MINUTES OF HARRISONBURG PLANNING COMMISSION
November 11, 2015

The Harrisonburg Planning Commission held its regular meeting on Wednesday, November 11, 2015 at 7:00 p.m. in the City Council Chambers, 409 South Main Street.

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

Members absent: Judith Dilts and Jefferson Heatwole.

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

Chair Fitzgerald called the meeting to order and determined there was a quorum with five members in attendance. She then asked if there were any corrections, comments or a motion regarding the minutes from the October 2015 Planning Commission meeting.

Mr. Colman made a motion to approve the minutes as presented.

Mr. Da'Mes seconded the motion.

All members voted in favor of approving the October 2015 minutes as presented (5-0).

New Business

Special Use Permit – 685 East Wolfe Street (Section 10-3-91 (9) Zero Side Yard Setback)

Chair Fitzgerald read the request and asked staff to review.

Mr. Fletcher said the Comprehensive Plan designates this area as Professional. This designations states that these areas are for professional service oriented uses with consideration to the character of the area. These uses are found in the residential areas along major thoroughfares and adjacent to the Central Business District. Conversion of houses in these areas to office and professional service uses is permitted with appropriate attention to maintaining compatibility with adjacent residential areas in the same manner as described for Planned Business areas.

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

Site: Car wash, zoned B-2

North: Across East Wolfe Street, Beth El Cemetery, zoned R-2

East: Across Old Furnace Road, vehicle repair shop, zoned B-2

South: Vehicle repair shop, zoned B-2

West: Residential dwelling, zoned R-2

The applicants are requesting a special use permit (SUP) per Section 10-3-91 (9) of the Zoning Ordinance, which allows B-2 property owners the ability to request a zero side yard setback along adjoining properties zoned B-2 or M-1. The applicants hope to utilize the SUP to renovate the existing principle buildings, which are non-conforming to setback regulations, and to change the property's use to a vehicle repair shop, which is a use permitted by right.

The standard side yard setback in the B-2 district is 10 feet, unless the adjoining property is zoned residentially and then the setback increases to 30 feet. The subject property is located at the southwestern corner of the East Wolfe Street/Old Furnace Road intersection, where a car wash has operated for many years. In this particular case, the southern parcel boundary is the property line they are requesting the ability for a zero lot line setback, and in fact is the only internal line the

applied for SUP can be utilized because the western property line is considered the rear line and the adjacent western property is zoned R-2.

The site is improved with two principle structures and an accessory building, all three of which are non-conforming to setback regulations. With regard to the two principle buildings, the easternmost building does not meet the required 30-foot setback along East Wolfe Street nor does it meet the side yard setback along the southern boundary as the structure is about 20-feet from the front line along East Wolfe Street and one-foot from the southern side line. The westernmost building also does not meet the required setback along East Wolfe Street nor the southern side boundary as this building is just over 10 feet from the front line along East Wolfe Street and 0.7 feet from the southern lot line. The structures do, however, meet the required minimum setbacks from the front line along Old Furnace Road and the western rear boundary.

Improving the property by either renovating the existing principle buildings or demolishing all structures and constructing on a vacant lot would be challenging for anyone owning the subject property. This is because the property is a corner parcel, where 30-foot setbacks are required along both street frontages; it adjoins a residentially zoned property, which requires increased setbacks; the structures are non-conforming to setback regulations, where Section 10-3-20 (2) of the Zoning Ordinance prohibits the existing buildings from being extended, enlarged, reconstructed or structurally altered except in conformity with the Zoning Ordinance; and lastly, because the parcel is relatively narrow at just over 60-feet wide.

With regard to setback regulations, the Zoning Ordinance has existing, accommodating provisions that affords some relief to the required setbacks for corner parcels. Section 10-3-112 (2) states that "[c]orner lots shall provide a setback equal to the required front setback for all yards adjoining a public street; provided, however, that the setback regulations shall not reduce the buildable width of a lot to less than fifty (50) percent of lot width and measured at the point of required setback line." In applying this code section, at the required 30-foot setback from Old Furnace Road, the subject parcel is 60.38 feet wide and thus the parcel shall have a buildable width of 30.19 feet. After subtracting the required 10-foot setback along the side line, at first glance one would compute the setback off of East Wolfe Street to be 20.19 feet. However, because the front lot line along Old Furnace Road is a non-perpendicular line, when the setback line is extended the length of the lot and measured at a right angle, staff computes the setback distance at 19.92 feet, which happens to be more accommodating for the property owner. Once all setback regulations are applied, the 9,350-square foot parcel is limited to a buildable area of 2,864 square feet.

