

MINUTES OF HARRISONBURG PLANNING COMMISSION
August 13, 2014

The Harrisonburg Planning Commission held its regular meeting on Wednesday, August 13, 2014 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, and Jefferson Heatwole.

Members absent: Henry Way.

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 six members in attendance. She then asked if there were any corrections, comments or a motion regarding the minutes from the July 9, 2014 Planning Commission meeting.

Mr. Heatwole moved to approve the minutes as presented from the July 9, 2014 regular Planning Commission meeting.

Mr. Colman seconded the motion.

Dr. Dilts and Mr. Da'Mes abstained from voting because they were not in attendance at the meeting.

All members voted in favor of approving the July 2014 minutes (4-0).

New Business

Street Closing – Adjacent to 40-N-6 through 13, 13A & 14 (LFSVA)

Chair Fitzgerald read the request and asked staff to review.

Mr. Colman recused himself from the meeting.

Mr. Fletcher said the following land uses are located on and adjacent to the property:

Site: Undeveloped 14-foot wide public alley

North: Public street right-of-way of substandard Jackson Street and industrial uses, zoned M-1

East: Minnick School, zoned M-1

South: Continuation of the 14-foot wide, undeveloped public alley extending to West Washington Street

West: Residential dwellings (single family homes and duplexes), zoned R-2

The applicant, the owner/operator of the Minnick School, is requesting to close 5,857 +/- square feet of the 14-foot wide undeveloped public alley right-of-way (ROW) adjacent to their property. The entire alley stretches between Jackson Street and West Washington Street for a length of about 660 feet; however, the section requested for closure extends from Jackson Street southward about 410 feet—the length adjacent to the applicant's property. If approved as requested, there would remain approximately 250 feet in length as undeveloped public alley ROW extending to West Washington Street.

The Minnick School has operated at the Massanutten Street location since 2007 after they received approval of a special use permit per Section 10-3-97 (9) to allow the school within the M-1, General Industrial District.

As is standard practice, if the City approves the closing request, all property owners adjacent to the requested areas for closure will have the opportunity to purchase up to 50 percent of the ROW width along the entire length adjoining their property. If approved, the applicant could obtain the entire width of the alley for the first 50 feet extending from Jackson Street as they own the private property on both sides of this section of the alley. As noted by the submitted letter, the applicant is interested in obtaining any portion of the alley that adjoining property owners do not wish to purchase.

During the review process, the applicant contacted each of the adjoining property owners to notify them of their intentions to close the alley. This letter, and copies of the certified mailings, is included within the packet of information. The alley closing application request was originally scheduled to be heard at Planning Commission's July regular meeting, however, while in review, an issue arose regarding potential minimum building setback requirements and to work-out this issue the applicant had to delay the request until Planning Commission's August regular meeting. Since adjoining property owners are not notified by the City during the Planning Commission review, the applicant kept the adjoining property owners aware of the application process and sent them a follow-up letter providing notice of the hearing's delay. A copy of this letter is also included within the packet. (The setback matter was eventually resolved.)

There is sanitary sewer infrastructure located within the northern section of the area requested for closure. (See the aerial map included within the packet, which demonstrates the general location of the sewer lines within this area.) Staff will recommend the City Attorney reserve an easement within this area for the City to be able to maintain this infrastructure. The easement shall be at minimum 20-feet wide centered on the utility line. In addition, Columbia Gas of Virginia, Inc. has a 2-inch gas line that runs the length of the entire alley. Staff will recommend the City Attorney reserve an easement over the entire section of the alley to be closed so that Columbia Gas can maintain their infrastructure. Because easements will be located within the entire section of the alley to be closed, no structures can be located within this area.

The submitted survey of the alley demonstrates the area which the applicant is guaranteed to obtain if the City approves the closing. The applicant should be aware, however, that before the second reading can occur at City Council, the survey must be revised to demonstrate how the alley property is to be distributed among the applicant's and the surrounding property owners' property. The survey must also demonstrate the areas in which the City will reserve easements for the utilities discussed herein.

Aside from the utilities as described, the City does not need to maintain ownership of the alley ROW to provide any other City services. Staff recommends closing the 5,857 +/- square feet of undeveloped alley ROW with the following two conditions:

1. The City shall reserve, at minimum, a 20-foot wide sanitary sewer easement, centered on the infrastructure within the alley.
2. The City shall reserve an easement over the entire section of the alley to be closed to allow Columbia Gas of Virginia, Inc. to maintain their infrastructure.

Chair Fitzgerald asked if there were any questions for staff.

Mr. Da'Mes asked if the alley was identified as having a possible future use by the Bicycle and Pedestrian Committee.

Mr. Fletcher said the Public Works Department actually had no comments regarding the alley closing and they are the keepers of that list; therefore, I have no idea where this alley falls on that list.

