



City of Harrisonburg

Department of Planning and Community Development

409 South Main Street
Harrisonburg, Virginia 22801
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www.harrisonburgva.gov/community-development

Memorandum

To: Harrisonburg Planning Commission
From: Adam Fletcher, City Planner
RE: May 13, 2015 Regular Meeting
Date: Thursday, May 7, 2015

There was one item of New Business planned for next week's regular meeting, but the applicant has tabled the request, and thus there is no New Business needing action by Planning Commission.

Included within the packet, however, to be discussed under Unfinished Business, are all of the revisions staff is suggesting be incorporated into the proposed wireless telecommunications ordinance. As was discussed at the February 11th regular meeting, staff sent the proposed regulations to other City departments and industry representatives for their feedback on the planned changes to the Zoning Ordinance. After receiving feedback, and in further scrutinizing the proposed regulations ourselves, staff believes the proposed regulations included herein are ready to move forward for official review for adoption. At next week's meeting, we can discuss all of the suggested changes, and if at the end of the meeting Planning Commission is satisfied, we will place the proposed wireless telecommunications ordinance and related ordinance amendments on the June 10th Planning Commission agenda and advertise the ordinance amendments accordingly.

For ease of review, we have provided two versions of the proposed wireless telecommunications ordinance. The first version is a "redlined" document for you to be able to see what we have proposed be changed since you last reviewed the information in February. The second version is the "final proposed draft" with the suggested changes.

With no New Business items to review, there is no tour next week. If you have any questions prior to next week's meeting, please let us know. See you next week.



City of Harrisonburg, Virginia

Planning Commission Meeting

May 13, 2015

7:00 p.m.

Regular Meeting
409 South Main Street

- 1) **Call to order, roll call, determination of quorum, and review/approval of minutes from the April 8, 2015 regular meeting.**
- 2) **New Business**
Preliminary Plat – Ramblewood Subdivision
Consider a request from John Daly to preliminarily subdivide a 12.5 +/- acre parcel into seven lots (six new single family home lots and the remaining for a park). The request includes the preliminary dedication of a public street and easement for a utility easement and to deviate from the requirements of Sections 10-2-41 (a), (b) and (c) of the Subdivision Ordinance. The property is zoned R-1, Single Family Residential District, has almost 400 feet of road frontage along Ramblewood Road, and is identified as tax map parcel 97-A-7.
Tabled by Applicant
- 3) **Unfinished Business**
Discuss Staff Revisions to Proposed Wireless Telecommunications Facilities Ordinance
- 4) **Public Input**
- 5) **Report of secretary and committees**
Proactive Zoning
- 6) **Other Matters**
None.
- 7) **Adjournment**

Staff will be available Tuesday June 9, 2015 at 4:30 p.m. for those interested in going on a field trip to view the sites for the June 10, 2015 agenda.

MINUTES OF HARRISONBURG PLANNING COMMISSION

April 8, 2015

The Harrisonburg Planning Commission held its regular meeting on Wednesday, April 8, 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 March 11, 2015 Special Meeting to review the CIP and the March 11, 2015 regular Planning Commission meeting.

Mr. Heatwole moved to approve the minutes from the March 11th regular meeting as presented.

Mr. Colman seconded the motion.

All members voted in favor (6-0), with Dr. Dilts abstaining because she was not in attendance at the meeting.

Mr. Da'Mes moved to approve the minutes from the Special Meeting to review the CIP as presented.

Mr. Heatwole seconded the motion.

All members voted in favor (6-0), with Dr. Dilts abstaining because she was not in attendance at the meeting.

New Business

Rezoning – 1320 Port Republic Road (B-2C Proffer Amendment)

Chair Fitzgerald read the request and asked staff to review.

Mr. Baugh recused himself from the meeting at this time 7:00 p.m.

Mr. Fletcher said the Comprehensive Plan designates this area as Low Density Residential. This designation states that these areas consist of single family detached dwellings with a maximum density of 1 to 4 units per acre. Low density sections are found mainly in and around well established neighborhoods and are designed to maintain the existing character of neighborhoods and to provide traditional areas for home ownership.

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

Site: A 4,555 sq. ft. commercial building and parking lot, zoned B-2C

North: Single family home at the intersection of Port Republic Road and Nelson Drive, zoned R-1

East: Non-conforming mobile home park, zoned R-1

South: Portion of mobile home park parcel, zoned R-1 and further south, ComSonics, zoned M-1

West: Across Port Republic Road, single family homes, zoned R-1

The applicant is requesting to rezone a 19,602 +/- square foot parcel zoned B-2C, General Business District Conditional by amending existing proffers that were approved when the property was rezoned in 2009. If approved, at this time, the property owner's plan is to lease the 4,555 square foot building for a convenience store. The property is located at 1320 Port Republic Road, less than 900 feet from the City limits, between Nelson Drive and Portland Drive on the northeastern side of the street.

Before getting into the details of the proposed request, some of the history of this property should be known and one must understand how the unusual circumstances involving the property's 2009-approved applications for a rezoning and a special use permit (SUP), together, strictly control how the property can currently be used.

The subject parcel was annexed into the City in 1983 and had a convenience store operating on-site, which staff believes began during the 1960s. Upon annexation, the property was given an R-1, Single Family Residential District zoning classification; therefore, the use of the property was immediately a non-conforming use. The site was also non-conforming to minimum parking requirements and the building was non-conforming to setback regulations. The building was (and remains) 5.7 feet from the eastern property line and, on average, 2.3 feet from the southern property line.

In 2004, the previous property owner (Ellen Desarno) received approval of a SUP per Section 10-3-34 (1) to operate a daycare within the R-1 zoning district with the condition that the hours of operation be limited from 6:00 a.m. to 9:00 p.m. Because daycare facilities and retail operations have their minimum required parking spaces calculated under the same requirement, at 1 space per 200 square feet of gross floor area for buildings 10,000 square feet or less, the operators of the daycare facility were not required to increase the number of parking spaces as they could take advantage of the non-conforming parking situation.

In November 2008, Ms. Desarno requested to rezone the property from R-1 to B-2C, General Business District Conditional with six proffers. Because the daycare operated on-site for more than 24 consecutive months, the site lost its non-conforming retail status. Staff recommended denial of that rezoning stating that: the proposal was not in conformance with the Comprehensive Plan, there were other properties already located along Port Republic Road zoned for the proposed use, and we believed it would have set a precedent for other property owners requesting a commercial zoning classification—a trend we did not want to see occur since there was (and remains) large tracts of undeveloped properties zoned and planned for single family home neighborhoods. We noted that if the property were rezoned to the B-2 district, the building would be further from conforming to setback regulations because B-2 properties have increased yard requirements when abutting residential districts. We further noted that if the property had merit for rezoning, we did not believe it should be allowed for commercial uses. This was recognized because the lower portion of Ashby Meadows, the development across Port Republic Road from the site, had already been successfully rezoned to R-3C, which among other proffers, only allowed medical and professional office uses. Planning Commission unanimously (6-0 with one recusal/abstention) recommended denial of the Desarno rezoning; however, City Council voted (4-0 with one abstention) in December 2008 to approve the request. (The rezoning did not become official until the consent agenda approval in January 2009.)

