

## MINUTES OF HARRISONBURG PLANNING COMMISSION

August 12, 2015

The Harrisonburg Planning Commission held its regular meeting on Wednesday, August 12, 2015 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; and Alison Banks, Senior Planner/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 July 8, 2015 Planning Commission meeting.

Dr. Dilts moved to approve the minutes as presented.

Mr. Da'Mes seconded the motion.

All members voted in favor of approving the July 2015 minutes as presented (7-0).

### New Business

#### ***Preliminary Plat – Charleston Townes Resubmittal 2012 Addition***

Chair Fitzgerald read the request and asked staff to review.

Mrs. Banks said the Comprehensive Plan designates this area as Medium Density Residential. This 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: Dwelling, zoned R-3

North: Undeveloped property, preliminarily platted for Townes of Bluestone townhomes, zoned R-3

East: Undeveloped property, preliminarily platted for Townes of Bluestone townhomes, zoned R-3

South: Breckenridge Court townhomes and a single-family dwelling, zoned R-3

West: Charlestown Townes townhomes and a single-family dwelling, zoned R-3

The applicants are requesting to preliminarily plat 11 townhome lots and one common area lot on 1.06 +/- acres. The subject property does not have public street frontage and is accessible only from Reservoir Street via a driveway over an established 12-foot wide private access easement serving this parcel and two neighboring parcels. Planning Commission reviewed and recommended approval of this same preliminary plat with a variance to allow lots to not front on a public street in July 2012. City Council approved the preliminary plat and variance request in August 2012. As required by the Subdivision Ordinance, a final plat was not filed within 24 months; therefore, per

Section 10-2-26 (d) of the subdivision regulations, the plat expired in August 2014. After the 2012 approval, the project did move forward through the engineering comprehensive site plan review process and was accepted for site construction. Along with the expiration of the plat, a Land Disturbing Permit has not been issued in order for construction to begin.

The planned 11 units would become part of the existing 132-unit student housing townhome complex known as Charleston Townes. Charleston Townes, originally known as Purple and Gold Townhomes, was first preliminarily platted in 2006 with a variance from the Subdivision Ordinance to allow lots to not have public street frontage. That plat ultimately expired. The developers then resubmitted their same plan of development and again received preliminary approval in February 2008. Following that approval, the developers final platted the development in phases and received approval of the development's final phase in May 2011.

From the original submissions, the development was intended to accommodate the student population offering four bedroom units with amenities that included a clubhouse, swimming pool, and open recreational areas. A property owner's association was planned to be established to maintain the private yards and common areas as the lots were intended to be sold for independent ownership; but ultimately, Purple and Gold, LLC decided to maintain ownership of all lots within the development.

The subject parcel is adjacent to 2300 Purple and Gold Way (tax map 80-A-139), the southernmost lot within the existing Charleston Townes. Purple and Gold Way, the private street/parking area of Charleston Townes, would be extended from this parcel, at the existing private street grade, onto the subject property. This ingress and egress location would be the only access to these units. The currently used 12-foot, private access easement and driveway to Reservoir Street would not be utilized. Instead, all residents would use Purple and Gold Way to the established ingress and egress points for Charleston Townes. This development would not interrupt the usage of the private access easement deeded across the southern boundary of the subject parcel for the adjacent property to the east: tax map 80-A-8.

Forty-one new parking spaces, two more than required, will be provided for this phase of the development. The parking lot complies with all the requirements of the Parking Lot Landscaping ordinance, as demonstrated on the approved engineering comprehensive site plan.

As noted earlier, the engineered comprehensive site plan for this phase of Charleston Townes has been approved. During the site plan review process there was a shift in the placement of the sanitary sewer line from the original location to the east, behind townhomes 1-7. It is now located further west, more in the center of the site and in front of the townhomes. As well, there is a waterline in this same general area; both the waterline and sewer line are within separate 20-foot easements. Because of the requirements of the Subdivision Ordinance to have a general utility easement centered on all side lot lines, such easement would cross over the sanitary sewer lateral and waterline multiple times at different angles along the property boundary between lots 7 and 8; a situation Public Utilities does not desire. Therefore, City Staff is recommending deviating from the requirements of Section 10-2-43 of the Subdivision Ordinance, to not have the 10-foot utility easement centered on the property line between lots 7 and 8.