Mr. Baugh said according to the map they anticipate bike lanes on Washington Street, but not through the alley. It shows the bike lanes then going through the neighborhood across North Liberty Street from this request. There is nothing shown in the alley.

Chair Fitzgerald said we are not required to hold a public hearing on this; however we usually allow the applicant to speak at this time.

Mr. David Pruett said he is the Chief Financial Officer of Lutheran Family Services and is here from Roanoke. We are working with Mr. Colman on this project, which is why he has recused himself tonight. We appreciate your consideration on this request. Our main concern for the alley closing request is for the safety of our children attending the school. Our concern is with the businesses that have now opened along the street (Massanutten Street) which have a lot of traffic in and out, including large trucks. If for some reason this alley was opened in the future and made a public thoroughway, then we would have traffic on both sides of our school, which could cause safety issues for our students. That is the main reason for our application. I appreciate your time and would be happy to address any questions.

Mr. Da'Mes said he had a question more for staff. Could a fence be built within the easement requested by the gas company?

Mr. Fletcher replied yes, fences are not considered structures for those purposes.

Chair Fitzgerald asked if there was any one else wishing to speak regarding the request.

Mr. Russell Showalter said he lives in Mt. Clinton; however, we own the property at 776 North Liberty Street. We are opposing the closing of the alleyway. Our opposition is that it would land-lock our property to the rear; our property is narrow and there is no access from the front of the property. Massanutten Street is the entry to our back yard and we do use it, as do our tenants. We want to keep it open for the parking option as well as access to the rear if ever we needed to get back there. We feel that the applicants could still put a fence up for safety purposes; the fence would just be seven feet closer to their rear property line.

As for the construction that has started at the school's property, it has basically made the alleyway unavailable. We do have a bit of an issue with the school. We had a fence that was removed from our property and a tree that was removed. I had a surveyor come out and stake the property before anything else was removed. We are concerned, after these two instances, that there is a bit of disregard for the residents of the neighborhood that still have access to the alleyway.

Chair Fitzgerald asked if there were any further questions for staff.

Dr. Dilts asked what is the distance between Mr. Showalter's house and the south property line.

Mr. Fletcher said I do not have that information here; but, from looking at this aerial it appears you could get a car through there. We could ask the property owner.

Mr. Showalter said you could get a car between the house and property line, it would be close. There is a fence along the property line and just below the house there is a concrete drop-off. Of course there is curbing along North Liberty Street as well.

Mr. Fletcher said some type of easement could be worked out between the two property owners. If Planning Commission feels it is important enough to recommend denial or delay of the request in order to compel the two property owners to come up with some type of an agreement you could do so.

Mr. Fletcher went on to explain the work that was currently being done at LFSVA property in order to better define the property and parking areas by installing curbing along their property boundary. Mr. Fletcher questioned whether or not City Council could require a private easement across the LFSVA property for the adjoining neighbor.

Mr. Baugh said Council could just say “no” to the alley closing and inform the applicants that they could come back if they were able to work something out.

Mrs. Turner agreed and said I would wonder what the terms of the agreement would be; however, that is not something the City would have to get involved with. If both parties came to an agreement that was to their mutual satisfaction, then that is all City Council would need to know.

Mr. Pruett said we, as the Minnick School, would be open to some type of agreement to allow the property owner at that location access upon authorization, with that authorization not to be unreasonably withheld. We would oppose a full open easement to that property which would allow them to enter into our property and across the parking lot, over the hill into their property. As far as being cut-off from access to the back yard from the street; I cannot enter into the rear yard of my personal residence from the street. I think it is not all that uncommon in neighborhoods. The property owner has stated that they can get a car between the house and fence into the back yard. I, myself, have not seen vehicles parked in the back yard.

Chair Fitzgerald asked if there were any further questions or comments.

Mr. Heatwole said I do not know if it is prudent to delay the request; but, I do like the idea of the two parties discussing an easement or some type of arrangement so that Mr. Showalter is not cut-off from the back of his property.

Mr. Fletcher said I am curious to know if the applicant’s had any other adjoining property owners contact them. I know letters were sent out twice by the applicant to all adjoining property owners regarding the alley closing. Where I am going with this question is that if Planning Commission is considering delaying this in order for something to be worked out for access for this one adjoining property owner, there may be others that have contacted Mr. Pruett who are interested in access as well.

Mr. Pruett replied yes. As you know we did send notification to all the adjoining property owners and we did receive one letter back from a Mr. Victor Ortiz at 736 North Liberty Street, who wrote: “I hope that the alley between your property and my property gets closed for the safety of the children. I like not to purchase the portion of the alley adjacent to my property, so you can acquire it. I do not have any questions; your request to the City is very clear and necessary. Best wishes for your project in favor of the children.”