As described above, the applicants plan to change the use of the site from an operating car wash to an automotive repair shop. Their plan is to renovate the existing principle structures and to connect the two buildings by constructing an addition between the two buildings, where the end result would be one structure. However, because the buildings are non-conforming to setback regulations, renovations to the buildings can only occur on the portions of the structures that fall within the buildable area. After discussing different options over several months with the applicants, the option of applying for the requested SUP appeared to be the most useful for their plans because if approved, larger portions of the buildings could be improved.

If the SUP is approved, improvements to the principle buildings could be made entirely to the southern side of the buildings, and as is planned by the applicants, they could connect the buildings with an addition between the structures in line with the existing southern walls. The northern side of both existing buildings, however, would still be in question as to where and how much of the

buildings can be renovated. As noted above, staff believes the required setback along East Wolfe Street is 19.92 feet; it is clear that the existing westernmost building will not be able to be completely renovated as this building is located just over 10 feet from the front property line along East Wolfe Street. This means any portion of the building that encroaches the minimum required setback cannot be extended, enlarged, reconstructed or structurally altered. The current location of the easternmost building might however fit just within the buildable area of the site. The physical survey of the property scales this structure at 20 feet or just less than 20 feet from the front lot line. If approved, when the applicants submit their building permit application, their submission must include an exact surveyed measurement of the easternmost building from the front property line along East Wolfe Street. The surveyor should also confirm what staff believes would be the required setback along East Wolfe Street. In addition, the building permit application must demonstrate where the setback is located within the westernmost building so staff and the property owners understand where improvements are permitted to occur.

During this application's review, the Fire Department noted that generally speaking they are opposed to zero yard setbacks due to the associated fire spread danger when buildings are constructed so close together and the difficulty that occurs in fighting the fire. However, in understanding the applicants' plan to renovate the existing principle buildings and to add an addition to connect the two buildings, they consented to the idea, but only if the permit was granted to the stated plan of development.

As noted by the Zoning Ordinance's review standards for SUPs, Section 10-3-125 states, among other things, that "[t]he proposed use shall be consistent with good zoning practice and will have no more adverse effect on the health, safety or comfort of persons living or working in the area and will be no more injurious, economically or otherwise, to property or improvements in the surrounding area than would any use generally permitted in the district." In this particular case, staff does not believe the proposed use would have an adverse effect on the health, safety or comfort of persons living or working in the area nor be injurious to property or improvements in the surrounding area. The subject site's principle buildings have been established for several years at one foot and less than a foot from the adjacent property; approving the SUP does not change the general characteristics of how the site has been improved. Furthermore, the adjacent property—the property most impacted by the SUP—is also improved with a principle building that is non-conforming to setback regulations and at its closest point is likely less than one foot from the shared property boundary.

Staff is recommending approval of the SUP, but only with the following condition:

- The special use permit shall only be applicable for the renovation of the existing principle buildings, where the zero side yard setback shall be applied along the location of those buildings and in the space between the buildings so that the two buildings may be connected to create one structure.

The above condition means that a zero side yard setback shall not be applied for any new building to the west of the westernmost principle building or the east of the easternmost principle building. Further, if the existing principle buildings are substantially demolished, where for all intents and purposes the site is being redeveloped, the standard side yard setback must be applied.

If the SUP is approved, at the time of building permit review, the applicants must still ensure the site can accommodate the required minimum off-street parking spaces. Given that the site is paved to the northeastern corner at the intersection of the public streets, staff is concerned that parked

vehicles at this corner could block sight distance for vehicles stopped on East Wolfe Street. Staff recommends the property owner devise a parking layout to prevent this situation. Furthermore, it would be advantageous to the public if parking spaces were located at least five feet off of the back of curb along East Wolfe Street to provide a clear pedestrian pathway along the public street.

As noted above, vehicle repair shops are permitted by right in the B-2 district per Section 10-3-90 (7). Specifically within this section it states that "all activities and storage of inoperable vehicles must be completely enclosed within a permitted structure." These provisions are stricter than those specifying how vehicle repair shops shall operate in the M-1, General Industrial District, where the Zoning Ordinance states that "[a]ny outside storage or repair shall be located within a designated area and screened." Since the planned use of the site is to convert the car wash, which has pipes draining to the sanitary sewer system, to a vehicle repair shop, the site must comply with all applicable City Codes and Building Codes pertaining to grit chambers and oil/water separators. Lastly, the applicant must understand that building in close proximity to property lines triggers restrictive Building Code requirements that can lead to significant construction costs.

Staff recommends approving the SUP to allow a zero side yard setback along the southern property line with the condition as noted above that it shall only be applicable for the renovation of the existing principle buildings, where the zero side yard setback shall be applied along the location of those buildings and in the space between the buildings so that the two buildings may be connected to create one structure.

Chair Fitzgerald asked if there were any questions for staff at this point.