During the Planning Commission review of the 2008 rezoning request, staff noted that if approval of the rezoning was desired, “[we] suggest[ed] tabling the application for a month to allow the applicant’s representative to compose a more comprehensible proffer statement. Although staff [understood] the letters objective, we [had] concern that in the future it could cause inconsistent interpretation of the statement’s intent.” The applicant amended proffers between the Planning Commission and City Council public hearings; those proffers are what govern the property today. Unfortunately, the proffer statement was approved with one strangely crafted statement that oddly connects the conditional zoning to a subsequently approved conditioned SUP, which in the end complicates how the property can be used.

The existing proffers along with the approved conditioned SUP strictly regulate the uses of the property. The existing proffers include the following (written verbatim):

1. The “by right” use of the property is limited to mercantile establishments and accessory uses, including those which promote the show, sale and rental of goods or equipment for impaired, handicapped or disabled persons, inclusive of goods or equipment for their medical treatment or rehabilitation or mobility or transportation, under Section 10-3-90 (1) and (15) of the Code of the City of Harrisonburg.
2. The existing playground area will be maintained in its present state and will not be paved, except as provided for the purposes of the special use permit for the property.
3. If in the future exterior lighting is regulated by a City ordinance applicable to the B-2, General Business zone, then the property will comply with the regulations at that time.
4. The building will not be open later than 9:00 o’clock p.m.
5. No drive-thru, restaurant or shopping center uses will be allowed.
6. Any freestanding sign on the property will be restricted to 24 square feet and 6 feet in height.

While the rezoning with the above proffers was being reviewed (and ultimately approved), Ms. Desarno had already submitted a SUP application requesting for the reduction in required parking per Section 10-3-91 (8). Twenty-three parking spaces were required and the applicant requested to maintain the existing 17 spaces—a reduction of six spaces. As required by the SUP, “...an amount of open space equal to the amount of space that would have been used for the required number of parking spaces [must be] left available for parking in the event that it is needed at some time in the future.” The SUP was approved, and along with the requirement as stated, the condition was added that it be applicable only for the business of VIP Scooters.

Although proffer #1 above states that all uses permitted by 10-3-90 (1) and (15), (exclusive of drive-thrus, restaurants, and shopping centers, and personal service establishments—a use that was not listed as being permissible) shall be permitted, proffer #2 oddly connects the conditioned SUP to the proffers and effectively limits the uses that can operate on the site. This is because, unless a use substantially the same as VIP Scooters operates on site or the building is reduced in size or a smaller building is constructed in turn reducing parking requirements, the existing building’s size requires 23 parking spaces for retail uses and it appears those spaces cannot physically fit on the property without utilizing the playground area, which is proffered to be “maintained in its present state” and “not be paved.” The clause the applicant provided within proffer #2, which states:

“except as provided for the purposes of the special use permit for the property” was meant to allow parking to be added within the existing playground area if so ordered later by the City because more parking was deemed necessary.

Because of the existing strict limitations, the current property owner (Alan E. “Butch” Strawderman) is requesting to rezone the property by amending the existing proffers. The applicant has submitted the following new proffers (written verbatim):

1. Use Restrictions: All uses delineated in Harrisonburg’s Zoning Ordinance, Article Q. B-2 General Business District, § 10-3-90 (1) and (15) shall be permitted on the Property. Except that no drive-thru, restaurant or shopping centers will be allowed.
2. Sign restrictions:
 - a. The total square footage of all freestanding signs will not exceed 24 sf (each side).
 - b. The freestanding sign height will be limited to 6 feet.
 - c. No electronic message boards or flashing signs shall be permitted on site.
3. The building will not be open later than 11:00 o’clock p.m. and not open before 6:00 o’clock a.m.
4. A six-foot opaque privacy fence shall be installed adjacent to any new parking lot area along the northern and eastern property lines. In addition, an evergreen vegetated screen shall be installed along the same boundaries. At the time of planting, such plantings shall be at least six feet in height and planted a minimum of seven feet on center so as to form a dense screen. Such vegetation shall be maintained and replaced when necessary.

In addition to the proffers, the applicant supplied a planned layout of the site. Note that this layout is not proffered, but rather illustrates how the site could accommodate the required 23 parking spaces as well as demonstrating the general appearance and location of the proffered fencing and evergreen plantings as specified in proffer #4.

If the request is approved, the differences between the currently permitted uses and what the proposed proffers would allow includes the following: 1) personal service establishments would be added as an allowable use along with the previously permitted mercantile establishments, which promote the show, sale and rental of goods—the site would no longer be required to permit only a use substantially the same as VIP Scooters, or for the building to be renovated and reduced in size or a new smaller building constructed in its place so that minimum parking requirements could be met; 2) the open space area north of the building could be fully utilized for any of the allowed uses including it being a parking area for those uses; 3) the site could operate until 11:00 p.m. rather than being limited to 9:00 p.m.; 4) no electronic message boards or flashing signs would be permitted along with the current sign restrictions; and 5) the site would be required to screen any new parking lot area along the northern and eastern property lines with a six-foot privacy fence and a dense evergreen screen.

Although some may believe there are few differences, staff believes those differences are quite impactful and is recommending denial of the request.

First, the Comprehensive Plan’s Land Use Guide designation for this property is Low Density Residential; thus, the existing zoning and the proposed zoning does not conform to the Land Use Guide. Those who participated in the 2011 Comprehensive Plan update should remember that we focused on this corridor and analyzed whether the land use designations should be changed. As a

result of that analysis, it was recommended, and approved, for the properties fronting Port Republic Road on the southwestern side of the street, between the CVS property at the intersection of Peach Grove Avenue and the City limits, to have the Professional land use designation. No changes were recommended on the opposite side of Port Republic Road.

Second, the lessening of the proffered conditions would make this site more attractive to retail uses having a greater traffic impact. Although the intended use met the threshold for potentially being required to perform a traffic impact analysis (TIA), the Department of Public Works chose not to require the TIA. Included within the packet is the “Determination of Need for a Traffic Impact Analysis” form, which includes the Department of Public Works’ comment that “Port Republic Road was recently reconstructed to a 5-lane facility and provides a center turn lane that can be used to access this site. It is the opinion of Public Works staff that additional turning lanes and/or traffic control devices will not be needed to support the traffic generated by the proposed development.” Regardless, no one should draw the conclusion that rezoning this property would not have significant impact on traffic in this area. Increasing the hours of operation and increasing the number of parking spaces makes this site more suitable to the intended convenience store use, which will certainly generate more traffic than the previous retail use. The traffic that can be expected is quick in and out type traffic, which staff believes does not mix well with the shared entrance for the mobile home park or the nearby Nelson Drive intersection.

