staff discussed this and thought it made sense to change not just this parcel, but the entire Low Density Mixed Residential designation along the southern side of Erickson Avenue to the western City limits – all to the Commercial designation. City Council approved the 2011 update with this recommended change, thus the proposed rezoning request is conforming to the Commercial Land Use designation.

In July 2011, Whitesel Brothers applied for a Public Utilities Application to extend City water and sewer infrastructure to their facility in Rockingham County, which is the property that abuts the subject parcels. City Council approved that extension the following month.

As stated earlier, Whitesel Brothers, Inc. desires to display equipment on the parcels at this time and perhaps install a sign on one of the parcels. Staff has discussed with the applicant that displaying equipment on the grass would be fine; however all items must be located on the private property and not City right-of-way. If the applicants are interested in creating paved or gravel display areas, or construction of any buildings at this point, they would need to comply with all City regulations and reviews for any development prior to any work being done. As well, before installing any signage Whitesel Brothers would need to obtain the necessary permits.

The rezoning of these parcels conforms to the Comprehensive Plan and staff does not have any concerns with the request as presented. Staff recommends in favor of the rezoning from R-1 to B-2.

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

Mr. Mike Sechler, I am a stock holder for Whitesel Brothers and I live in Rockingham County. As stated earlier, Whitesel Brothers did purchase and demolish the house along Erickson Avenue. We did acquire the corner property from the City. Right now we do have equipment parked on these properties in the grass, and that is the main objective for us at this time. More visibility as we get a four lane highway in this area. Our business continues to grow; Whitesel Brothers Inc. recently merged with James River Equipment.

Chair Fitzgerald asked if there were any questions for the applicant. Hearing none, she asked if there was anyone 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 Planning Commission for discussion or a motion.

Mr. Da'Mes asked if the one remaining lot along Erickson Avenue, to the west and zoned R-1, has there been any comment or feedback from that property owner.

Mr. Baugh said it is just a small portion of a lot in the County.

Mr. Fletcher said that is correct.

Mr. Baugh said that parcel is also shown as commercial within the Land Use Guide.

Mr. Fletcher replied yes.

Mr. Way moved to recommend approval of the rezoning request.

Dr. Dilts seconded the motion.

Chair Fitzgerald called 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 will move forward to City Council on June 11th with a favorable recommendation.

Rezoning – HRHA Commerce Village; Special Use Permit – HRHA Commerce Village Multi-Family Dwellings; Special Use Permit – HRHA Commerce Village Reduced Parking

Chair Fitzgerald read the requests 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: Undeveloped parcels, zoned R-3C (small portion, zoned B-2C)
- North: Pleasant View, Inc., zoned B-2, and across Commerce Drive Park Crest Townhomes, zoned R-4
- East: Across Commerce Drive, Park Crest Townhomes, zoned R-4
- South: Vacant parcel, zoned B-2C, and across East Washington Street, the Lucy F. Simms Continuing Education Center, zoned R-2
- West: Montibello Packaging Inc., zoned M-1

Harrisonburg Redevelopment and Housing Authority (HRHA) is requesting approval of three separate applications (a rezoning and two different special use permits) with the intent to build a 30, one-bedroom apartment complex that would provide 60 percent of the minimum amount of required parking spaces. The project site includes a total of 2.067 acres of property located along Commerce Drive.

The proposed development is very similar to the multi-family complex that HRHA proposed to build along East Gay and Hill Streets reviewed by Planning Commission in September 2012. HRHA ultimately withdrew those requests from consideration after staff and the Commission recommended denial of their applications. The main difference between the subject site and the location from last summer is the subject property already has zoning approval to build 29 multi-family units. The reasoning for the current requests is rather complicated, so before explaining the site specifics of the proposed development, the subject property's current zoning and the details of why the applicant is requesting the rezoning and the special use permits (SUPs) should be completely understood.

In August 2004, HRHA successfully rezoned four, B-2 zoned parcels (tax maps 41-Q-4, 4A, 6, and 7) totaling 2.555 +/- acres with very specific proffers, one of which included the development would be built substantially conforming to the site layout. Although the original plan was to construct only a multi-family complex, after being tabled by Planning Commission and going through a couple of design revisions, HRHA ultimately reduced the number of residential units and

proffered a commercial and multi-family development layout. (The existing proffer statement and proffered site layout sheets are included within the packet).