Mr. Way asked staff to review the allowable setbacks on the subject parcel again.

Mr. Fletcher said that is one of the most difficult things to understand when looking at this layout. It is a corner parcel and must have 30-foot setbacks from both streets. In this particular case the required 30-foot setback goes way deep into the parcel. Corner parcels are also guaranteed to have a 50 percent buildable width. The way we find out what the 50 percent would be is to determine what the width of the property is; in this case the width of the property is 60.38 feet wide. Fifty percent of that is 30.19 feet. The southern setback for this property is required to be ten feet – subtract that from 30.19 feet and that leaves you a 20.19 feet setback from Wolfe Street. But because these lines are not perpendicular, when you extend the line the length of the lot it works to the applicants favor; they get additional tenths of inches of buildable area. We are fairly comfortable with those numbers, but it is ultimately the responsibility of the applicant to prove these distances.

Mr. Way asked can you get closer with the western building.

Mr. Fletcher replied renovations can occur, but it cannot be structurally altered. Most of the improvements they were planning to do were structural alterations; they basically want to raise the roof so that they can get a lift system in the building for automotive repair. We have been talking with the applicants for several months now and they have actually had a meeting with some of the City's building inspectors at the site.

Mr. Da'Mes said I have a concern about the sight distance at the corner when vehicles are on East Wolfe Street. Are we asking the applicants voluntarily to ensure that the parking is not blocking the sight distance?

Mr. Fletcher said you cannot impede site distance. We are just giving them a "heads-up" that they should be devising a layout such that sight distance is not impeded.

Mr. Da'Mes questioned who would approve something like that.

Mr. Fletcher said they will confirm it through us. When they apply for their building permits, they will have to verify that they have met the parking requirements. If we see a space that is in an area we feel impedes the sight distance, we will have it checked with our City Engineer or City Surveyor.

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

The applicant's son, Ray, spoke on behalf of the applicant who had a prior meeting to attend and could not be here tonight. I would like to thank you for hearing this request. We do not have any issue with the setback regulations from Wolfe Street and Old Furnace Road; however, we would like to be able to construct closer to the southern property boundary. If we cannot be closer, then we will not be able to go in at this location. We appreciate being here this evening.

Chair Fitzgerald asked if there was anyone else wanting to speak in favor of this request. Hearing none, she asked if there was anyone who would like to speak against this special use permit request.

Mr. Roger Hansbrough, 684 East Wolfe Street said he has been employed at Hilltop Car Wash (the adjacent property to the south) for the last five years as a caretaker and maintenance person. My question is in regards to my property across the street, and is this going to affect my property value when I go to sell my property.

Chair Fitzgerald said I do not know if any of us here tonight could answer whether it would affect your property value or not.

Mr. Baugh said it does not jump out as an entirely different thing from what you have there now. If anything, they are making an investment in and improving the property. There is no way to really answer your question; but, there is nothing that necessarily jumps out as a red flag. It is not like it is a vacant lot now. Generally speaking when people make investments in your adjoining property that tends to help your property value rather than hurt it.

Mr. Bob Jefferson said I have leased the property to the south for the last twenty years or so. I am here speaking for Dave and Jeannie Coiner, the adjacent property owners, and they would really like to have this meeting postponed.

At this time I am going to speak on their behalf as well as for myself. I was there when the property was surveyed and the carwash property is actually about six inches in on the Hillcrest property; not the other way around. A main concern is that the electric service lines for Hillcrest go across this property right where they want to put a building. What happens if we need to get to the back of the building for maintenance, or if there is a fire, it will be almost impossible to get to? All the utilities to Hillcrest come in through the back of the building across this lot. Also, in order to build a wall and dig footer, you would have to actually impede over onto the Hillcrest property. These are the concerns that we have.

Mr. Colman asked is there an easement in place for those utilities to come across this property onto the Hillcrest property.

Mr. Jefferson said the utility comes off of a transformer that is on the HEC pole along East Wolfe Street.

Mr. Colman asked whether it is an aerial line.

Mr. Jefferson said yes. You can see in the photo from the presentation that the line comes into the rear of the Hillcrest building.

Mr. Colman said anyone who purchases this property could ask that the line not come across the lot.

Mr. Jefferson said I have spoken to some of the other neighbors in the general area and they have a concern regarding traffic. If you are putting a high volume commercial building in at this location, I do not think East Wolfe Street could handle the traffic. The car wash has been somewhat of a moderate buffer between heavy commercial and neighborhood. The building is not going to have any parking area at all. I do not know if they can meet the amount of parking for the square footage of the building.

Mr. Colman said these are things that will be reviewed through the building permit process when the applicant gets to that point. They will have to comply with all regulations. There are many more steps that must be taken before it becomes a reality.