In addition to vehicular traffic, a convenience store (likely selling beer and wine) at this location would generate considerable pedestrian traffic mainly due to the student housing complex (Aspen Heights) located nearby in the County. There is no designated street crossing located near this site, and thus no opportunity for a cross walk to increase safety. Pedestrians trying to cross Port Republic Road, a five lane facility, mid-block and likely during evening and nighttime hours are not desirable situations.

An additional complicated variable regarding the concerns with increased traffic is the fact that there are five separate public school buses that stop in front of this property along Port Republic Road to serve the students that live in this area. The school bus stops include: one for Harrisonburg High School, one for Skyline Middle School, one for Stone Spring Elementary School, one special education bus for Stone Spring Elementary School, and one for Skyline Middle School serving a student in a wheelchair. After bringing this particular matter to the attention of the applicant, as is stated on the same letter as their proffers, it is their “intent to work with the adjoining mobile home park property owner and the City to provide a safe area for students to wait for the bus.”

Although the site is already zoned B-2C and school bus services have to deal with a very busy site today, further utilizing the site and increasing traffic is not desirable. During the review, staff suggested the applicant consider providing better controlled entrances to the property and that some effort should be made to limit the access to the convenience store to the northern-most entrance, especially since the additional parking will be added directly behind that entrance. We further recommended that the applicant consider ways to limit backing from parking spaces into the shared driveway that serves the residents in the mobile home park. In an effort to reduce the conflicts of customers backing into the drive aisle that serves the mobile home park, the submitted layout demonstrates a proposed landscaping island intended to place parked vehicles further from the drive aisle.

Increasing the hours of operation from 9:00 p.m. to 11:00 p.m. may seem minor; it is an incremental increase; nevertheless, that additional two hours could have big implications to surrounding

residential uses. The current 9:00 p.m. time limit already has impacts on the adjacent residential uses along Nelson Drive and the mobile home park, yet these impacts from this timeframe are more compatible for the adjacent residential uses than would be an 11:00 p.m. time limit. Staff further believes approving an incremental adjustment now would ultimately be used to request approval beyond 11:00 p.m. in the future.

As was pointed out during the 2008 rezoning request, there is ample area for intense retail uses to locate in this corridor further northwest along Port Republic Road. Moving these uses further south on Port Republic Road is not compatible with the continued Low Density Residential development desired by the Comprehensive Plan. Although some may see the property at 1380 Little Sorrell Drive, the Harrisonburg Community Health Center and Williamson Hughes Pharmacy location that was rezoned to B-2C in 2010, as a precedent setting case, staff, however, does not. That rezoning was heavily proffered, which among many other details, included a proffered site layout with no entrances on Port Republic Road, specifics regarding the appearance of the building, and every B-2 commercial use was eliminated except pharmacy related retail uses while maintaining the previously permitted professional, governmental, and business office uses that were permitted when that property was zoned R-3C.

If the subject site should be approved for more intense commercial uses, staff believes it should only be done with a redeveloped site. Along with other matters that would need to be considered, the entrances/driveways for the mobile home park and the proposed business should be kept separate to limit conflicts and possible on-site safety issues.

Staff recommends denial of the rezoning/proffer amendment.

Chair Fitzgerald asked if there were any questions for staff.

Mr. Da'Mes said it was stated in the staff report that this property was not in compliance when it was annexed into the City; and there was a mention that the building footprint could be reduced to meet the parking requirement. What would be the setbacks if a new building were to be constructed on this site?

Mr. Fletcher said the setbacks would be thirty-feet from all property lines adjoining a residential zoning district and thirty-feet from the front property line as well.

Mr. Da'Mes said therefore it is thirty-feet on all property lines.

Mr. Fletcher said yes, it would be relatively restrictive.

Hearing no further questions, Chair Fitzgerald opened the public hearing and asked the applicant or the applicant's representative to speak.

Mr. Ed Blackwell with Blackwell Engineering, said he is representing Butch Strawderman, the owner and applicant for this request. I will answer many of the technical questions, but Mr. Strawderman will also address the Commission as well.

Our main concern when utilizing this building as a convenience store is to get enough parking on the site. We agree, it is an increase in the traffic from the former scooter retail store to the use that we desire; but any commercial retail use is permitted in this building currently, and we need to ensure we have enough parking for it.

The traffic increase for this size building is very negligible to the current capacity of Port Republic Road. Port Republic Road has about 8,000 trips per day right now, and it is not even close to its

capacity; of course, it gets much tighter and heavier as you get close to the interstate. Most of the traffic that comes to a convenience store, such as this one we are proposing, is typically local or pass-by. Therefore, you do not have someone coming to the store from the north side of town to purchase milk and eggs; it is more of a local traffic condition. We have a lot of neighbors here with us tonight who will speak to the idea of having a local store back in the neighborhood.

We did meet with staff about the southern most driveway. It is in an easement and we cannot touch that easement and entrance; it is used for the adjoining trailer park to the rear. Thus, we cannot do a lot of modifications with that. We did provide new parking along the north end of the property and tried to pull as many parking spaces away from the south end of the building. We added a landscaping island as well, to help mitigate our parking from interfering with the trailer park driveway. We did not proffer this site drawing; but, if that is a need, we can proffer that landscaping island as it is shown on the drawing.

There are a lot of children that ride the school bus from this site. We have talked to the neighbors and they attest that parents generally come to the bus stop with the children. We are willing to work with the trailer park about putting a small bus stop there, perhaps a concrete pad with a bench. It is not something we can proffer because it would be on the trailer park property. Several school buses do stop at this location and enforcement wise, we all want people to stop for buses. We think we can help somewhat with a small bus stop area. I do think it is important to get the convenience store parking away from the school bus area, which we do with this plan.

The new parking area is required to be screened from the existing single-family neighborhoods and we are proposing a solid fence and trees.

We do have letters from all the adjoining property owners, and some are here tonight to speak. I also have about forty signatures from the neighbors that are in support of the convenience store. I do want to take the opportunity to read a couple of the comments from the neighborhood regarding the rezoning request. The neighbor to the south ComSonics, one of their executives states: "ComSonics has no reservations with the addition of the convenience store adjacent to our property. In fact, I anticipate our employees patronizing this establishment and being appreciative of its locale." From the Ramirez family, the property owners to the north of the site: "We would like to see the property rezoned to a convenience store once again. We enjoyed the store and its convenience that was there in the past. Once again, we are very much in favor of a store there." A letter from Mr. Gibson, the property owner directly across Port Republic Road states: "I have lived here many years and always enjoyed the convenience of having a store there. I support this request by Mr. Strawderman." A spokesperson for the Harrisonburg Community Health Center, which is across Port Republic Road, says "it would be good for employees to use during breaks." Linda Heatwole, also across the road is very much in favor. As you can see in the handout, there is also a letter from Rodney Eagle and a list of those persons in the trailer park that are in favor of the request.