The corner parcel made up of tax maps 41-Q-4 and 4A, was rezoned to B-2C with all business uses being restricted to 2,000 square feet in size and no such business could operate vehicle repair or sales, general service or repair shops, or warehousing and other storage facilities. The proffered statement also indicated the applicant would apply to the Board of Zoning Appeals (BZA) to obtain a variance for the commercial buildings to have a 15-foot setback from East Washington Street and Commerce Drive. (In October 2004, subsequent to the rezoning, HRHA applied to the BZA for the reduced setback variance. The Board denied their request; therefore, buildings must comply with the required 30-foot setback from public street right-of-way lines.)

During the same rezoning, tax maps 41-Q-6 and 7 were rezoned to R-3C, Multiple Dwelling Residential District Conditional (now often referred to by staff as the “old R-3”). Along with proffering to construct the development substantially as shown on the submitted layout, HRHA also proffered that: not less than 10 percent of the total residential area would be devoted to open space, a fence would be erected between the residential property and the adjacent commercial and industrially zoned lots, and not more than two unrelated persons per dwelling unit would be permitted. The proffered site layout was approved demonstrating 30 multi-family units; but unfortunately, the site was a little over 200 square feet short of the required 90,000 square feet of lot area needed to build 30 units. This oversight, however, was not realized until a few months ago when HRHA began inquiring about bringing their proffered plan of development to fruition. Since 2004, both the applicant and the City believed a 30-unit multi-family complex would be constructed, but since the underlying density requirements supersede any proffered density, the development can only contain 29 units. During the recent review of the site and before they decided to apply for the applications herein described, staff also realized that a separate error had been made in 2004 as the proffered plan of development demonstrated more than 12 units per building, which is controlled by the R-3 zoning district and cannot be superseded by a proffered plan of development.

Since HRHA owns the adjacent property, at first pass, it appears they could easily resolve this matter by performing a minor subdivision and adding the lot area needed to be able to construct the 30th unit; however, it is not that simple. Since the adjacent lot is zoned B-2C, any added area of that property cannot be counted toward residential density requirements, thus that area must be rezoned to a comparable district—in this case R-3. Further complicating the matter, the conditional residential property is zoned the “old R-3” (the R-3, *Multiple Dwelling Residential District*), and as of August 14, 2010, no property can be rezoned to that district because the City adopted the “new R-3” (the R-3, *Medium Density Residential District*). The “new R-3” does not permit multi-family development by right, therefore to build a 30th unit, not only would the area have to be rezoned, the area also requires an approved special use permit to allow the construction of multi-family development.

When this situation was understood, and in expecting that 30 units was always intended at the site, staff advised HRHA they could perform a minor subdivision adding the amount of property they needed to have at least the minimum 90,000 square feet of lot area, while also proposing rezoning the newly added area along with the rest of the residentially zoned property to the new R-3 and applying for the necessary SUP. (Rezoning the whole site rather than simply rezoning the small amount of additional property “cleans-up” the property’s zoning so that it is not complicated to understand exactly how the property can be developed. The minor subdivision, as discussed, has

already been reviewed and approved by staff. It is possible the subdivision may be recorded before Planning Commission's or City Council's public hearing.)

In light of their situation, HRHA is now requesting to rezone two parcels (tax maps 41-Q-6 and 7) totaling 2.061 acres from R-3C, Multiple Dwelling Residential District Conditional and 261 +/- square feet of tax map 41-Q-4 from B-2C, General Business District Conditional all to R-3, Medium Density Residential District. Concurrently with this request, they are requesting a SUP per Section 10-3-48.4 (6) to allow multi-family units of up to 12 units per building. HRHA is also taking this opportunity to simultaneously request an additional SUP per Section 10-3-48.4 (3) to allow for reduced parking areas to permit fewer than the minimally required number of parking spaces. (The Commission may recall that HRHA requested the same reduced parking area SUP at the East Gay and Hill Streets location and both staff and the Commission recommended for its approval.)

The proposed rezoning and the SUP to allow multi-family development allows them to construct what the existing proffers allow but with the additional benefit of building the, always intended, 30th unit. To be clear, however, no proffers are associated with the proposed rezoning, thus they would not be confined to the submitted site layout. The submitted site layout is what HRHA intends to build, which is almost exactly the same as the property's existing proffered layout except that they show the unit make-up being distributed among three buildings rather than two. Sidewalk will be required to be constructed along the property's entire frontage and they intend to provide a transit bus shelter.