Other than the requested variance from 10-2-43, this request is no different than the 2012 preliminary plat and the previously approved sections of Charleston Townes. Staff supports a favorable recommendation to City Council for the preliminary plat with the two requested variances from the Subdivision Regulations.

Chair Fitzgerald asked if there were any questions for staff. Hearing none, she said this is not a public hearing; however, we typically ask the applicant if they would like to speak at this time.

Mr. Walt Trobaugh, the applicant, said he is available to answer any questions.

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

Mr. Colman moved to recommend approval of the preliminary plat with the variances requested.

Dr. Dilts seconded the motion.

Chair Fitzgerald called for a voice vote on the motion.

All voted in favor to recommend approval of the preliminary plat with the two variances (7-0).

Chair Fitzgerald said this will move forward to City Council on September 8<sup>th</sup>.

***Rezoning – 141 West Bruce Street (M-1 to B-1C); Zoning Ordinance Amendment – Section 10-3-85 To Add Warehousing and Other Storage Facilities as a Special Use in the B-1; Special Use Permit – 141 West Bruce Street (Warehousing and Other Storage Facilities in B-1)***

Chair Fitzgerald read the next three items on the agenda and said these requests will be heard as one report. She then asked staff for a review.

Mr. Baugh recused himself and left the room at this time, 7:11 p.m.

Mr. Fletcher said the Comprehensive Plan designates this area as Planned Business. This designation states that these areas are suitable for commercial development but need careful controls to ensure compatibility with adjacent land uses.

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

Site: Dilapidated Chesapeake and Western Railway building and warehouse, zoned M-1

North: Across West Bruce Street, Ice House parking lot, zoned B-1C

East: Parcel owned by the railroad containing railroad spurs, zoned M-1, further east and across Norfolk-Southern railroad, the Ice House, zoned B-1C

South: Chesapeake Avenue, and further south, industrial uses, zoned M-1

West: Across Chesapeake Avenue, parcel owned by the railroad containing railroad spurs, zoned M-1

The applicant has submitted three separate applications for simultaneous review and approval. The first is a rezoning for the 17,777 +/- square feet parcel located at 141 West Bruce Street from M-1, General Industrial District to B-1C, Central Business District Conditional. The second application includes a Zoning Ordinance amendment to create a new special use permit to allow B-1 property owners the ability to operate warehousing and other storage facilities; and finally, they have applied for the special use permit they are requesting be created.

The property, located at the southeastern corner of the West Bruce Street/Chesapeake Avenue intersection, includes the historic Chesapeake and Western Railway building, which staff understands was built in 1913. The building was used by the railroad for many years and had suffered through several fires including the last and most destructive fire in 1982, which rendered much of the building unsafe and unusable. In 2005, the property was purchased by the applicant (J-

M Apartments), where they have used portions of the building and outside property for warehousing and storage of materials—a use permitted by right in the M-1 district—for R.S. Monger and Sons, Inc.

Given the odd dimensions of the property and because it is a corner parcel, redeveloping it—including razing all structures and thus building on vacant property—under the M-1 zoning regulations would be difficult. A 30-foot setback would be required off of West Bruce Street, and then, even after utilizing the setback alleviations afforded by the Zoning Ordinance, a 21.875-foot setback would be required off of Chesapeake Avenue while a 10-foot setback would be needed from the eastern and southern boundary lines. This means the buildable area of the parcel is limited, where at its widest point it would only be 31.875-feet. Currently, the existing building is non-conforming to setback regulations while the size and shape of the property also makes it challenging to meet the required minimum on-site off-street parking regulations for many uses in the M-1 district. What may be the most burdensome zoning regulations for this property in particular, is associated with redeveloping/renovating non-conforming structures. The Zoning Ordinance’s Article E provides the regulatory control for non-conforming structures and uses, where the intent is to limit how such properties can be used so that they will eventually develop into compliance with existing regulations. Since the applicant desires to redevelop the property by restoring the non-conforming historical building (which is highly desirable by many individuals in the City), Sections 10-3-20 (2) and 10-3-22 (a) together prohibit them from reconstructing and structurally altering the building. It should be understood that the Code of Virginia protects properties from non-conforming zoning stipulations when they are damaged by accidental fire so long as the damaged building is repaired within two years of the fire. In short, without rezoning the property or making amendments to the Zoning Ordinance, the historical Chesapeake and Western Railway building could not be reasonably restored.