We do understand that there are staff concerns regarding the Comprehensive Plan; but, this store being there pre-dates the City's annexation. The neighborhood liked the store then and they would like to have it back; I think that should be given some consideration. Also, we believe that the traffic issues on the southern end of the site can be mitigated by pushing parking to the north and away from the drive entrance and school bus drop-off. Adding the parking and having enough parking on the site will help to improve the situation.

If you have any questions for me I would be happy to answer them, and there are several others here tonight who would like to speak.

Chair Fitzgerald asked if the mobile home park was there at the same time as the previous convenience store, pre annexation.

Mr. Blackwell replied the mobile home park, ComSonics, the convenience store, and the Ashby Heights subdivision were all there and pre date the annexation.

Chair Fitzgerald said I had gotten to the site tour a bit early yesterday and I got a chance to watch a school bus of elementary age children arrive to the site. The children exited the bus, headed out across the parking lot and on to the mobile home park. At that point there were no parents that I saw; they may have been waiting further up the road into the park. I am a little skeptical that it is going to be easy to work out a safe way for the children to get let off the bus and to go up the drive to their homes.

Mr. Blackwell asked whether the buses drop off the children more in the center island area. If the buses would drop off at the southern end of the site, where the entrance is, then the children could go directly up the driveway and not across the parking lot.

Chair Fitzgerald said apparently where the bus comes to a stop depends a bit on the amount of traffic on Port Republic Road at the time. The smaller buses can fit in that (southern) area; but many times they end up stopping right on Port Republic Road.

Mr. Blackwell said we can work with the mobile home park with regard to placing some type of bus facility on the mobile home park property. I do not know if a City bus shelter could be placed there; we would have to check. We are willing to work on that with the adjacent property owners.

Chair Fitzgerald asked if they expected a lot of people to come across Port Republic Road from Aspen Heights.

Mr. Blackwell deferred the question to Mr. Strawderman, the property owner. I am sure they will have items that residents would want.

Mr. Da'Mes asked whether there was consideration made to ask for a reduction in parking spaces, so that there would be a bit more open space to work with.

Mr. Blackwell replied it was thought about; but, if you do not have enough parking for your use, and cars are trying to turn in to the lot and cars are backing out of stalls, it is not beneficial for the site. If you provide enough parking for your use it actually makes the maneuvering situation much better. I believe if we were to ask to reduce it below the 23 required spaces, we would be creating a traffic problem.

Mr. Da'Mes asked whether there had been consideration of closing the access off to the south for use only by the mobile home park.

Mr. Blackwell said are you suggesting we close off the business parking lot from the mobile home park entrance; because we would probably lose several spaces which would put us below the required number.

Mr. Da'Mes said you could then ask for the reduction, but it would alleviate some concern.

Mr. Blackwell said we would like to get the 23 parking spaces on site. We did put the landscaping island in along the south side of the parking to help mitigate some of the backing out into the mobile

home park drive entrance. We think we will be able to keep their drive functional, even with our use. By having much of the parking on the north of the site, the northern most entrance will function as the main entrance.

Mr. Butch Strawderman, owner/developer of the property, said he would like to thank staff for helping him understand questions and issues with this project. I personally went around to the adjoining land owners and spoke with them myself. I showed them the design and layout of the parking and the site. I spoke to probably ninety percent of the residents of the mobile home park as well. Every person that I spoke to was highly in favor of this store. The previous owner, Mrs. Desarno, owned the property for 42 years, and prior to her ownership it was operated as the Seven Day Market. Mrs. Desarno emphasized that in the 42 years she owned the property, never were police, or rescue called to the site for a disturbance or any type of situation for an unruly matter. This is planned to be a simple store.

The school bus issue, I do agree is an issue. I am there many mornings and I would observe that there are at least one or two parents that walk the children down to the bus stop. If it is inclement weather, they will bring a vehicle down to the parking lot for the children to sit in. I do not know if there are parents that wait in the afternoons for children. But there will always be school bus stops near businesses; for instance the trailer park along Country Club Road. There are many more children loading and off-loading from that location than this one. But, as Chair Fitzgerald stated the safety of the children means much more to me than this rezoning; therefore, Mr. Blackwell and I have discussed what could be done to cut-off our parking from the mobile home park entrance. I want to do what is safe for the children.

I do have some folks here tonight who would like to speak to you regarding the store. Thank you, and if I can answer any questions you may have, I would be happy to do so.

Mr. Da'Mes said what consideration or arrangements have been worked out in terms of the easement within the proposed parking lot that allows for the mobile home park to move trailers in and out of their property.

Mr. Strawderman said I just recently became aware of that situation and have spoken with the land owner of the mobile home park. We could put a fence with a large gate in it. I hope that my engineer can help work something out with the adjoining property owner.

Mr. Way asked if constructing a smaller building footprint would be a viable option.

Mr. Strawderman replied no, I have never taken that idea into consideration. Obviously, I would like for this request to be approved; but, if that is not to be, then we will move on to plan "B". This is still a nice building and I have put forth quite a bit of money into upgrades and improvements into the building as well.

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

Ms. Ina Thompson said I have lived in the mobile home park for 31 years as of March 10, 2015. I love this area and the mobile home park. I also loved having the store there and I miss it. As far as the children going in and out of the property to the bus I see no problems. The parents go in and out with the children. I live in the first trailer right behind the store and I see everything that goes on. I see no problems with this.

Mr. Terry Price, 1330 Port Republic Road, Lot 31, said he has lived there for 42 years. There was always a store there. When the store left, the owners put a day care there for a little bit and then VIP Scooters, which was not there long. Everybody misses the store being there, you do not have to get in your car and drive to Food Lion, you can pick-up items at the store. When we moved to the mobile home park, there was no Food Lion and there was not a ComSonics. We are good with a store there.

Geil and Michelle Ramirez, 1310 Port Republic Road, said our house is directly north of the property. When we moved to our home the store was there and it was one of the major reasons why my parents liked the home. We used the bus stop that you are talking about tonight. It was always a store that was used by the neighbors and it felt like it contributed a lot to the mobile home park and the people in the area.

One of the things that we really appreciate with this request is that someone came to talk to us. When the building was used for other things, no one ever came to talk with us as the neighbors and how it would affect us. This is different. Here you have a fence proposed to separate our home from the site. This was never offered with the daycare and that use started early in the morning. We really appreciate this.

When we moved in it was very easy for us to just cross over and purchase milk or something for our parents. I feel my parents miss that convenience of just the store next door and supporting someone local from the community. After the convenience store closed down, the nearest convenience store was the Liberty Station and more recently the CVS. With the market being located here, it is very convenient for this community.