With regard to the SUP to allow for reduced parking areas, the permit requires 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 City Council deems more parking is necessary in the future. The permit also requires the same information be added to the deed to the property. As noted by the applicant's submitted document titled "Zoning and Special Uses Narrative," the units are intended as "permanent supportive housing" for "persons with disabilities that are medically vulnerable and are currently in an unstable housing situation" and, as they also indicated, do not believe this site necessitates the minimum number of spaces required by the Zoning Ordinance. Thirty, one-bedroom units would require 45 parking spaces; however, the applicant is proposing to provide 27 spaces, which is 60 percent of the required minimum amount. This is roughly the same ratio that was proposed and supported by staff and the Commission at the East Gay and Hill Street location. Staff believes this SUP is justifiable given the intent of the development. The City may attach conditions on the approval of any SUP and staff recommends the following conditions be attached to this request:

- The site shall provide not less than 60 percent of the required minimum amount of parking spaces.
- If, in the opinion of Planning Commission or City Council, the implementation of this special use permit becomes a nuisance, the permit can be recalled for further review, which could lead to the need for additional conditions, restrictions, or the revocation of the permit.

The number of bedrooms per unit for multi-family complexes determines the minimum amount of required parking spaces; thus, the first suggested condition allows for flexibility in design in case the property owner later decides to provide more than one bedroom per unit. The second suggested condition ensures that the permit could be revoked if problems arise in the future.

With regard to both special use permits, staff recommends the following be applied to their favor:

- The special use permits shall be valid for five years from the date of approval by City Council.

Section 10-3-130 (c) of the Zoning Ordinance states that SUPs shall be established, or any construction authorized shall be commenced and diligently pursued, within such time as the City Council may have specified, or if no such time has been specified, then within 12 months from the date of approval.

In closing, staff recommends approving rezoning the subject areas to R-3, Medium Density Residential District and approving the SUP to allow multi-family units within the R-3 District and approving the SUP to allow reduced parking with the conditions as suggested above, and as described, to grant approval for both SUPs to be established within five years.

Chair Fitzgerald asked if there were any questions for staff.

Mr. Way asked if a condition could be applied that would basically require a transit stop.

Mr. Fletcher said it probably could be done; but, it does put the applicant in somewhat of a bind as a requirement of saying they had to have such and what if the Transportation Department really does not want it there. The Transportation Department may not want to make this an official bus stop, with a bus shelter; it may mean having to readjust existing routes to make this work. There is an existing bus stop and shelter near the intersection of East Washington Street and Commerce Drive; however it is across the street.

Mr. Colman said there is no sidewalk on that side of the street to get to the intersection and, as you mentioned, the shelter is across East Washington Street.

Mr. Fletcher said it will be required that sidewalk be constructed along the property's frontage on Commerce Drive. Given the fact that the bus stop and shelter may not be where shown, perhaps we should discuss whether or not they should construct sidewalk to the intersection. I question if that could legally be conditioned as part of the application. It would be off-site; therefore I do not know if it could legally be conditioned as part of the SUP.

Mr. Da'Mes said they could offer it.

Mr. Fletcher said yes, but we would not have a way to enforce it.

Mr. Way asked if Planning Commission was allowed to require trees.

Mr. Fletcher said the landscaping regulations are going to require street trees where necessary. As to whether or not you could require trees to be planted along the street in front of the building – might be a stretch.

Mrs. Turner said perhaps you could make it correlate with the buildings that have twelve units each in relation to the density component and the scale of that type of development. I think that perhaps it would be relevant if you wanted to look at something like that.

Mr. Fletcher described to Planning Commission where the landscaping regulations would require landscaping on the site.

Chair Fitzgerald asked if there were any further questions for staff. Hearing none, she opened the public hearing and asked the applicant or applicant's representative to speak.

Michael Wong, Executive Director of the Harrisonburg Redevelopment Housing Authority (HRHA), said thank you for the opportunity to present our Commerce Village proposal. This proposal is very similar to our proposal from last year along East Gay Street and Hill Street. This is a permanent support housing initiative and its primary focus is to address the homeless population in our local area. It is housing specific for individuals with disabilities in an unstable housing status and considered medical vulnerable. In January of this year, HRHA did the annual point-in-time count, something we have done since 2003, and within this particular classification of people with disabilities, unstable housing, medical vulnerable, we identified forty individuals in shelters and seven unsheltered individuals. These are all unaccompanied adults and seventeen of these individuals were veterans. This is a significant increase in our homeless population in our local area; previously we averaged only three to six homeless veterans.