All three applications applied for herein together is one way they can restore this historical asset while also being able to utilize it for their desired operations. Although the immediate plans for the property is to have a mixture of uses including retail floor area and warehousing space both in association with R.S. Monger and Sons, Inc. and unassociated business office space, the proffers submitted by the applicant would allow other uses. The submitted proffers include the following (written verbatim):

1. The property shall be redeveloped by improving and maintaining the existing structure, where all by-right uses of the B-1 district shall be permitted except for the following limitations:
  - a. Residential uses shall be limited to multi-family residential uses, where one parking space shall be provided on-site per bedroom.
  - b. Restaurants and personal service establishments are not permitted without an amendment to these proffers.
  - c. No retail uses shall be allowed except those associated with R.S. Monger and Sons, Inc.
2. Special Use Permits shall be permitted as approved by City Council.
3. The property shall maintain at least seven off-street parking spaces. Any number of these spaces may be used to meet the minimum required as specified in proffer “1a.”

4. Exterior storage of materials associated with any warehousing component of the property shall only occur under the rear covered porch/dock and to the south of the building.

(Note that the submitted layout of the site is not proffered but rather illustrates how they plan to utilize the building and redevelop the property at this time. Proffer #1, however, states that the property “shall be redeveloped by improving and maintaining the existing structure,” which means the historical building must remain on the site.)

Along with the rezoning is a request to amend the Zoning Ordinance Section 10-3-85 Uses Permitted Only by Special Use Permit of the B-1, Central Business District by adding an additional subsection to allow warehousing and other storage facilities. The additional subsection would be stated as follows, which mimics the exact wording of the same set of uses allowed by right within the M-1, General Industrial District:

- Warehousing and other storage facilities; provided, that the size, volume, and contents shall be governed by applicable safety regulations.

The final application for this development project includes the applicant’s request for the special use permit that, as explained above, they are requesting be created.

First, it should be understood that the current use of the property and zoning do not conform to the Comprehensive Plan’s Land Use Guide as the site is designated Planned Business. Staff believes the proposed development project is in line with the Land Use Guide since this designation advocates that such properties may be suitable for commercial development when controls are in place to ensure compatibility with adjacent land uses. The applicant’s planned use of the property is a nice transition of the existing surrounding land uses as the northern front half of the property would be compatible with other B-1 zoned properties to the north and east of the site while the rear portion of the property, where they intend to operate warehousing and storage, transitions well toward the M-1 properties to the south. It should also be known that the subject property’s Land Use Guide designation, along with all of the properties on Chesapeake Avenue, was changed from General Industrial to Planned Business during the 2004 Comprehensive Plan update. At that time it was recognized to have these properties become something other than industrial uses; and further, the City recognized that these properties could not be planned for Mixed Use Development Areas (the designation typically associated with B-1 zoning) because there were too many variables to consider for having them become zoned B-1—likely due to setback issues as well as the impact of having no parking requirements on these properties.

In addition to staff’s belief that it conforms to the Land Use Guide, the Comprehensive Plan also illustrates that the property is within a quarter-mile radius of Court Square and that it is identified within the Plan’s Downtown Revitalization Area. Although there is no specified strategy or guideline for development for having such a designation, the Plan recognizes that developments and redevelopments in this area are highly desirable for continued efforts for reviving downtown.

Although public sidewalk exists along the property’s West Bruce Street frontage and for about 130 feet southward from West Bruce Street along Chesapeake Avenue, the Design and Construction Standards Manual (DCSM) Section 3.3.3.2 requires “(s)idewalks [to] be constructed along the street frontage of all developing and redeveloped properties. In cases where insufficient right of way exists for sidewalk construction, appropriate right of way shall be dedicated and sidewalks constructed.” In addition to these requirements, when redeveloping sidewalks in the downtown area,

the Downtown Streetscape Plan (adopted by City Council in July 2014) demonstrates the style of sidewalks that should be installed.