Chair Fitzgerald thanked Mr. Pruett for reading the letter.

There was further discussion regarding the scope of work being done at the LFSVA property to improve the parking lot and access area.

Mr. Pruett said our plan is to spruce the place up as well. Add some landscaping and fencing. We will be replacing the fence we mistakenly removed from Mr. Showalter's property with a six-foot, vinyl, privacy fence along the northern property line.

Mr. Baugh said I will go ahead and bring this matter up now. Last night at City Council we approved the street and alley closing requests for JMU; but, the public use that was being given up was just a general use. You have a situation where JMU owns both sides of the entire corridor and it did not seem to have any other potential use now that the hospital was no longer there, other than a potential cut through. Yet we had one person come last night to speak in opposition of the request and one Council member voted in opposition. I am saying this because I do think there would be some sensitivity at the Council level to giving up public right-of-ways that do have direct impact on adjoining property owners. Therefore, I think it would be great if we could find some way to work out some of this.

Mr. Showalter asked to speak again, stating that they have discussed with LFSVA about the fence and tree issues. One thing that we did ask for was the possibility to have an easement granted to us from the LFSVA property; we asked that on Monday. Currently, we have not heard anything back from them. I just wanted to make sure it was understood that we have asked.

Dr. Dilts moved to table the request until the next regular (September) Planning Commission meeting to allow for further discussion between the two property owners.

Mr. Heatwole seconded the motion.

Chair Fitzgerald called for a voice vote on the motion to table. All voted in favor (5-0).

Mr. Fletcher said the next scheduled Planning Commission meeting is September 10th.

Mr. Colman returned to the meeting at 7:39 P.M.

Rezoning – 907 North Main Street (Portion of 41-C-44 along Ashby Avenue)

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: Undeveloped split-zoned property, zoned R-2 and B-2

North: Single family homes and undeveloped property, zoned R-2

East: Undeveloped property, zoned R-2 and office space and non-conforming apartments, zoned B-2

South: Undeveloped property zoned B-2, and across Ashby Avenue, a non-conforming

residential dwelling, zoned B-2C

West: Across Ashby Avenue, duplex units, zoned R-2

The applicants are requesting to rezone a split-zoned parcel located along Ashby Avenue that is one lot removed from the corner parcel along the northern side of the North Main Street/Ashby Avenue intersection. The request is to rezone the R-2 portion of the property, which is approximately 16,900 square feet in size, to B-2C. The remaining 6,000 square foot section of the property is already zoned B-2. Along with owning the subject parcel, the applicants/property owners also own the corner parcel, which is zoned B-2.

The property's split zoning is due to a 1979 rezoning. At that time, the applicant (a previous property owner) applied to rezone the entire lot to B-2 so they could utilize the parcel and the corner parcel together to accommodate a larger commercial development. Several property owners on Ashby Avenue and Madison Street opposed the rezoning and ultimately City Council approved only a 40-foot strip of the subject property to be rezoned from R-2 to B-2, which is how the property's zoning remains today.

Later, in 2009, the property owner, at that time (different from the previous and current property owners), requested the subject parcel, the corner parcel, and two parcels to the north to be rezoned from B-2 and R-2 to M-1C, General Industrial District Conditional. Their proffers included retaining the following industrial uses: warehousing and other storage facilities provided that the size, volume and contents shall be governed by applicable safety regulations; mercantile establishments and office facilities accessory to and supportive of the sale, processing and storage of goods and materials as permitted in this district; accessory buildings and uses customarily incidental to any of the above listed uses; public uses; and public and privately owned parking lots and parking garages. That applicant also proffered buffering the property from the adjacent residential areas. Their intended development plan was to install mini-storage units. Staff recommended denial and Planning Commission also unanimously recommended denial of the request. The applicant ultimately withdrew their application and it was never heard at City Council.

With the current request, the applicants are proffering the following:

- Along the entire length of the western and northern property lines, where the adjacent property is zoned residentially, for a width of 10-feet, the existing vegetation (including all trees and shrubbery) shall be maintained to assist in providing a buffer between the property and the adjacent residentially zoned property. In addition, evergreen trees shall be planted and maintained within the 10-foot buffer zone with the intent to form a dense screen. The evergreen trees shall be three to four feet in height at the time of planting and shall be planted at no greater than 5-foot centers.
- A six-foot solid, opaque fence shall be installed along the same boundaries as identified above.

If approved, the above conditions would only be applicable to the approximate 16,900 square foot portion of the property. The fence may or may not be installed within the first 10-feet of the property lines, but must be installed along the stated boundaries. The existing B-2 portion of the subject parcel would not be restricted to the submitted proffers. This is important to understand

because there is a small section of residentially zoned property to the north of the existing B-2 portion of the parcel.