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

Mr. Fletcher said there was an earlier question regarding the setbacks and the restrictiveness of the lot. Based upon the information that is available to me here, I approximate that about a 1,500 to 2,000 square foot building could fit onto this parcel.

Mr. Da'Mes asked about the size of the existing building.

Mr. Fletcher said the existing building is about 4,500 square feet.

Mr. Da'Mes said that would reduce it to about one-half or even one-third of what is there currently. If it were a blank lot zoned commercial, B-2, they would be able to put a 1,500 to 2,000 square foot building on the site.

Mr. Fletcher said no, if it were a blank lot, zoned B-2, with no proffers, the building could potentially be bigger than that. But with the existing proffers, you could not construct to the northern line because of the existing grass area proffer. So given that proffer and the existing thirty-foot setback restrictions, we anticipate a 1,500 to 2,000 square foot building with eight to ten parking spaces.

Mr. Da'Mes said I just cannot help but think we are in a different place from where we were twenty or thirty years ago and what Port Republic Road looked like and what its intent was. In doing the Comprehensive Plan we evaluated the move of the hospital, we anticipated the growth of JMU along Port Republic Road, the intersection at Peach Grove Avenue, many changes in this area. Within those changes there have been new businesses move in to support the community. I believe

our thought process at that time is still applicable today in terms of what ideally supports the Port Republic Road corridor, which would be the western side being professional offices and the eastern side would be to keep it as conforming to residential as we can. The idea of a convenience store is wonderful; but I do not think it suits the overall picture for today's use.

Mr. Way asked whether Mr. Da'Mes was thinking of the overall picture of the corridor and the quality of the street or the quality of the neighborhood.

Chair Fitzgerald asked if they were talking about the long term land approach that we examined rather carefully during the last Comprehensive Plan update.

Mr. Da'Mes said yes, the land approach. For example, across the street where we approved a commercial use, very conditional use, that one was significantly different in that it was very contained; but it was a blank slate where they were able to address a lot of issues and our concerns up front. One in particular was that they brought the access to the facility off of Port Republic Road onto another street; not a movement in and out of Port Republic Road.

Chair Fitzgerald said I find myself on that same page, with the added problem of a five lane road now, throw in college students across the street and five school buses stopping there. When I watched the kids get off the bus this week, they just flew out through the parking lot; so I have concerns about that. I believe it will be harder to address once you get down to doing something about it. I am also convinced by the long term planning, that if we can hold the line here, it is worth doing.

Mr. Colman said I like the idea of a neighborhood convenience store, certainly the neighbors like it. I think some of the issues that have been brought up are certainly a concern – the school buses, the potential of students cutting across the street without any clear crossings. The access easement along the south side of the property certainly limits the applicant's ability to close the entrance entirely. However, I do believe that this could be configured in a different way; perhaps with a special use for lesser parking.

Mr. Way said the Land Use Guide is an interesting one here in terms of exactly the things you are talking about. We had a case last time where we had a lot of debate and discussion back and forth regarding an area that was already zoned B-2 and conforming to the Land Use Guide. Here we are in a situation that is a bit different. I actually think you can fit something in there that would be do-able and it appeals to the community. My main anxiety is what is going to happen to all those properties further down Port Republic Road; what is the precedent that is being set? I see the problems with that.

Dr. Dilts said I think we have to pay attention to the Comprehensive Plan. We spent a lot of time looking that over, discussing it and we have made a commitment to it. With that, I move to recommend denial of the rezoning request.

Mr. Da'Mes said I second the motion to recommend denial of the rezoning request to B-2 Conditional.

Chair Fitzgerald asked if there was any additional discussion. Hearing none, she called for a roll call vote.

Commissioner Da'Mes – yes.

Commissioner Colman – yes.

Commissioner Heatwole – yes.

Commissioner Way – yes.

Commissioner Dilts – yes.

Chair Fitzgerald – yes.

Chair Fitzgerald said the motion passes (6-0). This request will go to City Council on May 12th.

Mr. Baugh returned to the Council Chambers at 8:10 p.m.

15.2-2232 Review - Proposed Harrisonburg City Public Schools New Elementary School

Chair Fitzgerald said the next item of business is a 2232 review of the proposed Harrisonburg City Public Schools New Elementary School. We have not done this type of hearing very often and it is rather exciting that we are now. This is our third review in the space of about 18 months. A 2232 hearing is somewhat limited in the sense that what Planning Commission is asked to review is the site under consideration for this project and if the location, character, and extent of the site is substantially in accord with the Comprehensive Plan. We have a relatively narrow purview with this. We are going to have some presentations and then we will open this up for public input.

Chair Fitzgerald asked Dr. Scott Kizner with Harrisonburg City Public Schools to come forward and speak.

Dr. Kizner said I will be brief because I know it has been a long night and I imagine there are a lot of people who would like to speak this evening. I would like to note that there are three school board members here tonight, Brent Holsinger, Kelly Rooney, and Andy Kohen, along with Craig MacKail, Executive Director of Operations and School Safety, and Robert Moje with VMDO Architects.

What I think will be most helpful is for the Planning Commission to get a little background as to why we are here tonight. This process has been going on at least since October of 2011; this is when we began to see a real clear pattern that our school system was growing at a rate of about two to four percent each year. Between the period of September 2008 to September 2014 we gained 1,100 students in Harrisonburg City. So I appreciate the fact that you discuss buses and bus stops, such as in the earlier case, because we are going to see more and more of that. Every school division across Virginia gets a report from the Weldon Cooper Center at UVA, which provides enrollment projections, and if you take a look at where Harrisonburg City Schools will be when this proposed school opens up in 2017, we will most likely gain another 400 students. If you look even further to 2019 there will be a gain of close to 900 students in Harrisonburg. With these projections there is a good chance that you will see me or someone else in my position, here again asking for the same.

In 2011 the school board contracted out with Mosely Architects to take a look at all of our buildings to see if there was any opportunity to expand by using existing sites. They did a comprehensive review of all our buildings, except the high school. The conclusion of the school board and the architects was that you would get very little additional capacity for a very expensive price. We then looked at other options such as the Simms Center; we had a community meeting at the center and we met with City Council there as well. Again, it was concluded, after looking at the costs, speaking to neighbors and having the community meeting that it was not a good option for us.

The school board then contracted with another architect firm to look at different building sites that were on the market. At the time we did not know for sure if it was going to be a middle school or an elementary school; but, the architectural firm concluded that the Garbers Church Road site would be an appropriate site for either. The school board subsequently moved forward and hired VMDO Architects regarding the Garbers Church Road site and they too confirmed that the 10.8 acres would be an appropriate location for a school. On March 18, 2014 the school board unanimously voted to accept the 10.8 acres and re-affirmed that vote with the new school board on January 6, 2015. So, two school boards had an opportunity to give their opinion and both unanimously supported the site.