What this means is that the DCSM requires sidewalk improvements along the subject property's entire public street frontages along West Bruce Street and Chesapeake Avenue—in all about 410 feet of sidewalk reconstruction and installation. However, staff recommends deviating from this DCSM requirement, and rather than providing all of the stated improvements and dedicating public street right-of-way (ROW), have the developer construct a seven feet wide decorative concrete sidewalk on West Bruce Street between Chesapeake Avenue and the at-grade railroad crossing per the Downtown Streetscape Plan specifications and construct a seven feet wide decorative concrete sidewalk on Chesapeake Avenue between West Bruce Street and the northernmost entrance of the warehouse portion of the building. In all, this is about 260 feet of sidewalk construction and reconstruction (150 feet less than required). Staff recognizes there will be challenges to achieve the desired sidewalk improvements/alignments stated above. The Department of Public Works will work with the applicant to determine feasibility and potential alterations to the sidewalk design as needed. The applicant is aware of these requirements and is agreeable to staff's recommended deviations; the submitted layout reflects the planned sidewalk reconstruction and installation desired by staff.

One other matter discussed with the applicant includes staff's concerns with the use of the Chesapeake Avenue public street ROW to maneuver vehicles for the warehousing operations. However, we recognize the ROW utilization has been occurring for quite some time and that trying to change the situation might mean the use of the building for the planned operations by R.S. Monger and Sons, Inc. would be severely limited. Staff will continue to work with the property owner towards potential improvements to this concern.

Overall, staff is very appreciative of the applicant's submitted proffers and the efforts the applicant made to listen to staff's concerns about how this property should be used. Staff believes the submitted proffers should alleviate any negative impacts the B-1 zoning might have to this area of the City. Given the wording of proffer #4, which stipulates where warehousing and storage of materials should be located on the site, and in considering the existing adjacent land uses and zoning, staff has no suggested conditions for the special use permit application. Staff is also supportive of the proposed Zoning Ordinance amendment as presented.

Staff is recommending all three applications be approved and for a variance to DCSM Section 3.3.3.2 be approved to allow for sidewalk improvements in lieu of the requirements as stated herein.

Chair Fitzgerald asked if there were questions for staff.

Mr. Colman said regarding the extension of the sidewalk, along Bruce Street, in front of the railroad property, does this include curb and gutter improvement in that area?

Mr. Fletcher replied that it likely would. If you are concerned about drainage and runoff into the railroad tracks, I do not know the answer to that. There is already curb and gutter in place.

Mr. Colman said I am assuming the current curb and gutter is probably not compliant with the typical standard.

Mr. Fletcher said I really do not know the answer to your question, but the sidewalk improvements will be done.

Mr. Colman said I would say that since they will have to replace it along their frontage with West Bruce Street it would be appropriate to continue it along West Bruce Street. I do not know what the requirement would be along Chesapeake Avenue.

Mr. Da'Mes said should we add a proffer to include new curb and gutter all along West Bruce Street?

Mr. Colman said yes, along with the sidewalk, we should add that the curb and gutter be brought up to standard; which is something that I would think Public Works would suggest. Since they are proffering this here tonight, I think it should be included.

Mr. Fletcher said you cannot require the inclusion of a proffer, the City cannot require a proffer.

Mrs. Turner said the sidewalk is not part of the proffers for the rezoning; is that correct Adam?

Mr. Fletcher said the sidewalk is part of a requirement for developing/redeveloping a site. The deviation that staff, and the applicant, is in favor of is the requirement of having the entire sidewalk constructed along their property. I do not know if curb and gutter can be an additional requirement. There has been a lot of give and take with Public Works and the applicant and they have come to a good solid consensus about a specified improvement along West Bruce Street.

Chair Fitzgerald asked Planning Commission if there was a preference as to whether one public hearing is done for all three items, or would you prefer three separate public hearings.

Planning Commission agreed to one public hearing for all items.

Chair Fitzgerald opened the public hearing for the rezoning, ordinance amendment, and special use permit and asked the applicant or the applicant's representative to speak.

Mr. Jim Monger said he is an owner in the property and with him is Charles Hendricks the architect for the project. We are available for any questions you may have.