Along with the proposed buffering, current minimum building setback regulations within the B-2 portion of the Zoning Ordinance will also provide helpful separation of uses protection between the commercial and residential properties. Regardless of the property's zoning, a 30-foot minimum building setback must be applied along Ashby Avenue. Then, regarding side and rear yard setbacks, a 30-foot setback must also be applied along property lines that adjoin residentially zoned property; this includes the western and northern property lines. Furthermore, if a structure is built that is greater than 35 feet in height, an additional one-foot of building setback must be applied along the lines that adjoin residentially zoned property for every foot above 35 feet. If property lines adjoin commercially zoned property, a 10-foot building setback may be applied. It is important to remember, however, these setbacks are for structures and that parking lots are not bound by the same setback requirements.

The applicant has discussed with staff their intended plan to develop on this property, which includes utilizing the subject parcel and the corner parcel together to develop retail space and a vehicle repair shop. If the rezoning is approved however, all permitted B-2 uses could operate from this site and the property owners could apply for any listed special uses.

The subject property (and the corner parcel that they also own) is designated Commercial by the Land Use Guide. The subject property's western property line and portions of the northern property line mark the Land Use Guide's boundary between the Commercial designation and adjacent residentially zoned property being designated Medium Density Mixed Residential. The City designated the entire subject property Commercial with the approval of the current 2011 Comprehensive Plan update; the 2004 Comprehensive Plan designated the subject parcel Commercial for the B-2 portion and Medium Density Mixed Residential for the R-2 portion.

As demonstrated further by the Comprehensive Plan, the subject parcel (and the corner parcel) falls within a Corridor Enhancement Area. Parcels that are located within these corridors strongly influence the City's accessibility, attractiveness, and its economic vitality. The City recognizes the importance of these areas and the impact they have on the overall quality and character of the city, and therefore, strongly encourages all proposals and construction to embody quality development and to contain exemplary attributes such as improved streetscapes, multi-modal transportation enhancements, conservation of special features, and other upgrades while also incorporating aesthetic signage. Existing zoning regulations (i.e. minimum setback regulations, parking lot landscaping standards, etc.) and Design and Construction Standards Manual requirements should help influence and control the interests we have for such properties. Staff did not encourage additional controls for matters related to signage as the property is designated Commercial.

It is important to understand, and the applicant is aware, regardless of how the property develops, they will be required to construct sidewalk along the entire property frontage of the parcels they are developing. Depending upon how this corner area develops, the dividing line between lot 43 and 44 may need to be vacated. Ultimately, the subdivision and/or the development of the property could require them to dedicate public street right-of-way (ROW) along the frontage of both Ashby Avenue and North Main Street as neither of those streets appears to have the minimum amount of public street ROW width needed for all public street improvements. Furthermore, when the corner parcel is developed, the Master Transportation Plan designates street improvements along its North

Main Street frontage to include a center turn lane and to remove parking on North Main Street. The Plan also specifies that this section of North Main Street does not have adequate bicycle facilities, thus the developer could be required to not only dedicate ROW, but also build the necessary street improvements. Since sidewalk already exists along North Main Street, they could be required to remove it and move it back further to accommodate the widening and bicycle facilities. Depending upon how this corner area develops, the City may also wish to have all site entrances located along Ashby Avenue, with no North Main Street access.

Neither the applicant nor staff knows exactly where the western and northern property lines are located in relation to the existing tree line and other vegetation. These areas already provide a relatively nice existing buffer between the residential uses to the west and north of the subject property. However, the intent of the buffering proffers are not only to preserve as much of the existing buffer as possible but also to enhance and strengthen these and any areas that may not already be protected by installing an opaque fence and additional evergreen vegetation to form a dense screen.

Given the well-intended proffers and the fact that the City has planned for this parcel to contain commercial uses, staff recommends approving rezoning the existing R-2 portion of the property to B-2C, General Business District Conditional.

Chair Fitzgerald asked if there were any questions for staff.

Mr. Da'Mes asked if allowable signage was determined by the size of the building or the size of the lot.

Mr. Fletcher replied it is the lineal street frontage of the lot for an individual use. If the building is multi-tenants, then the wall signage is calculated differently. But for one use, it is calculated as one square foot of signage for each lineal foot of road frontage along the principal street.

Mr. Colman asked if the zoning boundary was also a property line; that is how it appears on our maps.

Mr. Fletcher said no, our GIS software shows the digital coding for the zoning as a line; therefore it shows up like a property boundary.

Chair Fitzgerald said the vegetation that they have to maintain between the residential properties is ten feet onto the applicant's property and it would be from whatever property line is determined once surveyed. Do we have a sense of approximately how much of the existing is in the ten feet?