Permanent support housing is an evidence-based best practice that has been identified through the Department of Housing and Urban Development as one of the primary strategies to reduce homelessness. It is a key element within our ten-year plan to end homelessness in our community; it is one of our top objectives to achieve. Hopefully, with this proposal moving forward we can start working on this initiative. The State of Virginia has set aside permanent support housing funds and establishing a trust fund in order to build housing similar to this.

Permanent support housing is a philosophy of housing first; you get individuals into a stable housing situation and wrap services around them to help them maintain their housing. The primary services that we will be offering are case management and counseling on site, and support services as needed. We will be providing the support services through the Harrisonburg Rockingham Community Service Board and the Valley Associates for Independent Living; both partners within our local area.

I would like to briefly touch on some of the concerns that were voiced last year in regard to housing and the housing project. We heard concerns from the community about the lack of orientation for tenants, lack of rules being provided to tenants, units not being maintained by tenants, reaching the tipping point for this type of housing within the Northeast Community, and reduced property values. To clarify, this proposed housing at Commerce Village is a qualified housing project; that means you have to meet certain eligibility standards to be accepted. Housing orientation and in-service training with regard to the housing is provided on multiple different levels. Program staff meets with tenants at three different programs to hopefully ensure that they have a good understanding of requirements. Tenants have an extensive lease and a handbook that helps guide them with all the expectations and rules. All participants are required to work or do community service, unless they are considered elderly or disabled. We provide weekly inspections of dwellings until we feel the tenant has a handle on maintaining their housing; then it is moved to a monthly inspection, and finally an annual inspection if it is felt they have achieved that level of skilled behavior. Each participant is required to complete a five-year housing plan which identifies steps to self sufficiency.

All of our residents have significant challenges. The reasons why we are working with them is that they were formerly in shelters and we bring them directly into our housing units. These individuals have high instability in housing. We have had a certain level of success in regard to stabilizing individuals who go on to achieve a level of self sufficiency.

An HRHA report from February shows that in our Franklin Heights housing, we have 89 households that are eligible to participate in the Family Self Sufficiency Program. This includes

111 adults; 66 of which are currently employed, working 20 hours or greater, 12 are enrolled in school, and 52 have an established escrow account. That means they are earning more money than when they first came to us; they can now put some of that money aside towards their five-year plan.

There was a lot of concern about the tipping point of subsidized individuals in the Northeast Community and I just wanted to say that discrimination by income type is illegal in seven states in the US. That means we cannot judge a person as to income or how their housing is being paid. In the Commonwealth for 2013, a bill was forwarded to the General Assembly to make it illegal to restrict housing for people who pay with non-traditional funds. This bill is currently being studied. There has never been any study, that we can identify, that shows evidence that subsidized housing impacts property values. In fact, most studies show that affordable, subsidized housing has enhanced economics within the local community.

In our community we have identified 860 plus units of subsidized housing. In the Northeast and Northwest are the largest numbers of units; the Northeast has 200 units. So they are spread out within our community.

In closing, permanent support housing is a cost effective way for a community to be able to address homelessness. Our proposal is not just an HRHA proposal, it is a proposal in partnership driven process with homeless service providers, different shelters in the area, the Community Service Board, and the Association for Independent Living. If you have any questions for me, I would be happy to answer them at this time.

Chair Fitzgerald asked if there was anyone else wishing to speak in favor of the request.

Mr. John Neal, President of Gay and Neal, Inc., and engineer for this project said first I would like to thank Mr. Fletcher for the explanation that he gave regarding this process. As you know we went through this process last year which brought about several concerns, I think Mr. Wong has addressed those tonight. Gay and Neal went about trying to find a better location for this project and we came up with this Commerce Village site. We evaluated all the alternatives and this particular property stood out for a couple of reasons; the existing zoning and the proffered plan that was existing, the topography that was there, the availability of transit, and finally this is more in a multifamily neighborhood than the project at East Gay and Hill Streets. We feel we have been able to resolve most all of the issues that came up during our discussions with staff and move forward with a good project. We look forward to moving on with this project with your blessing and favorable recommendation if we could. I am also available to answer any questions you may have.

Mr. Way said I have some questions about safety and accessibility. You have said that many of the tenants are likely not to be driving and are likely to use transit or walking. Could you speak a bit about the accessibility and safety aspects for pedestrians in connection to the transit, especially if the transit could not be located on site?

Mr. Neal said staff did touch on this and we would really like to have the transit stop on site, because not only are our residents not driving, they may have significant mobility challenges. We will be placing sidewalk along the entire frontage of the property. It has come to my attention that we may want to think about how we can extend sidewalk along that corner property, HRHA does own it. It makes good sense that if we cannot get a transit stop in front of our site, then we need to have a good, accessible route to the transit stop.