Mr. Jefferson said the owners just wanted me to come and voice concerns. Will they have the opportunity to come and speak at a later date?

Chair Fitzgerald said this will move forward to City Council on December 8th for a public hearing and will be decided if it is approved or not.

Mr. Way said this brings up questions I have for the owners. Do you have an idea if this is going to lead to more traffic than the current car wash?

Saber Khoshnaw, the applicant, said I feel the car wash probably has more traffic daily than a mechanic shop. A shop may have only five to ten customers a day, where a car wash could have much more.

I am planning to do a lot of changes to the building to make it a better building. The existing buildings are ugly and I plan to make a nice building that looks good.

Mr. Da'Mes asked how many garages will there be.

Mr. Khoshnaw said there will be two in the front and one in the side, for three garage bays. But often you have a vehicle that stays in the bay for multiple days. There is not heavy traffic, nothing like a carwash.

Mr. Way asked do you understand what we are hearing here tonight – the concerns about the immediate neighboring property and the structure as far as access to the existing building for maintenance. Can you work things out with the neighbor to the south as far as access?

Mr. Khoshnaw said yes of course.

Chair Fitzgerald asked if there were any further questions. Hearing none, she asked if there was anyone else wishing to speak regarding the request. Hearing none, she closed the public hearing and asked for a motion or further discussion.

Mr. Colman asked if there were any comments from HEC regarding the service line.

Mr. Fletcher replied no, they receive a packet every month just like all the other departments, and they had no comments regarding this request.

Chair Fitzgerald said there does sound like there is some concern regarding the exact location of the property line.

Mr. Fletcher replied a surveyor is always the final say and they can always be challenged in court. The survey we have was done this summer and it is what we have to go on at this time. All of the other issues, such as parking, will be worked out at the time of building permit application. If parking cannot be met on the site, they may have to make a smaller building. The electrical issue will have to be figured out at that time as well.

Mr. Da'Mes said in the B-1 zoning district, where there is a zero set back, these type issues are routinely addressed.

Chair Fitzgerald said again, these are issues that are taken care of in the next phase after the special use permit.

Mr. Colman made a motion to recommend approval of the request as presented by staff with the condition.

Mr. Way seconded the motion.

Hearing no further discussion, Chair Fitzgerald called for a voice vote on the request.

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

Chair Fitzgerald said this request will go forward to City Council on December 8th with a favorable recommendation.

Special Use Permit – 73 Rex Road (Section 10-3-40 (6) MFDH)

Chair Fitzgerald read the request and asked staff for a 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:	Duplex dwelling, zoned R-2
North:	Across Rex Road, single-family dwellings and duplex dwellings, zoned R-2
East:	Duplex dwellings, zoned R-2
South:	Duplex dwellings and single-family dwellings, zoned R-2
West:	Across Lynne Place, single-family dwellings, zoned R-2

The applicant is requesting a special use permit per Section 10-3-40 (6) of the Zoning Ordinance to allow a "major family day home" (MFDH) within the R-2, Residential District. MFDHs are defined in the Zoning Ordinance as: *A child day care program offered in the residence of the provider or the home of any of the children in care for five (5) through twelve (12) children under the age of*

thirteen (13), exclusive of any children who reside in the home, when at least one (1) child receives care for compensation. The property is located on the southeast corner of Rex Road and Lynne Place, within the Willow Hills Subdivision.

The applicant currently provides care for four (4) full time children in the home, and is working with the Virginia Department of Social Services (VDSS) to become licensed as a MFDH provider in order to expand the enrollment. The VDSS application is for the maximum number of children, which is twelve (12); however, the applicant states it is likely only five to eight children would be provided care at any one time.

The facility is described as a clean, organized environment for children with an indoor activity area, large outdoor activity area, and a designated sleeping area. Off-street parking is available for drop-off and pick-up of children within the sizeable driveway on site. Hours of operation are 7:00 am until 5:00 pm with a staggered drop-off/pick-up schedule provided between 7:00 – 9:00 am and 4:30 – 5:00 pm, respectively. The size of the facility and the hours of operation are not conditions of the SUP and may change at times.

As previously detailed, the property is on the corner of Rex Road and Lynne Place, where there is a "STOP" sign for traffic entering Rex Road from Lynne Place. City Code Section 13-1-72 states "on street parking is not permitted within 30-feet of a "STOP" sign. Consequently, as discussed with the applicant, vehicles would not be allowed to park in front of the subject property, along Lynne Place between the "STOP" sign and the driveway entrance.

Staff does not foresee any negative impact in approving this application. Staff supports approval of the requested special use permit.

Chair Fitzgerald said on our tour yesterday we were able to see picking up of some of the children. Are there any questions for staff?