Mr. Fletcher replied no we do not, which is why we encouraged the additional buffering. The applicants liked the buffering and were willing to maintain it; however they could not verify where the property line was.

Mr. Colman asked if the applicant had a preliminary layout of what the property might look like.

Mr. Fletcher said they have given us a preliminary layout. The applicant was interested in supplying that this evening; however, it was our suggestion to not include it because it is not proffered. We felt it was irrelevant to show because anything could go there as long as they met setbacks, parking, and so forth. They are looking at potential retail space and automobile repair.

Mr. Colman asked if the idea was to combine both lots.

Mr. Fletcher replied yes, the idea is to combine both lots. I believe historically, the plan has been to combine all the lots. That of course is according to the plans that others have wanted to do at this location; remember the corner parcel is zoned B-2 and is developable. Also, the additional setback is only for structures; parking could be within the thirty-feet, but not within the ten-foot buffer.

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

Mr. Farhad Koyee, said he is one of the owners of the property and they just purchased it. We are trying to develop this and make it look nicer. We will be constructing the sidewalk and planting more trees.

Mr. Da'Mes asked Mr. Koyee if he understood that when the property is developed they would lose the ten-feet along North Main Street for right-of-way.

Mr. Koyee said yes, I understand that.

Mr. Fletcher said at the time of subdivision or the time of development the applicants would need to dedicate the right-of-way. Staff insured that Mr. Koyee understood this.

Chair Fitzgerald asked if there was anyone else who would like to speak in favor of this proposal. Hearing none, she asked if there was anyone who would like to speak against the proposal. Hearing none, she closed the public hearing and asked Planning Commission for discussion or a motion.

Mr. Colman moved to recommend approval of the rezoning as requested.

Dr. Dilts seconded the motion.

Chair Fitzgerald called for a roll call vote on the motion.

All voted in favor (6-0).

Chair Fitzgerald said this would move forward to City Council on September 9, 2014 with a favorable recommendation from Planning Commission.

15.2 – 2232 Review – Park View Water Tank

Chair Fitzgerald read the request and asked staff to review.

Mrs. Banks said Mr. Mike Collins, Director of Public Utilities will speak first providing a description and specific details of the project; after which, I will follow with the regular staff report.

Mr. Mike Collins introduced himself and said it has been quite a while since I have been before this body. What you received in your package was a presentation that was given to the Park View neighborhood in January of this year. Tonight I have a slightly trimmed down version of that presentation. If there is anything within the information that was provided and you would like to discuss that as well, please just ask me I would be glad to discuss it.

The first question is “why do we need these projects.” Basically, what we are going to do is construct a water tank and a pump station in the Park View area. There are really two drivers for this project – the first being asset management; it is not something that lasts forever and at some point you need a plan to get rid of the old and update with a new. Both the existing water tank and pump station were constructed in early 1960. If taken care of, a water tank probably has a useful life of about 75 years and a pump station has about 50 years. So you realize we are a bit past the

decision on the pump station and nearing time on the water tank; the tank is a bit more of a difficult issue than the pump station. The second driver with this really goes back to the 1990s when the City adopted its current Design and Construction Standards Manual. As part of that process, the Fire Department was very adamant about curtailing development in the City where the needed fire flow exceeded the available fire flow. On a side note, if you are not aware of this, the City's Fire Department just got ranked as a Class 2, which is tremendous for them and us as well. This effects insurance rates throughout the City and is quite a "feather in their cap." Much of this comes with the ability of us to provide available fire flow where it is needed.

So, with that being said, fire flow is determined by two things – meeting an available fire flow and duration of fire flow in order to comply with Insurance Services Office (ISO) standards. In the Park View area we are looking at normal residential fire flow needing 750 gpm for two hours, commercial can get to 1,500 gpm for two hours, and in this area we have Eastern Mennonite University (EMU) which has dorms, classrooms, and other high occupancy buildings, which are in the neighborhood of 3,000 gpm. Some of those standards are not met in this area. There are existing structures that were built before the standards recommended that fire flow be taken into consideration. We also have curtailment and restrictions on buildings in the area because we cannot meet the ISO requirements.

Those are the two real drivers for this project. There are also some core requirements that absolutely have to be part of this project and then there are some non-core things that are just preferences. Let me discuss the core requirements for a project. The tank has to be at a certain elevation, it cannot be buried, it has to be at a specific elevation and there are only a few possible available sites in the Park View area to construct. The elevation requires it to be on the hill and there is only so much vacant land along the hillside. The second requirement is there has to be connectivity with the pump station in the demand area; you do not want to have to run a lot of new infrastructure to get water from the tank to wherever the biggest demand is. Third, there is a certain volume that has to be provided. When you look at 3,000 gpm over a three hour period you need to establish a minimum size tank. The fourth requirement is the City needs to be able to afford the project and we need to be able to operate and maintain it. It cannot violate any of the risk management issues with the City's insurance. And, we must be able to sustain it and deliver what we intended to deliver. Those are the core requirements of what we can, and cannot do.