Mr. Colman said you are proffering a sidewalk, so once it is proffered it is probably going to be built in the right-of-way.

Mr. Monger said this is not a proffer at all. The sidewalk is part of the Downtown Streetscape Plan that when anyone is improving or redeveloping their property they have to conform to the new standards that have been approved for the downtown sidewalks.

Mr. Colman said I am referring to the section beyond your property – that which continues to the railroad. You are not being required to do that, so if it is not proffered, who imposed that requirement?

Mr. Monger said I offered to continue the sidewalk to where the Ice House Project stopped their sidewalk. It will be abutting up to the concrete retaining wall along the railroad property.

Mr. Colman said my assumption is that sidewalk improvements will include new curb and gutter.

Mr. Hendricks replied that is a City requirement.

Mr. Colman said I just want to be certain that is what will happen with the sidewalk extension.

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

Mr. Heatwole said he is pleased to see that this historic building will be renovated.

Mr. Monger said we received the building permit to repair the roof this week. This will stop the water intrusion and the deterioration of the building. When we decided to do the project we hired Charles as our architect and now he would like to rent one of the offices upstairs when the project is complete. We are looking to put our window and door showroom on the first floor of this building; therefore, Charles can bring his clients downstairs to look at windows and doors and it is a “win-win” situation for all.

Mr. Heatwole said I missed the site tour yesterday, and perhaps this was reviewed then; but is the area to the south going to be for general storage.

Mr. Monger said the triangular piece is where we store a lot of our hardscapes and it is an area where stuff gets unloaded from one vehicle and loaded inside to onto another vehicle to be taken away. It is not usually long term storage at that location; but like any business, it comes and goes in cycles.

Mr. Da'Mes said this question may be more for Adam and staff. In the description you talk about continuity with other landmarks around it, and we know the value of this property being so close to B-1 and as time evolves there may be other possible uses for the site, what limitations are there as a B-1 Conditional property.

Mr. Fletcher said the warehousing is a special use permit that the applicant is asking for. When the property is rezoned to B-1, warehousing is not a use permitted by right; however, the applicant has the right to use the property for storage now because it is zoned M-1. The applicant is asking to create the warehousing and storage special use permit in the B-1 district as well as applying to rezone the property from M-1 to B-1.

If you, or anyone on Planning Commission, sees the need to put specific conditions on the warehousing special use permit, you do have the right to do so. You can recommend for any condition that is associated with the requested special use permit, City Council can accept or reject the condition. Staff's suggestion is to recommend approval with no conditions. We felt the proffers within the rezoning controlled the use of the site.

Mr. Monger said he would like to say that staff has been very good to work with throughout this process. They helped us figure out the avenue that we felt would be best to achieve our end goal; but they are also very “firm” on what they felt we needed to put into this application. There were many good conversations and compromises on both parts. Staff explained very well as to why they do not want a restaurant at this location right now; not that I want a restaurant there. It took a good month of exchanges and it work out very well. I felt staff was working for me as well as working for all the citizens of the City.

Chair Fitzgerald said you are not the first person who has said that during a public meeting regarding City staff. We certainly appreciate the input.

Mr. Way asked Mr. Da'Mes, about conditions on the special use permit and whether the special use permit should only be connected with that particular owner.

Mr. Da'Mes said I was just thinking about the future of the property. Obviously storage is what the need is today, but what is it tomorrow?

Mr. Monger said if someone took over the property and put a retail store in the front, they could have storage in the rear portion of that building for their B-1 retail. Is that correct?

Mr. Fletcher said the way the proffers are worded, if someone should want to use the building for retail they would have to come in and change the proffers because the way they are written only allows a retail component associated with your business. They could request an amendment and, if successful in doing so, then they could indeed use the rest of the building for storage in association with the retail business.

Mr. Fletcher asked Commissioner Da'Mes if his concern was with the component of warehousing and storage in the B-1 zoning district. Staff was very much concerned with that, but in considering the location, the adjacent uses, and the adjacent properties being zoned M-1, we are not in the center of downtown. If someone applied for a special use permit to have warehousing and storage in the center of downtown it is a whole different ballgame. It is circumstantial and site specific and we are looking at different things. In this particular case the proffer really solidified our concerns and of course if the applicant did not want to use it for storage anymore, than anyone who wanted to utilize it for storage could do so because the special use permit would be approved – they just could not do exterior storage.