Where we are right now is we want to include the community in this project; so we have committees that are open to the public, they are listed on our website. We have teachers, staff, parents, and community members on the committees who are meeting with the architects. We want the building to reflect the best practices, the best priorities, and our program demands that we do so in the City of Harrisonburg. When the committees and school board are in agreement, then the architects get the green light to design a school around our needs.

I do appreciate the input of all community members. We acknowledge and recognize that there will be a different opinion at times, but I assure you that the school system, school board, and myself, have looked at this for over three years. We feel that we have a very good site and in 2017 we will have a building that everybody will appreciate. Thank you.

Chair Fitzgerald asked planning staff for their review.

Mr. Fletcher said the Comprehensive Plan designates this area as Low Density Mixed Residential. This designation states that these large undeveloped areas located at the edge of the City are planned for residential development containing a mix of large and small-lot single family detached dwellings and attractive green spaces. Planned “open space” (also known as “cluster”) developments are encouraged. The intent is to allow innovative residential building types and permit creative subdivision design solutions that promote neighborhood cohesiveness, walkability, connected street grids, community green spaces, and protection of environmental resources. Such innovative residential building types as zero lot-line development and patio homes will be considered as well as other new single family residential forms. The gross density of development in these areas should be in the range of 1 to 6 dwelling units per acre.

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

- Site: Undeveloped/vacant property, zoned R-1
- North: Heritage Oaks Golf Course Clubhouse and parking lot, zoned R-1
- East: First Tee of Harrisonburg, zoned R-1
- South: Single family detached homes, zoned R-1
- West: Across Garbers Church Road, Harrisonburg High School, zoned R-1

Last summer the Harrisonburg City School Board unanimously voted to build a new elementary school on 10.8 +/- acres of City owned property along Garbers Church Road across the street from the athletic facilities at Harrisonburg High School. With the hope of having the elementary school open by fall 2017, Harrisonburg City Public Schools (HCPS) continues to work with engineers and architects regarding the engineered layout and the design of the new building. As part of the vetting process for this new public facility, the site is under review per City Code Section 10-1-6, which

stipulates that “if a public facility subject to Section 15.2-2232 of the Code of Virginia is not already shown on the comprehensive plan, the planning commission shall determine whether the location, character and extent of such public facility is in substantial accord with the comprehensive plan as provided by Section 15.2-2232 of the Code of Virginia and the terms and conditions set forth therein, as may be amended from time to time.”

As a reminder, the Code of Virginia Section 15.2-2232, among other things, states that when a locality has adopted a comprehensive plan, “it shall control the general or approximate location, character and extent of each feature shown on the plan.” Public buildings or public structures, among others, are listed by the Code as features that unless already shown on the plan “shall not be constructed, established, or authorized, unless and until the general location or approximate location, character, and extent thereof has been submitted to and approved by the commission as being substantially in accord with the adopted comprehensive plan or part thereof.”

After review, City staff finds the proposed new elementary school site is in substantial accord with the Comprehensive Plan. First, from a long term land use perspective, although the property is zoned R-1, Single Family Residential District, the Comprehensive Plan designates this property as Low Density Mixed Residential—a designation it has had since the Plan’s 2004 update. (Previous Comprehensive Plans, the 1991 and 1998 updates, had this area designated Low Density Residential.) The current Low Density Mixed Residential designation is often associated with the promotion of clustered development allowed by R-6 and, depending upon the actual proposed development, R-7 zoned communities. It is also possible for R-2 and R-3 residential densities to work in such planned areas, if, for example, the development utilized smaller lot areas and dimensions for detached single family homes. As is typical in many cities, Harrisonburg’s public schools have a history of being compatible with and desirable in neighborhoods. Although there is not an existing neighborhood surrounding this location, Garbers Church Road is accessible to several neighborhoods and, as described above, has been planned for single family neighborhood development for quite some time.

From a zoning perspective, the existing zoning and all of the districts mentioned above, permit public schools as a by-right use.

Goal 10 of the Comprehensive Plan is “to develop and maintain a safe and convenient transportation system serving all modes of travel, such as automobile, pedestrian, and bicycle and mass transit;” and in working toward this goal, the site is suited well. Garbers Church Road is designated as a collector street with four travel lanes and sidewalk on the western side of the street. Garbers Church Road is served by an arterial street to the north (West Market Street) and a collector street to the south (Erickson Avenue), both providing access to and from the site and offering good bus routing options to different areas of the City. Although improvements will likely be needed, Garbers Church Road should be able to better handle the traffic generated by a school of this size than if the school were built interior to an existing neighborhood, where such traffic could be viewed by some as a nuisance while also being a more confined and difficult location to provide needed improvements. The vision expressed by the Comprehensive Plan in promoting neighborhood schools (Objective 5.3) is also consistent with the idea that areas for new school locations that are most compatible with our Comprehensive Plan would be those within or directly adjacent to residential areas, but yet accessible to collector and arterial streets.

The site location is positioned well for working toward Objective 10.2, which along with trying to “develop strategies that reduce motorized traffic demand on City streets” is “to promote alternative

modes of transportation.” Several multi-use paths are planned in this western section of the City to connect Westover Park, Thomas Harrison Middle School, Hillandale Park, Harrisonburg High School, and now, potentially, the proposed elementary school. The multi-use paths are generally shown as several different connections in the 2010 Bicycle and Pedestrian Plan, which is a component of the Master Transportation Plan in Chapter 11 of the Comprehensive Plan. As illustrated in the Bicycle and Pedestrian Plan, the westernmost multi-use path connection of the above described system is planned to intersect Garbers Church Road in front of Harrisonburg High School, which is only about ¼-mile from the proposed elementary school site. Efforts should be made to connect into this planned multi-use path during the design and construction of the elementary school.

Although outside the scope of staff’s review for the site’s conformance with the Comprehensive Plan, staff took the opportunity to offer comments to HCPS regarding site design matters. Issues brought to their attention included that the project will be required to meet the site design requirements of the City’s Design and Construction Standards Manual including erosion and sediment control and stormwater management regulations. We also noted there could be transportation improvements associated with the site—as there would be for any public school at any site in the City—to support safe and efficient multi-modal access. The Department of Public Works noted that some type of transportation study might be needed to determine what impacts could be generated and to outline any appropriate solutions. HCPS and their design team should work closely with the Department of Public Works to determine what kind of analysis might be needed.

The Department of Public Utilities noted the water and sewer facilities in Garbers Church Road are very likely adequate for the proposed school. The 16-inch waterline is a major transmission main for the City and is expected to be capable to deliver both the domestic and required fire flows to the site. Water pressure is likely adequate, but must be validated as the engineer provides more detailed design. The sanitary sewer in Garbers Church Road is an 8-inch main and should also be capable to meet the domestic demands of the school. Further verification of both water and sewer demands and capacities will be required during the preliminary engineering report, which is a pre-requisite for comprehensive site plan submission.