Mr. Way said perhaps we should think about a street crossing at East Washington Street and Commerce Drive.

Mr. Neal said we would certainly work with Public Works to make certain that if we need a crosswalk, we provide adequate signage and flashing signals if necessary.

Mr. Way said the reason I had brought up the idea of trees earlier, is another way to increase the safety of a sidewalk is to have trees along the right-of-way and the sidewalk on the property side of the site. I am just thinking about pedestrian friendly walkways in an area that is currently not pedestrian friendly.

Mr. Neal agreed. From a landscaping point we will work within the City's regulations and take this into consideration too. We do have enough property within the common green area in the front of the building that would allow us to potentially pull the sidewalk back in from the road. We would work with the City on that within their standards.

Hearing no further questions, Chair Fitzgerald asked if there was anyone else wishing to speak in favor of the request.

Rose Gibson, with Valley Associates for Independent Living (VAIL), said I just want to speak briefly about VAIL. We provide an array of services for individuals with disabilities all throughout Planning District Six, which includes the City of Harrisonburg. This past year we have served over 100 individuals with disabilities in the City limits. We have assisted with enrolling in Medicaid waiver services, assisted with allowing them to remain in their homes and helping them access community based living as opposed to institutional based living. We have provided a significant amount of information and referral for individuals with disabilities to connect them to valuable services to ensure their independence within the community.

In addition to these services, VAIL provides independent living skills training – such as cooking, cleaning, budgeting, grocery shopping, and other skills that are needed for people to support themselves. We provide support for individuals applying for public assistance programs and other community based resources that may be needed. Vail counsels individuals that may have had life changing events so that they can make the most well informed decisions for themselves.

Every year we conduct a survey with the individuals that we serve and housing continues to be in the top five of the issues we have identified as needed. Personally, I help people in the community find housing that is both affordable for their incomes and accessible to their needs and I can attest to the struggles that people are going through to find housing that meets their needs. Clearly, with the people that we serve there is an identified need that we need more housing for people specifically with disabilities and with some of the barriers that Mr. Wong discussed earlier.

This housing plan that HRHA has proposed I believe would provide a lot of support for this population. In general, we very strongly support any creation for affordable and accessible housing, specifically for people with disabilities. We would be glad to partner with HRHA in providing services for the individuals to ensure their independence in the community. Thank you.

Chair Fitzgerald asked if there was anyone else wishing to speak in favor of the request.

Lacey Whitmore, Executive Director for the Harrisonburg Rockingham Community Services Board (CSB), said our main offices are located at 1241 North Main Street and we are one of the partners with HRHA on this project. For 41 years we have been the designated local agency responsible, as a part of local government, to provide services to a range of disabilities, mental illness, intellectual disability, and those with substance abuse. Our goal is to always provide services and support to individuals who need and want them in order to be productive citizens within our community. On

behalf of the individuals we serve, which is annually about 3,300 persons, I can tell you that there is a need for this type of housing in our locality. The most recent survey that was done State wide of all CSB consumers showed that 61 percent said yes they had the housing they could afford, the remainder was no, they did not. Locally, we are doing somewhat better; 70 percent said they had the housing they could afford. I like to think that one of the reasons for this outcome is because of the partnership of community service agencies and human resource providers that work together in a true partnership.

This is a time tested, well researched model of having this type of supportive housing for these individuals and I would say from our perspective it is very much a need. We would be looking forward to working with HRHA and the other partners in terms of making this another community success and add our support to the concept. Thank you.

Chair Fitzgerald asked if there was anyone else wishing to speak in favor of the request.

Nancy Hopkins-Garrison, Executive Director of Pleasant View Inc., said we share a boundary with the proposed project; we are located at 151 Commerce Drive. We primarily serve adults that have developmental disabilities; but a variety of disabilities as well. We serve about 125 people in day support, including employment opportunities, we help people find jobs. We serve 95 people in residential services throughout Harrisonburg and Rockingham County.

We are very supportive of this project being right beside of us and we are hoping we can work co-operatively with the City and HRHA as we serve people who have disabilities. Our hope would be that some of the persons from this facility could walk to our day support building, which is right next door, to get either day support or employment support. We also hope that perhaps some of the people that we serve would be able to find housing in this facility too. Housing for people with disabilities and low income housing is quite an issue and we are very excited to have this addressed. Thank you.

Chair Fitzgerald 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.