Mr. Da'Mes said they could not change the use to something else either, perhaps more offices instead of warehouse?

Mr. Fletcher replied actually they could.

Mr. Da'Mes said oh, but they are proffering warehousing.

Mr. Fletcher said the applicant is not proffering anything associated with warehousing. All uses permitted by right within B-1 would be allowed, except with limitations on residential uses needing one parking space per bedroom; restaurants and personal service establishments would not be permitted; and the retail component would only be associated with RS Monger and Sons. Therefore, you could have offices.

Mr. Fletcher said there is the component that businesses will not locate there if they do not have enough parking. But you also do have to recognize that if it is going B-1, than the City is absorbing the demand for parking.

Mr. Da'Mes said thank you. But when you are talking B-1 and downtown there is a concern when you say warehousing. Is that an ideal use for the B-1 district?

Mr. Way said imagining a hypothetical situation where one of the empty store fronts downtown wants to do warehousing, are we going to get a lot of pressure from people saying that some use of a building is better than nothing. I think there may be some economic pressure to encourage that type of thing.

Chair Fitzgerald said then the question will be to planning staff, Planning Commission, and City Council and we will need to stand firm with the vision of downtown that we have expressed, so that we do not put warehousing in a storefront.

Mr. Way agreed that is where it comes to being site specific for each case. But I can see the economic pressure where some use is better than no use.

Chair Fitzgerald asked if there were any further questions. Hearing none, she asked if there was anyone else wanting to speak regarding the rezoning, amendment, or special use. Hearing none, she closed the public hearing and asked for discussion.

Mr. Way said am I just splitting hairs with the wording of the special use permit. What we are talking about here is effectively warehousing. Storage facilities are more like mini-storage and do we need to really worry about that? I am going back to the earlier discussion about what is this opening the door for.

Mr. Fletcher said other storage facilities, like mini-storage, would have to request a special use permit as well.

Mr. Way said could we not just say warehousing, because that is effectively what we are talking about tonight.

Mr. Fletcher said you could, but that is not what the applicant is requesting. So if you do not like the language that the applicants have provided, you would make a motion to deny the requested amendment. You could suggest that the language be different, but the applicants may not be interested in moving forward with that suggestion.

Mr. Way said would just calling this warehousing not cover what they are intending to do.

Mr. Fletcher said it would cover what they are trying to do, but it would not necessarily cover what they are trying to have the flexibility to do. This application was not written by staff. Their application was written by them and they took the language that mimics what is permitted within M-1. They could have simply put warehousing and not other storage facilities, but that is not on the table at this time.

Mr. Way said that is why I am wondering if I am splitting hairs about this.

Mr. Heatwole said is your question about the “storage” component?

Mr. Way said it just seems a bit open ended for me. In my mind “warehousing” implies a rather large building, like the one shown with this request, where you are keeping items. “Other storage facilities” brings about the idea of creating mini storage units and that does not seem to be a downtown type of use.

Chair Fitzgerald asked if the special use permit part of this is not enough control for this use. Warehousing and other storage facilities would only happen if it goes through staff, planning, and council.

Mr. Way said yes, but the special use permit is written to allow for the mini storage scenario.

Mr. Fletcher said it is application specific. If an applicant desires to build mini storage units on a property downtown in the B-1 district they would be applying for the special use permit. There are any number of ways it could be recommended for approval with conditions, or it could just be flat out recommended for denial.

Mr. Way said that is what I am saying; it would be harder to recommend denial when our special use permit allows for such.

Mr. Fletcher said if you want an absolute guarantee that it would never happen, then you would vote against the amendment and never have it in the language for special use permits.

Mr. Colman said the question is whether the special use permit allows for this particular applicant to put mini storage units at this location.

Mr. Fletcher replied it does not. The proffers with the rezoning say that the existing building must be maintained and left on site. Plus exterior storage can only occur on the space available; so mini

storage units could not be built. Much of the reason that staff is recommending approval for the special use permit is because of the limitation within the rezoning proffers.