The Harrisonburg Department of Public Transportation (HDPT) would like the design of the site to ensure buses are not mixed with parents dropping-off and picking-up students. At this time, they believe a separate bus lane and potentially a traffic signal may be needed to allow buses to exit the property in an efficient and safe manner.

Finally, staff reminded HCPS that Planning Commission must review and approve the number of off-street parking spaces desired for the site. Per Section 10-3-25 (12) of the Zoning Ordinance, “proposed off-street parking spaces [for elementary schools] shall be programmed by the applicable school authorities as necessary to meet state standards for use and consideration of site locations, then submitted to the planning commission for comprehensive site plan review.”

As explained above, staff believes the proposed elementary school site is in substantial accord with the Comprehensive Plan and recommends the Commission communicate the same findings to City Council. I am happy to answer any questions you may have.

Mr. Way said you have cited Goal 10 and Objective 10.2, both transportation justifications for the site. In Objective 10.2 it discusses reducing auto traffic demands; however, given the geography of the site it is a bit more of an auto dependent area. It is in the outer limits of the City, so the nature

of the site suggests the automotive transport is going to be one of the prime ways of getting there. Did staff reflect on that at all – about the location? When compared to other places within the City which, although they are in neighborhoods, you talk about how the roads would be smaller and less accessible, however that would be somewhat mitigated by the fact that there would be more people walking because they are situated in neighborhoods. Perhaps you could reflect on that a bit more now.

Mr. Fletcher said yes, one of the components that I was referring to was the fact that currently the site is not surrounded by an existing residential neighborhood. But the plan for this area has been, for quite some time, to have residential neighborhood development. It is one of those questions of what comes first the chicken or the egg – does the school go in and the neighborhood build around it or do you put the school in the neighborhood. It also comes into the situation of what is walkable and how far is walkable; those networks that were pointed out in the staff report are walkable. Park Lawn is walkable, it is right up the street; so yes, we did look at those issues.

Mr. Baugh said let me add that City Council has already received substantial public input on just that issue – the automotive transportation and the non-automotive transportation. There is a large public interest in making sure that the non-motor vehicle infrastructure is developed to help people to get to this location. Whether it is connectivity to come from some distance or whether you are relatively close by.

Mr. Fletcher said this item was not in the presentation tonight, but it was within the staff report, where it discusses that the idea comes from the Comprehensive Plan of Objective 5.3; which is referring to the neighborhood schools. We believe it does conform to those types of situations because not only do you have the desire to have a neighborhood school within a neighborhood, but that the school should also be accessible to arterial and collector type streets, which this location is. Of course it is going to be a matter of opinion about where neighborhoods begin and end, and where they are defined.

Mr. Way said you asked about which comes first the chicken or the egg; the Comprehensive Plan hopefully answers that question within Strategy 5.3.2. “Design all new schools to fit into their neighborhood” which suggest that the chicken follows the egg. That is just my prevailing question, is this preempting the neighborhood and is that okay and not contradictory to the Comprehensive Plan.

Mr. Colman said along with that, in terms of the neighborhood and the location, if we have a neighborhood or the potential for a neighborhood, hopefully surrounding the school; in this case the school is surrounded by a golf course to one side and a high school across the street. There are a lot of the neighbors that are pushed away from the school rather than right up against it. That is just another point to add to what Mr. Way is saying.

Chair Fitzgerald said on the other hand there is residential planned for around that school and Goal 3 of the Comprehensive Plan has us strengthening not only existing neighborhoods, but promoting the development of new ones. So you can make the argument that putting the school there encourages not only the kinds of multi-modal means of transportation we have looked at tonight, but it encourages development to become a neighborhood. There are neighborhoods within sight of this school location.

Mr. Way agreed and said I am not trying to speak for or against this; I am just trying to explore the way it all fits together.

Mr. Colman said I think it is about accessibility – how do you get to the school at this location. That needs to be planned as part of planning for a school there.

Chair Fitzgerald asked if there were any further comments or questions from Planning Commission. Hearing none, she opened the public hearing and asked those wishing to speak to please come forward. We are going to ask that you limit your comments to three to five minutes and please give your name and address.

Roger Baker, 524 Paul Street, said back in January I addressed City Council regarding this and shared with them about five rules that I have come up with during my thirty some years of experience in local government. Number two rule is “if you do not know where you are going you will never know when you get there.” Another way of saying that is plan ahead. One of the things that we use to plan ahead is our Comprehensive Plan, you referenced that a lot in your earlier public hearing tonight. You had concerns about people having to cross a very busy highway; I understand with this site the school will be utilizing the high school’s facilities for a lot of playground area. That will be a heavily traveled street to cross – how are you going to get elementary school children across the street?

I do not think there is a question in anybody’s mind that we need new schools, but with this site, by the time you get in parking, bus drop-off lanes, parent drop-off, stormwater detention, etc., what is left? It is the bare minimum size. I do not think this has really been thought out – yes, it is available and the City already owns it, but perhaps we should ask why the City owns it and what was planned for this lot.

If you build a school at this location and keep the golf course driving range there, then a net will have to be put up. The City paid \$100,000 to move a house several years ago so that they would not have to put up the net in the first place. We could have left the house and used the money for the net. Of course the net at today’s price will be more. Who pays for that?

In the time that I was with the City, I helped with the building of five different schools; with four of them I had a lot to do with picking the site out. I do not believe that this site is the best site that is available and it may meet the Comprehensive Plan, but there are a lot of sites for the school that would meet the Comprehensive Plan. For those reasons, I hope that the Planning Commission will serve as some sort of a compass to get everyone pointed in the right direction.

Jerry Scripture, 1756 Heritage Estates Circle, said I feel like sometimes people do things out of a sense of urgency and sometimes in the process of doing the urgent we skip through doing the important. Which is what this group is about – Planning. I have heard a lot talk about the Comprehensive Plan and in the Comprehensive Plan, Goal 1, is to improve the quality and compatibility of land use and development. You are going to hear others talk about how compatible this is to the neighborhood, but I think you will find that they judge it an utter failure in terms of compatibility. Goal 3 of the Comprehensive Plan speaks to promoting quiet, safe, beautiful, walkable areas – this is a four lane road, proposed to become five, there are multiple traffic lights and more proposed, there are buses turning, and quite a lot of traffic with the high school. I cannot believe that the traffic is not going to make the issues you were discussing earlier on Port Republic Road look tame by comparison.

The Comprehensive Plan in Objective 5 implies that the Planning Commission has been working with the school board to plan this school and look at the design issues. This property is land locked, you can call it what you may, but there is a four-lane highway on one side, a golf course parking lot

on one side, and it directly abuts the First Tee facility. On the other side there are three or four established homes on large acre parcels, so there is no way you are going to get a residential neighborhood up against that. I appreciate the creativity of getting the bikes through the back side of the park and to the high school, that possibly will work; but it is not going to get bicyclists to this school. The traffic will be really challenging; we are looking at adding lanes and adding lights to a situation that is tight. Think about it, some of the kids in high school, who are new drivers, are going to come across the street to pick-up their little brother or sister and the traffic will be really challenging.