Mr. Way asked how busy are the streets in the neighborhood?

Mrs. Banks replied currently Rex Road is not a through street; it is a cul-de-sac neighborhood street. The traffic yesterday at five o'clock was basically a busy time.

Mr. Fletcher said Lynne Place is an internal neighborhood street; you have to enter a separate neighborhood street in order to get to any type of a collector street.

Mr. Baugh added there is a potential for development at the end of Rex Road. There is the idea of Central Avenue coming across Pleasant Hill Road into the neighborhood. If that was ever to develop, there would be two access points for Rex Road; probably would not increase traffic into the neighborhood. But historically, this is a quiet neighborhood.

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

Donna Budzius, 73 Rex Road, said she is the applicant and thanked everyone for taking this into consideration tonight. There is one little correction I would like to make – the day actually begins at 7:30 a.m. Sometimes a parent will ask me to start a little early, which is not a problem; but, generally the day is 7:30 a.m. to 5:00 p.m.

Chair Fitzgerald asked if there were any questions for the applicant. Hearing none, she asked if there was anyone wishing to speak in favor of the request. Hearing none, she asked if there was anyone wishing to speak in general to the request.

Mrs. Banks said she received a letter this evening and would like to read it into the minutes.

To Whom It May Concern:

We are writing in regards to the public hearing for Donna Budzius regarding a special use permit to allow for a Major Family Day Home at her residence, 73 Rex Road. Unfortunately, we are not able to attend the hearing, so we are writing this letter in support of her request.

We have lived across the street from Donna for over 10 years. For the majority of the time we have been neighbors, she has cared for children out of her home. This has in no way been a disturbance to our neighborhood. She is a kind and thoughtful neighbor. Several years ago, Donna cared for the children of one our friends, and our friend's family had a very positive child care experience with Donna and highly recommended her.

We strongly support Donna Budzius and her request to obtain a special use permit for a Major Family Day Home. She provides a much needed service in our community, and we think that by allowing her to have the permit, and continue to provide child care, it would only positively affect our neighborhood.

Please feel free to contact us regarding this matter if you have any questions or concerns.

Sincerely,

Ry and Jeanine Wilson
82 Rex Road
Harrisonburg, VA 22801
540-214-8237
jeaninemwilson@gmail.com

Chair Fitzgerald asked if there was anything else. Hearing nothing, she closed the public hearing and asked for discussion or a motion on the request.

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

Mr. Colman seconded the motion.

Chair Fitzgerald called for a voice vote.

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

Chair Fitzgerald said this request will go forward to City Council on December 8th with a favorable recommendation.

Rezoning – 707 North Main Street (R-2 to M-1)

Chair Fitzgerald read the request and asked staff to review.

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

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

Site: Non-conforming residential dwelling, zoned M-1

North: Rooming/Boarding house, commercial uses, and non-conforming residential dwellings, zoned M-1

East: Across North Main Street, commercial uses and non-conforming residential dwellings, zoned M-1

South: Vehicle sales lot, zoned M-1

West: Non-conforming residential dwellings, zoned M-1

The applicant is requesting to rezone a 7,461 +/- square foot parcel from R-2, Residential District to M-1, General Industrial District. If approved, the applicant desires to expand his existing vehicle sales use, which is located on the adjacent property to the south at 705 North Main Street, by constructing an automotive repair garage and office on a portion of the rezoned parcel. The non-conforming dwelling that is currently on the property would remain; however, it would no longer be occupied residentially and would be used as storage for the vehicle sales/repair use.

The parcel is located along the western side of North Main Street, approximately 60-feet north of the intersection of Washington and North Main Streets. Interestingly, the parcel was once zoned M-1. In April 2002, the subject property, along with the adjacent parcel to the north at 715 North Main Street were rezoned from M-1 to R-2, in order to alleviate non-conforming issues and allow the existing single-family homes to be renovated. Staff and Planning Commission recommended against the 2002 rezoning, citing possible conflicts with the existing adjacent commercial uses and the fact that it was not supported by the Comprehensive Plan. City Council unanimously approved the rezoning request.

Subsequently, the adjacent parcel (715 North Main Street) was purchased by Harrisonburg Redevelopment and Housing Authority and rezoned back to M-1 with proffers, so as to apply for special use permits to allow religious, educational, charitable, and benevolent institutional uses, a rooming/boarding house, and a reduction in parking. Staff and Planning Commission supported this request citing the rezoning was more in-line with the future plans for this section of North Main Street.

The parcel under review is a small, narrow lot, approximately 30’ X 250’ and lies completely within the flood plain, with a portion of it in the floodway; thus placing constraints on the redevelopment of the site. If successfully rezoned, the applicant plans to vacate the property line between the subject parcel and his adjacent property at 705 North Main Street, in order to construct a two or three bay automotive repair garage with associated offices.