Mr. Way said I have zero concern with this property and with this application. It is about how the special use permit could potentially be used in the future, and the kind of pressure that could be put on us and the downtown, for the use. I just want to make certain we are not missing something here that is opening the door to something we do not intend to happen.

Having said that I do not want to hold up this redevelopment; I think this is a wonderful project. I just want to make sure we clearly think about this. If Planning Commission feels there is enough on record as to what we are trying to do with this, than I am fine.

Mr. Monger stepped forward and said I am willing to take out the word facility; therefore, the amendment would read "...warehousing and other storage..." if that is more acceptable. If I can make that change now without having to go through more weeks of waiting to get on an agenda, I will do so.

Mr. Way asked if storage facility or warehousing were defined in the zoning ordinance.

Mr. Fletcher replied no, they are not.

Mrs. Turner asked Mr. Way, are you saying you would like for it to just read "warehousing facilities" because you think that would keep it from becoming mini storage units.

Mr. Way said yes.

Mrs. Turner said I think we (staff) consider mini storage to be warehousing. I do not think we consider mini storage to be an "other storage facility." I do not think we have ever had to draw that distinction, because the M-1 use, where you get mini storage, is worded like this. However, when we have discussed this in the office we have never said mini storage was something different.

Mr. Fletcher said it is not that staff ignored the things that you are talking about, we actually talked a great deal about this; but, we relied on the fact that it is a special use permit. If City officials think that it is okay in a certain area, then it will be approved.

Mrs. Turner said could we address your concerns by having a condition placed on the special use permit that limited only the rear portion of the subject building can be used for warehousing and other storage facilities. I do not know if some of your concern was that somebody could come in and take the front part of the building and turn it into climate control storage units.

Mr. Way said it was not so much with this particular case; it is just the future use in other places around the downtown. Perhaps I am being too persnickety about this.

Mr. Colman said I have a questions regarding parking. Are there any parking requirements associated with the warehousing and storage?

Mr. Fletcher said for this site the answer is no, there are not parking requirements. In general, yes there are parking requirements associated with warehousing and storage; it is associated with the number of employees on a maximum shift and any truck associated with the warehouse also requires a parking space. Therefore, it is dependent upon the facility.

Mr. Colman said why are we waiving the parking requirement for warehouses for this particular situation?

Mr. Fletcher said you are not waiving the requirement, the rezoning is to B-1 and it is not required.

Mr. Colman said but we are allowing B-1 to have warehousing space now by special use permit.

Mr. Fletcher said correct. When these things come up we look at the parking concerns for any use that wants to have anything like this in the B-1 district. Parking is always at the top when it is a rezoning to B-1. With special use permits, parking is always a concern.

Chair Fitzgerald said it becomes part of the conditions for a special use permit.

Mr. Fletcher replied absolutely, and you can recommend for conditions. I would not be surprised if in the future when something comes up for warehousing that we might have a suggested condition for parking in the special use permit.

Chair Fitzgerald said where are we right now with the wording of the ordinance to add warehousing and other storage facilities by special use in the B-1? Are we leaving it as it is written?

Mr. Way said if warehousing, storage, and storage facilities were defined as three different things, which they are not, then perhaps I would feel differently; but, I am comfortable with the amendment.

Chair Fitzgerald asked if there was any further discussion or perhaps a motion on the three items.

Mr. Way moved to recommend approval of all items as presented by staff. I think that these make a lot of sense at this location. When we think about what the limits of the B-1 district are and what are going to be the pressures for expanding the Urban Development Areas and Mixed Use Area, this area is within that quarter mile radius which is very important to think about where these mixed uses can be expanded.

Mr. Colman seconded the motion to recommend approval.

Mr. Fletcher said I just want to clarify the motion to recommend approval as presented for all four items: rezoning, ordinance amendment, special use permit, and variance from the Design and Construction Standards Manual.

Mr. Way said yes correct and I would like to put on the record my point of being very careful about where we approve these warehousing uses in the downtown area. I think with this one there is a compelling reason to approve, given how the area is used; but, turning something along Court Square into some type of warehouse or storage is not what we desire. Location should be very important with these special use permits.

Chair Fitzgerald called for a voice vote on the motion.

All voted in favor of the motion to recommend approval (6-0). Mr. Baugh returned to the room at this time 8:02 p.m.