Mr. Baugh said let me get an opinion from staff on something. Given that we have the special use permit request that is asking for reduced parking, would it be appropriate to add a requirement that if a transit stop is not permitted, then the sidewalk would be carried to, or some other dedicated pedestrian path brought to East Washington Street.

Mr. Neal said I certainly understand the concept of trying to get to a transit stop; but Mr. Wong would be the final decision.

Mrs. Turner said I do think it would be an appropriate condition. It is part of the rationale for granting a reduction in parking spaces and I think it is a very valid consideration to make a condition along those lines.

Mr. Way said in my opinion it would be absurd not to have the sidewalk going all the way to the intersection.

Mrs. Turner said the only thing that would cause me any hesitation on it would be if, for any reason, it could not be accommodated within the right-of-way that exists and more right-of-way would be needed. HRHA does own the corner lot, but it could mean a dedication of property on a parcel that

is not involved in this request. I guess you could put something in a condition that referred to just the existing right-of-way.

Mr. Colman said it seems to me that if they are going to remove the bus shelter, then those funds could be put towards sidewalk. Additionally, there will be the need for a crossing that would have to be coordinated with Public Works; this is not an easy location for a crossing.

Mr. Fletcher said there is already a mid-block crossing and flashing lights on East Washington Street and it is something that must be approved by Public Works. As well, I believe there is fifty-foot of right-of-way in Commerce Drive, which makes me think sidewalk could be easily accommodated within the right-of-way.

Mr. Baugh said I was not necessarily going to state sidewalks; I would say sidewalks or other. They could do a pedestrian path off-street and that would be fine.

Planning Commission agreed with this idea.

Mr. Fletcher said to clarify it sounds as if there would be a condition placed on the special use for reduced parking that if the transit stop is not allowed, then sidewalk be constructed to the corner of Commerce Drive and East Washington Street and the developer work with Public Works to get a mid-block crossing.

Mr. Baugh said sidewalk or some equivalent pedestrian walk.

Dr. Dilts asked if that corner lot were to be sold, would the new developer have to put in a sidewalk.

Mr. Fletcher said regardless of how the site develops, it has to have sidewalk along the entire frontage.

Dr. Dilts said so having them design and install sidewalk along the frontage now, does not affect the sale of the parcel later. I would not want to put a restriction on their ability to sell or do something else with that lot.

Mr. Da'Mes said my thoughts are you put in a sidewalk and then a developer wants a commercial entrance from Commerce Drive and the sidewalk would be removed.

Mr. Fletcher said hopefully there will be a design where the entrance is shared for the B-2 parcel and the R-3 parcel that would align with the entrance to the townhouses across the street. It was always an intent to share an entrance between the commercial and residential.

Mr. Way said I would be happy to support this if we can get these conditions on the SUP; because I believe it is critical.

Mr. Da'Mes asked if the items needed separate motions or could we do them all together.

Chair Fitzgerald replied it can be done as one motion.

Mr. Baugh said I move to recommend approving the rezoning and special use permit requests as presented with the additional condition as discussed on the reduced parking SUP, that in the event that they are not able to get a transit stop on the property that they construct sidewalk or some equivalent pedestrian walkway out to East Washington Street.

Mr. Colman seconded the motion.

Chair Fitzgerald asked if there was any further discussion or comment on the motion. Hearing none, she asked for a voice vote on the motion.

All voted in favor of the motion to recommend approval of the rezoning and two special use permits as presented with the added condition (7-0).

Chair Fitzgerald said the motion will move forward to City Council on June 11th with a favorable recommendation.

Unfinished Business

None.

Public Input

None.

Report of secretary and committees

Mrs. Banks said we have a lot of catching up to do. In February the zoning inspections visited the Jefferson Street area where they found 21 violations consisting of inoperable vehicles and discarded materials. This is always a big area for proactive inspections. In March the Forest Hills & JMU area was inspected where they found one violation, an inoperable vehicle. Lastly, in April they were in the South Main Street area of the City where all five of the violations they found were sign violations. In May the inspectors will be in the Hillandale area of the City for inspections.

Other Matters

Mr. Fletcher said we have another big agenda next month. There are three special use permit requests, a rezoning with a special use permit – this is the parking lot associated with the Cassco rezoning. There is also an alley closing associated with that request. Lastly, the tabled application for the Collicello North project is coming back; it is a master plan community rezoning request. I also hope to get the telecommunication information to you as well.

Adjournment

The meeting was adjourned at 9:00 p.m.

Chair Deb Fitzgerald

Secretary, Alison Banks