At the time of subdivision, to meet the requirements of the Subdivision Ordinance, the property owner would need to dedicate right-of-way (ROW) along the frontage of both the subject parcel requested for rezoning, as well as along the adjacent parcel to the south. As identified within the Master Transportation Plan, North Main Street, from Noll Drive to Charles Street, is planned to be improved by removing on-street parking, creating a center turn lane, and providing better pedestrian and bicycle improvements. The applicant has been informed he would need to hire a surveyor to work with City staff in order to establish the exact amount of required property dedication to provide the needed street improvements as stated above. The ROW dedication can be shown on the same subdivision plat that illustrates the property line vacation. It should be further understood that once the dedication of ROW occurs, the existing structure on the subject parcel could become non-conforming to front yard setback requirements.

The Comprehensive Plan designates this property as Commercial. This designation means that the property is planned for uses such as retail, office, wholesale, or service functions. These areas are generally found along the City's major travel corridors and in the Central Business District. The applicant's intended use of automotive sales and repair is a use that is permitted within both, the B-2, General Business and the M-1, General Industrial Districts; however, in the B-2 district, all vehicle repair and storage must be located within a permitted structure, whereas the M-1 district allows vehicle repair and storage to be located outside of buildings, but shall be within a designated area and screened. The applicant's existing automotive sales lot is directly adjacent to the subject parcel and is already zoned M-1, as well, all the surrounding properties along North Main Street are zoned M-1; thus the logical request for the applicant was to rezone back to the M-1 zoning.

In addition, the subject parcel lies within one of the Comprehensive Plan's designated Corridor Enhancement Areas; therefore, items such as land use; vehicle, pedestrian, and bicycle circulation; access management; development, redevelopment, and reuse opportunities; conservation of special features; and signage should be considered. Staff has discussed with the applicant the need to be mindful of items such as signage, street access, and storage of materials for the subject property as well as his larger operation.

As previously noted the parcel lies completely within the floodplain. City staff has had numerous conversations with the applicant regarding the requirements of constructing within the floodplain and the applicant is aware that all floodplain regulations must be complied with.

Although staff would much rather the area along this portion of North Main Street be rezoned to the B-2 district, we understand the constraints of rezoning this one narrow parcel to fit with the existing uses. Staff believes returning the property to the M-1 zoning district is better than maintaining the existing R-2 residential zoning for the long term goals of this section of the City. Staff recommends in favor of the requested rezoning.

Chair Fitzgerald asked if there were questions for staff.

Mr. Way asked if there has been any interest from property owners in the area to rezone from M-1 to B-2.

Mrs. Banks said she has not spoken with anyone in the immediate area, other than the applicant.

Mr. Fletcher said the applicant has had this plan in mind for several years now. We had discussed with him the idea of considering B-2. For him it did not make sense; he could do what he desires in M-1 and only have to rezone one parcel.

Mr. Way said I am more interested in properties within the general area.

Mr. Fletcher replied just casual conversation, but nothing serious.

Mr. Way asked if there were any proffers with the request.

Mrs. Banks replied that there were no proffers with this request. This is a very constricted lot; it is narrow and covered by flood plain. Also, may I add that the applicant is aware that if the property is rezoned to M-1, the use of the property as residential is no longer permitted; he would use the structure for storage of materials associated with his business.

Mr. Baugh said the nature of this area is older and it is somewhat of a hodge-podge of uses. A lot of the actual uses in the area are probably more of an industrial nature, than commercial. It has not

really been a hot spot for a lot of proactively rezoning as long as the owners can continue using the property as they are. I think it will eventually get there, but for now I think it makes sense.

Chair Fitzgerald asked if there was anything else before we open the public hearing. Hearing none, she opened the public hearing and asked the applicant, or the applicant's representative to speak.

Mr. Edwin Joya, 707 North Main Street, said he has nothing further to add, but would be happy to answer any questions.

Hearing none, Chair Fitzgerald asked if there was anyone else wishing to speak regarding the rezoning request in general. Hearing none, she closed the public hearing and asked for discussion or a motion on the request.

Mr. Da'Mes made a motion to recommend approval of the request as presented.

Mr. Colman seconded the motion.

Chair Fitzgerald called for a voice vote on the motion.

All voted in favor of the request to rezone (5-0).

Chair Fitzgerald said this request will go forward to City Council on December 8th with a favorable recommendation.