What we currently have in the Park View area is a tank that is 65 feet tall, to reach an elevation of 1,645. We have got to be at an elevation of 1,645 and we may go five to ten feet taller; but you cannot go lower. The existing tank holds 75,000 gallons of water; we are looking at needing a 500,000 gallon tank. The existing tank was built by Park View Sanitary District in the early 1960s and a lot of residential development grew around the tank. I would think that we do not want that to happen with a future tank. The residential growth has made that site unusable to us. The City cannot build a new tank on site while still operating the old one from there; along with the fact that the tank is in close proximity to the housing. That leads the City to fulfilling the core requirements at a new location.

The proposed tank site is on the southern boundary of a parcel that is owned by EMU. The elevation is 1,650, which makes the overall tank about 90 feet in height. The decision on what type of tank has not been made yet, and we are still open to any area along this hilltop.

Once we get past the needed core requirements there are numerous things that are available for community input that we will need to deal with. For instance, the type of water tank; we have already been receiving input on the tank, color and style, graphics, lettering, landscaping, access, lighting, and ancillary uses to name a few. There is no commitment to anything so far; I am currently working with EMU on their preferences, because it is their property.

We are probably looking at a four million dollar project, without any of the amenities. That will be our task when we go back to City Council with all of our comments. That is all I have for you tonight and I would be happy to answer any questions you may have.

Chair Fitzgerald said as a person who has been through several Comprehensive Plan updates and a number of Capital Improvement Projects, we know this item comes up often. We are happy to see this one coming true. She then asked if there were any questions from Planning Commission.

Mr. Collins said there are some folks from EMU if you would like to speak with them as well.

Mrs. Turner said I have one question. Is there any consideration being given to having communications facilities on the tower?

Mr. Collins said we have put those on the tank at Tower Street and if that fits the need here we would do the same after conversation with EMU. We would need to make that decision sometime between now and when City Council would give us the approval to go with the water tank, because you need to build those tanks to support the antenna.

Mr. Collins continued saying I just want to be clear that this is a combination tank and pump station. The pump station is being planned in coordination with the round-a-bout and proposed road project at Chicago Avenue; we are attempting to integrate the pump station along Mt. Clinton Pike on EMU property in combination with the round-a-bout work. The City Attorney has said that this work does not need to be referred under the State Statute, but I did want to share that information with you.

Hearing no further questions Chair Fitzgerald asked staff for their review.

Mrs. Banks said the Comprehensive Plan designates this area as Institutional. This designation states that these areas are for development by certain nonprofit and public institutional uses such as private colleges and universities, hospitals, offices of nonprofit organizations, community assembly uses and institutions that provide for the shelter and care of people.

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

Site: Eastern Mennonite University Seminary, Discipleship Center building, and parking lot, zoned R-3/I-1

North: Single family dwellings, zoned R-2; and Eastern Mennonite University campus, zoned R-3/I-1

East: Eastern Mennonite University campus, zoned R-3/I-1

South: Single family dwellings and townhouses, zoned R-3

West: Across City/County boundary, single family homes, zoned R-2 (County)

Per Section 10-1-6 of the City Code, the proposed Park View Water Tank Project is under review. This section stipulates that “if a public facility subject to Section 15.2-2232 of the Code of Virginia is not already shown on the comprehensive plan, the planning commission shall determine whether the location, character and extent of such public facility is in substantial accord with the comprehensive plan as provided by Section 15.2-2232 of the Code of Virginia and the terms and conditions set forth therein, as may be amended from time to time.”

Section 15.2-2232 states that when a locality has adopted a comprehensive plan, “it shall control the general or approximate location, character and extent of each feature shown on the plan.” The code section then lists items, citing among others, public buildings and public structures, and stating that unless features are already shown on the plan, they “shall not be constructed, established, or authorized, unless and until the general location or approximate location, character, and extent thereof has been submitted to and approved by the commission as being substantially in accord with the adopted comprehensive plan or part thereof.” Under Section 15.2-2232, a public hearing is not required unless directed by City Council. On June 24, 2014 City Council referred this item to be reviewed by Planning Commission; this directive did not include holding a public hearing.

Staff believes the proposed project and site are substantially conforming to the Comprehensive Plan per the following goal, objective, and strategy:

- Goal 11: To support a vital city with community facilities, infrastructure, and services, which are efficient, cost-effective and conserving of resources.
 - Objective 11.1: To continue to provide high quality public water service.
 - Strategy 11.1.1: To construct needed water supply, treatment, storage, and pressure improvements, including: Storage tank and upgrade of booster pump station in the Parkview Pressure Zone.