### **Unfinished Business**

None.

### **Public Input**

None.

### **Report of secretary and committees**

Mrs. Banks said proactive enforcement visited Smithland Road area where three sign violations were discovered. At this time proactive zoning enforcement is on a hiatus as one of the inspectors

has left employment with the City. We hope to get things back on track once we hire for the open position.

Chair Fitzgerald said I appreciate very much the quick response to a phone call I made to the office to come and look at something in my neighborhood. A couple of people came and took photographs, and apparently the letter went out very quickly and the matter was addressed very speedily. I do not generally get to be the customer; but, thank you all.

Mr. Baugh said there was a rather full agenda from this body at City Council last night. There is one item that is tabled, but apparently that item did not actually come before this body.

Mr. Fletcher said it is a street closing that was decided to by-pass the process for Planning Commission due to the type of closing. It is associated with Grove Street and there were some exchanges that are occurring with the closing.

Mr. Baugh said otherwise, City Council recommended unanimous approval on everything from this body with one minor exception for the Major Day Home SUP. The additional condition of only a right turn onto Blue Ridge Drive from the property was removed. I did make a motion as presented from Planning Commission; however, it died for lack of a second. I think part of it was recognition that there is a general condition in the SUP that if there are any concerns, traffic or otherwise, it can be returned to City Council.

I do want to bring up one other matter. Plan Our Park, somewhat of an ad hoc committee, had its first meeting this week and among other things is deciding what to call the committee. But one of the things that came up out of the meeting was who was represented at the table and was everyone there that should be there. I did make a point that while we happen to have two Planning Commission members there at the meeting both were there in different capacities. Mr. Way as a citizen activist and myself as a member of City Council. I did ask that the group consider, and they agreed that there ought to be a member of Planning Commission on the committee as a participant. If anyone wants information taken back to the committee, I can do so; the assumption being that Planning Commission is covered for now.

Mr. Colman said do we need to appoint a member officially to the committee now.

Mr. Baugh said I do not believe it would hurt anything if you did so now.

There was a consensus that Mr. Way would be the Planning Commission committee member.

### **Other Matters**

Mr. Fletcher said there are no official other matters; however, this is Mrs. Turner's last meeting with us. I have already said that I do not want her to leave and I am very much going to miss her – both professionally and personally. She is an amazing boss to work for, she is a great leader, and she has been a wonderful teacher. I know there are times throughout our meetings that she has not said much, but I assure you that her influence is in the staff reports; things do not leave the office until she has given her okay. I am definitely going to miss her and I wish her the best.

Chair Fitzgerald said it is an amazing legacy; I think we counted eleven City Mayors throughout your time here. You have helped guide the City through a lot of the biggest controversies and a lot of triumphs; as well as the complete rebirth of the downtown. We are going to miss you.

Mrs. Turner said thank you all. I will miss working with you as well. ☺

Mr. Da'Mes said I was a JMU student in 1992 and I remember reading the article in the paper about you coming to the City. The reason I remember this is because I was taking a class with Mr. Sullivan, the Planning Director prior to your coming on board, and I remember thinking that they have hired this new, young, JMU graduate to take Mr. Sullivan's position. I was a public administration major and I was thinking this is something I can aspire to do. So whether you realize it or not you were inspirational to me.

Mrs. Turner said thanks you all have been very good to work with and I have always appreciated your consideration that you give to everything.

Mr. Colman said your legacy is helping the client really get to what they want in a way that benefits them and the City. That is very difficult to do. Your office is very, very helpful and I think it is your will and legacy of being here to help.

Mr. Way said I have always felt that we come to a lot of agreement in this Planning Commission and I think it is because we always got very good guidance and information from staff. I believe it is your input and guidance that has been very instrumental on that for all of us.

Dr. Dilts said last year we had a program at JMU for young women in leadership and when we were thinking about whom to bring in for them to look toward as mentors; it immediately came to my mind to ask Stacy to do that. That comes out of my respect for you.

At this time Planning Commission presented Mrs. Turner with a retirement gift.

**Adjournment**

Planning Commission adjourned at 8:20 p.m.

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Chair Deb Fitzgerald

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Secretary, Alison Banks