Rezoning – 137 West Water Street (M-1 to B-1C)

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

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

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

<u>Site:</u> Non-conforming single family structure, zoned M-1

<u>North:</u> Across West Water Street, Rosetta Stone offices, zoned B-1

<u>East:</u> Across Norfolk Southern Railroad tracks, retail uses and other Rosetta Stone offices, zoned B-1

<u>South:</u> Ice House parking lot, zoned B-1C

<u>West:</u> Ice House parking lot, zoned B-1C

The applicant is requesting to rezone a small parcel containing 2,460 +/- square feet from M-1, General Industrial District to B-1C, Central Business District Conditional. The property is located at 137 West Water Street, which is adjacent to the southwest of the wooden bridge over the Norfolk Southern Railroad tracks. The property has been used residentially for many years and includes a non-conforming single family structure. The building also is non-conforming to setback regulations as the structure does not meet minimum setback requirements. Per staff's research, the building appears to have been built sometime between 1907 and 1912 as the structure is not shown on the 1907 Sanborn map but then appears on the 1912 Sanborn map, where it is described as a cigar factory.

The applicant acquired the property in April 2015 and believes the prior owners had used the building as a duplex. There are only a few building permits on record for this property; a 1972 permit was issued to convert the basement to an apartment for the property owner's in-laws. Aside from that building permit, there is no documentation to confirm the property was used continuously since 1972 as a two unit dwelling to maintain its non-conformity. Although not always an indication of two units, the site does not have two addresses nor does it have two water meters or two electrical meters.

The applicant would like to rezone the property to B-1 because the Central Business District allows residential uses by right and has no minimum setback regulations; therefore, successfully rezoning the lot to B-1 would bring the use and the structure into zoning compliance. The applicant plans to renovate the existing residential structure by creating two, one-bedroom units—one on the first floor and one on the bottom/basement floor. At the end of October, the applicant was issued a building permit to begin renovating the structure. The work on that permit includes improvements that are permitted, whether the rezoning is approved or not.

Although the property is quite small, and the applicant has already been issued a building permit to begin renovations to use the property residentially, if the property is rezoned to the B-1 district, there are no guarantees about future uses or residential occupancies of the property. By right, any residential unit could have up to 4 occupants in the B-1 zoning district. As is always emphasized by staff, because there are no minimum parking requirements in the B-1 district, if the City approves any B-1 rezoning request, the City is also accepting the responsibility of the parking demand such properties place on the City's downtown area. In this particular case, the property's uses could change over time from the current intended use to something more parking intensive.

Staff understands that historically this site has been occupied by individuals that often times did not have a vehicle or may have only had one vehicle. Prior to the adjacent property developing into a large parking lot, there was a small parking area to the rear of the subject property's residential structure, and there was access to the public street. Since the construction of the parking lot, there no longer remains vehicular access to the rear of the property to provide off-street on-site parking.

In understanding staff's concerns, the applicant submitted the following proffer:

- The subject property shall be permitted to utilize all abilities granted by the B-1 zoning district, except that residential use of the existing single family structure shall be limited to two, one-bedroom units, where occupancy shall be restricted to a family or not more than two (2) persons.

The submitted proffer resolves staff's typical concerns regarding off-street parking for B-1 properties. Although parking details were not proffered, limiting the residential use of the existing

structure essentially maintains its likely historical use while limiting the occupancy of each unit. Also, in this particular case, the adjoining parking lot is owned by the applicant and he has explained that any tenant of either unit would have the ability, if necessary, to lease parking spaces within the Ice House parking lot. Furthermore, given the small size of the property, redeveloping the subject property would likely mean redeveloping the larger block, which includes the Ice House parking lot. The Ice House parking lot parcel is zoned B-1C, where the only regulating proffer states that "all uses shall comply with requirements of Article G Off-Street Parking except that residential dwelling units shall provide one parking space per dwelling unit."

The West Water Street wooden bridge over the railroad, which is adjacent to the northeast of the subject property, is planned for reconstruction, which would likely necessitate some type of improvements across the subject properties street frontage. At this time, staff is uncertain of the exact timeline of when the improvements would be made. Rezoning the property does not require public street right-of-way dedication. However, the applicant should understand if the subject property is redeveloped (i.e. the existing structure is demolished, the use of the property is substantially changed, etc.), prior to improvements being made to the bridge, the property owner would be required to dedicate a portion of the property's street frontage to the City for the bridge and street's reconstruction and improvements.

Although unrelated to the rezoning request, the Department of Public Utilities noted that the existing residential structure utilizes a private sanitary sewer lateral connection across the adjoining property to the west (the Ice House parking lot parcel). During the development of the adjoining property in 2014, the City requested that a private sewer easement be provided to the parcel at 137 West Water Street. Staff is unaware if the private easement was established. Without the private easement, there is no legal sewer service connection to 137 West Water Street. If the easement does not exist, staff recommends the required private sewer lateral easement be recorded as soon as possible.