The 1991 Comprehensive Plan identified that the Park View Sector of the City had areas with low water volume. The Public Utilities Department has known for many years that the water tank would best serve the area if it were located on the Eastern Mennonite University (EMU) hill and in 1996 had an engineer study the Park View Sector. This study also identified the EMU hill as the best location for tank placement.

The 1998 Comprehensive Plan noted that proposed improvements to the water distribution system were needed in the Park View area to upgrade existing fire service delivery. The 2004 Comprehensive Plan, more or less, had the same goal, objective, and strategy as in the 2011 Plan. Both the 2004 and 2011 Comprehensive Plans specifically note that the Parkview Pressure Zone is an area of concern in the current storage and distribution center and that this area is in need of upgrade for the booster pump station and the storage tank.

The application of Goal 16 within the 2011 Comprehensive Plan, which includes coordinating and collaborating with EMU, is also employed, as EMU recently accepted the idea of placing the water tank on their property and is working with the City on the project. In addition to working with EMU, the City has also solicited input from the Park View area and the City residents generally, both through meetings and on-line.

Staff believes the general and approximate location, character, and extent of this facility is substantially in accord with the Comprehensive Plan. As noted by the existing and past Comprehensive Plans, this public facility has been needed and has been planned for some time.

Staff recommends the Commission communicate the same findings to City Council that the Park View Water Tank project conforms to the Comprehensive Plan.

Chair Fitzgerald asked if there were questions for staff. Hearing none, she said this is not a public hearing; however, we do invite anyone wishing to speak to come forward at this time.

Eldon Kurtz, Director of the Physical Plant at EMU, said you are correct; this has been a long standing issue that has needed to be addressed. It has taken the university quite some time to get comfortable with the idea. In the 1990s the suggestion was made that this hill was probably the best site for a water tank; yet EMU continued to look at many, many other places or alternate locations. It does not seem that anyone wants a water tank in their back yard.

EMU does want to cooperate with the City, we have worked with Mike Collins and his team for quite some time on this and I think we are at a point where we are ready to move ahead. We want to try and do this in a way that respects our neighbors as well as continues to value what we have in terms of that view we have from the hill. We are working at ways we can add some value to the tank that is planned to go in there and we are looking forward to moving ahead.

Chair Fitzgerald asked if there was anyone else wishing to speak regarding this item. Hearing none, she asked if there were additional questions for staff. Hearing none, she asked for a motion or further discussion.

Mr. Baugh said I just want to amplify Mr. Kurtz's comments. To say there has been a long standing recognition in that part of the City of a need for this is an understatement; until you begin discussing where you are going to put the water tank. I can confirm that other sites were explored, both publicly and privately, and this certainly has all the appearance of reflecting a consensus that many people have spent a lot of time on and making as much peace as they can that this really is the best site in the area for the tank.

Mr. Heatwole moved that Planning Commission communicate to City Council that we find the Park View Water Tank project substantially conforms to the Comprehensive Plan.

Dr. Dilts seconded the motion.

Mr. Fletcher asked if the motion included the stated goals eleven and sixteen.

Mr. Heatwole said I do believe it is in substantial accord with all the listed goals.

Dr. Dilts again seconded the motion.

Chair Fitzgerald called for a voice vote on the motion.

All voted in favor of the motion (5-0 with Mr. Colman abstaining for reasons unknown).

Chair Fitzgerald said this will move forward to City Council.

Zoning Ordinance Amendment – To Allow Public Uses to Deviate from Zoning Regulations by Special Use Permit

Chair Fitzgerald read the request and asked staff to review.

Mrs. Banks said Staff is proposing an amendment to several sections of the Zoning Ordinance in order to allow public uses to better conform to zoning regulations. A public use is defined as “*Any instance where a lot or parcel of land, or any improvement on a lot or parcel of land, is used by (1) the City, or (2) another governmental entity having a contractual relationship with the City for the use of such lot or parcel or improvement.*”

In the City’s recent history, we have relied on the fact that the City is not legally obliged to follow its own zoning regulations. However, recent discussion on 2232 review has led staff to the conclusion that it is best for the City to follow zoning requirements.

Public uses are permitted by right within all zoning districts; however, there are times when, in the best interest of providing services, the City cannot adhere to all the requirements of the Zoning Ordinance (i.e. height restrictions, minimum building setback requirements, parking regulations, etc.). The Zoning Ordinance provides a variance procedure through the Board of Zoning Appeals (BZA) public hearing process to allow for relief from yard and lot area requirements, if the property owner can prove a hardship. A BZA variance, however, does not give relief from all requirements of the Zoning Ordinance, such as parking or landscaping regulations.

Staff is proposing the language “*Public Uses which deviate from the requirements of Title 10, Chapter 3*” be added as a subsection to the special uses within the following zoning districts offering public uses the opportunity to request deviating from zoning regulations: R-1, R-2, R-3 (Multiple Dwelling), R-3 (Medium Density), R-4, R-5, R-6, R-7, MX-U, MH-1, MH-2, B-1A, B-1, B-2, M-1, and U-R.

The special use permit would provide for a documented, public hearing process to allow public uses, which may not meet all the requirements of the Zoning Ordinance, to occur and still be in compliance.

Staff recommends approving this amendment to allow public uses to deviate from the requirements of the Zoning Ordinance by approval of a SUP.

Chair Fitzgerald said if Planning Commission were to turn down or recommend denial of a special use permit, the process would then be the same as if it were recommended for approval.

Mrs. Banks replied yes.

Chair Fitzgerald said this provides us with the opportunity for a conversation as to why a particular aspect of the Zoning Ordinance is not being followed. She then asked if there were any questions for staff. Hearing none, she opened the public hearing and asked if there was anyone who wished to speak on the proposal. Hearing none, she closed the public hearing and asked Planning Commission for comments or a motion.

Mr. Colman moved to recommend approval of the amendment to allow public uses to deviate from requirements of the Zoning Ordinance by approval of a special use permit within all the listed sections.

Mr. Da’Mes seconded the motion.

Mr. Baugh said we had the benefit of talking about this rather informally at the end of last month’s meeting. I might just add something, just so that we can get this into the minutes in some formal

manner. I know specifically that as staff looked into this one of the things they came across was that a number of the other jurisdictions contacted already had something in place just like this. This issue came up a Council last night and I do expect some inquiries from Council, more in the nature of why is this issue coming up now. We somewhat glossed over that here tonight; but, I think there are some pieces we need to go ahead and get into the minutes now so that Council members will have the benefit of that when reviewing this proposal.

Chair Fitzgerald said we did discuss this somewhat while we were on the Planning Commission tour on Monday. I think it would possibly be useful to get it into the minutes.

Mrs. Turner said we spoke with Charlottesville, Albemarle County, Winchester, and Roanoke; all required their public uses to comply with their zoning regulations. They cannot say that there is not a time that they have not missed a setback or a parking requirement; but they are required to comply.

Mr. Baugh said these are good examples of jurisdictions we tend to look at as peers.

Dr. Dilts said I was not here for the conversation last month, but it seems to me if we think that the regulations are appropriate, then they are appropriate for all. Therefore, I think this is a very good thing to do.

Mrs. Turner said as Mr. Baugh was saying, there have been times over the years that there has been a decision that public uses should comply; yet it has always been recognized that they did not have to comply. There have also been times when it has not been emphasized that the City needs to comply; the idea that we did not have to comply was enough and we did not have to go through any special process to not comply.

Mr. Colman said I believe it is a good opportunity for the City to lead by example. At the same time it gives an avenue for the citizens to have input on whatever the request may be.

Chair Fitzgerald asked if there was any further discussion. Hearing none, she called for a voice vote on the motion to recommend approval.

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

Chair Fitzgerald said this will move forward to Council on September 9th.

Unfinished Business

None.

Public Input

None.

Report of Secretary and Committees

Mr. Baugh said at City Council last night we had five different items that came forward from Planning Commission. The special use permit for the apartments off of Reservoir Street, the special use permit to allow a religious use within M-1 at Charles Street, and the special use permit for a financial use at the intersection of Mt. Clinton Pike and Acorn Drive were all approved by City Council without a lot of discussion. Regarding the Zoning Ordinance amendment for the junkyards in M-1, we had some public input, which we did not have at this level, from a local competitor and from someone who appears to be connected to a national competitor. One gentleman gave a very

long speech on several things which he was very concerned with and felt we were not taking into consideration. Council basically took up the position that those are things we would take into consideration at such time as we get a special use request for a junkyard. With all of that said, City Council did approve the ordinance amendment.

Lastly, as I mentioned earlier tonight, it was a 4-1 vote in favor of the street and alley closings for JMU. A number of things came up with this particular request for the street and alley closing. For instance, the suggestion of everyone else has to purchase the property from the City, but JMU does not have to – well, JMU does have to purchase the property. There was much discussion on the JMU request and some of it is relative to the issue we tabled tonight. A sense that was articulated was that while it may be a pre-requisite to own both sides of the right-of-way when applying for closure, it does not necessarily mean that it will be approved.

Other Matters

Mr. Fletcher said we now have two agenda items for next month. The alley closing, which was tabled from tonight, will be on the agenda along with one new item—an amendment to EMU’s master plan regarding changing specifics of their solar panels.

Adjournment

Planning Commission adjourned at 8:50 p.m.

Chair Deb Fitzgerald

Secretary, Alison Banks