With regard to the Comprehensive Plan, rezoning the property to B-1C conforms with the Land Use Guide as the property is designated Mixed-Use Development Areas. The property falls within a quarter-mile radius of Court Square proving the property's ability to being walkable to the many services offered downtown. Furthermore, the property is identified within the Plan's Downtown Revitalization Area and 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.

With the submitted proffer, staff supports rezoning the property from M-1 to B-1C.

Chair Fitzgerald asked if there were any questions for staff.

Mr. Colman said the proffer applies with the existing structure. If they were to modify the structure would it no longer apply?

Mr. Fletcher said it applies to the existing structure.

Mr. Colman said if they were to expand the existing structure would it apply.

Mr. Fletcher said if the applicant redevelops this site it triggers things that are not covered within this staff report. Right-of-way dedication would be required, which would restrict the lot even more. There are issues that would potentially make this lot a little harder to be redeveloped as it is.

Mr. Baugh said when I read through this I feel we have the residential uses covered by the proffer. It is the theory that there could be some type of commercial use on that tiny little spot that is very intensive and therefore generate a lot of traffic. But again, it is right next to a big parking lot and the applicant owns both.

Chair Fitzgerald asked if there were any further questions. Hearing none, she opened the public hearing and asked the applicant, or the applicant's representative to speak. Hearing none, she asked if there was anyone desiring to speak regarding this rezoning request. Hearing none, she closed the public hearing and asked for a motion.

Mr. Colman made a motion to recommend approval of the rezoning as presented with the proffer.

Mr. Way seconded the motion. I think this is a very good rezoning within the downtown area.

Chair Fitzgerald called for a voice vote on the motion.

All voted in favor of the request to rezone (5-0).

Chair Fitzgerald said this request will go forward to City Council on December 8th with a favorable recommendation.

Unfinished Business

None.

Public Input

None.

Report of secretary and committees

Mr. Fletcher said proactive zoning is still on hiatus because we are still one person down within our division. We have another interview this week and hopefully, we are coming to the end and will have a new employee before the end of the year.

Mr. Baugh said City Council took up two matters from this body last night and approved both unanimously. The off street parking ordinance amendment generated a lot of positive comments from City Council in terms of the proactive approach from staff and Planning Commission. The SUP amendment for the MFDH on Windsor Drive was approved. When it came up at Council last year it passed on a 3-2 vote; this time it was 5-0.

Mr. Way said Plan Our Park met two weeks ago and the main discussion was centered more on the fundraising aspects.

Other Matters

Mr. Baugh said he wanted to point out some of the things that have come up recently regarding the Harrison House Project. Within the Comprehensive Plan, Strategy 7.4.2, talks about adopting a policy for City owned historic properties; which is not a policy at this time and is not something that has been acted upon. It has, however, been something that has been brought to Council's attention of late. In talking with Mr. Fletcher about this, the sentiment has been that we will probably get action more quickly if we just understand that this is a discussion we would move to the front of the line for the Comprehensive Plan review process as opposed to officially trying to get it in line now for a conversation.

I am just mentioning this, I am not asking for any action at this point, other than maybe to just point it out to you. If I am around during the next Comprehensive Plan review, I will probably be advocating to try and do something along those lines or at least flush out what we mean by that strategy.

Similarly, and I have not discussed this with anyone, is a somewhat broader topic within the Comprehensive Plan. We have a number of things about Environmental type matters under Goal 8, which is somewhat a similar category. We have strategies that talk about policies or monitoring, but we have not made these things priorities. I think it is safe to say that if we are not proactive about it that is fine, but we will probably begin to hear more about these goals when we get to the public input portion of the Comprehensive Plan review. Perhaps these should be things that are moved to the front of the line as far as working on these issues.

Chair Fitzgerald said I can also mention that I forwarded an email around regarding a possible 2232 hearing for Harrison Hall, if and when a plan went forward with it. I had a conversation with the City Attorney and he agreed that it would be appropriate when the time came and the plan was put in place. But right now, all of that is on hold.

Chair Fitzgerald asked what the December agenda was looking like.

Mr. Fletcher said there is a public utilities request for a property on Blackberry Lane, off of Mt. Clinton Pike; an ordinance amendment for the R-7 district to increase the density from 12 to 15 units per acre; lastly there could be the proposed Spotswood Country Club Comprehensive Plan Amendment and Rezoning, which we have given them an extension to submit. Also, there is the Wireless Telecommunications Facilities request that was tabled on tonight's agenda. I have marked further discussion on the chicken ordinance as well as a discussion with the school board on the overcrowding at the High School. We will have a busy month, and we continue to be down folks within our Department, but we will move forward.

Adjournment

Planning Commission adjourned at 8:20 p.m.

Chair Deb Fitzgerald	Secretary, Alison Banks