This property has double the density of any other school we have had. It has a very high priced urban style school proposed in the furthest part of the suburbs; it is on the very perimeter of the City. When you look at the transportation issue you have to know you will be transporting kids to and from the furthest spot. This is the most transportation money you can spend. There is no safe way you can walk on that street and there is no easy way you can improve those walking lanes. Garbers Church Road is becoming a dangerous route and it will not become less dangerous for the school.

I think your job tonight is to judge if the plan for a school here is in accordance with the goals of the Comprehensive Plan, and I think it fails. More important than judging it in relationship to the goals, I think your job is to serve the City and vote your conscience; you are the folks that can hit the reset button on this and have people think about the big planning issues we are creating.

Becky Stum, 1783 Park Lawn Drive, said I am a mother with four children, two of which are out of the house on their own, and a nine and an eleven year old. Being a mom and living so close to Garbers Church Road I can tell you the traffic is horrible and it is not going to improve. We do not even go to Garbers Church Road to take a walk because of the speed factor of traffic. I would encourage each of you to go to Garbers Church Road at 7:30 a.m. on a weekday and watch the traffic of buses, cars, etc. I really encourage you to look at that and consider the added traffic.

I appreciate the fact that we want to have non-motorized travel to and from the proposed school. But again, we have to think about where is the funding going to come from to make the trail from Hillandale Park, that trail does not exist yet. Are we talking about needing funding for not only a new school, but for the non-motorized travel as well? I live in that neighborhood and would love to have a school in the neighborhood, but this does not fit. Kids will not be able to bike and walk to this location, and yet it is encourage by the City schools.

Robert Dinsmore, 1730 Sherry Lane, said we need schools in the City, but I do not know that we need this one. I would like to have a school as a neighbor much more than some other things, but this location is wrong.

I went to speak with David Johns, the Golf Pro for Heritage Oaks Golf Course, about the proposed school and I asked him who has been over to the golf course to talk with him regarding the school site. He replied, no one. I cannot imagine that no one has been to the golf course to discuss this.

I understand you can put a net up at the driving range. Go ahead and put a fifty-foot net up, I can assure you that I can hit a ball over it. It would not be intentional, but I probably could put one in the parking lot or building. I am sure there would be some high school or college age kid on the range trying to show off and hitting a ball into the school.

I also live with the traffic that is there now. I would not let my child walk to school along Garbers Church Road, it is not safe. Does this fit into all the technicalities of planned use; sure you can fit it

into the Comprehensive Plan. But is it wise? How many of you walked out onto the site and stood on the hill where the school will be? If you have I congratulate you, but if you have not, then go there. Would you let your child walk along this road?

I am sure the schools would tell you that this situation never occurs, but there are situations where you have emotionally disturbed children within the schools that may run out the doors. Where are they going to run in this situation – to the road? You may say it should not happen, but it does. This location is dangerous.

There have to be other places available in the City. Does this location fit – yes. Is it wise – no. Fortunately, you can give it an opportunity for a do over, please take it.

Jack Rutt, 1801 Glanzer Court, said I love the location of my home on the corner of Glanzer Court and Garbers Church Road – except for 7:30 weekday mornings. I was not planning to speak tonight, but as I sat here I resonated so much with what was being said about the traffic. My property was the one where the vehicle flew across a week ago and that is not the first car that has been going at high speed down that road. I know there are bicycle designations on the road, I am a bicyclist but I would never ride on Garbers Church Road at 7:30 in the morning. How are we going to put more onto a road that is already dangerous.

I was surprised that this area can be said to be the place for a residential neighborhood. I resonate with the other comments that I do not see how there will be a substantial increase in housing of a residential nature in this area. I too believe there must be a better place in the City that meets the residential needs of a school.

Mike Layman, 1880 College Avenue, said I was born and raised in Harrisonburg and have been very blessed to live in this community. I am a huge supporter of the school system. I was very involved in the creation of the Harrisonburg Education Foundation and continue to contribute to it. I served as Chairman of the Heritage Oaks Advisory Board, which also included the First Tee program. We have a driving range; no public golf course is successful unless you have a driving range. As for the house that was moved from this property, I was the person who knocked on the door of that house and asked the owner, Mr. Bahn, if he would consider moving that house. If not, we would have to build an expensive safety net along the driving range; at that time we were told eighty-feet in height. I have spoken to companies who specialize in building safety nets and they suggest not building a school next to a driving range – you cannot build a safety net tall enough to keep all balls away from the property. At a minimum, you will need 150-feet in height for a safety net.

Mr. Layman provided a visual aide for the Planning Commission to see. The height of what the safety net would be compared to a 50-foot tall school.

Mr. Layman continued saying the average cost for a safety net similar to this would be \$750,000; but you also have the expense of maintaining the safety net.

Right now the hitting boxes for the driving range are out in front of the First Tee building; however, the plans all along have been to move the hitting tees for the driving range up to the right and left of the building. Of course this would eat into the school site area. The school site also eats into the driveway to the First Tee building; will the school allow us to utilize that driveway? We need to create a larger turn around and drop-off space, along with parking for the First Tee building; will we be able to if the school is located there?

Chair Fitzgerald reminded Mr. Layman of the three to five minute time limit and informed him he was currently at ten minutes.

Mr. Layman said I have provided each of you with a detailed letter of information. I will mention that there is much interest in trying to protect what we have accomplished with First Tee. I am involved with a growing group of people and we have deposited a non-refundable \$5,000 check with the City to say give us a two week option and we will purchase the land so that we can permanently protect the site. We have already made arrangements with a financial institution.

By the way, there is property available; twenty acres for one million dollars, located right next to Hillandale Park and the bike paths that already exist. There are three streets connecting to this property.

At this time Chair Fitzgerald informed Mr. Layman that Planning Commission does not have the power to make any type of decisions regarding alternative sites. That is for the City School Board and the City Council.

Mr. Layman said I understand; however, if you are a true Planning Commission, let us hit the re-set button with this and create a win-win situation for the schools. Let us worry about the First Tee children as well as the school children. I will be happy to meet with any of you to discuss this further.

Ed Morrison, 1681 Bald Eagle Circle, said the building of this school reminds me of the movie Field of Dreams – if you build it they will come. The neighborhoods are not going to come. We live in Heritage Estates, right next to the golf course and it is a 55 years and older community; our children will not be going to this school. I cannot emphasize enough the safety issue; I did not hear all the safety issues mentioned as they were on the earlier Port Republic Road case. Staff emphasized safety heavily with that and there is no mention of it with this presentation. You are hearing from the people in the area and we are hammering the safety issue.

If you go by your Strategy 5.3.2 where it says to design all new schools to fit in their neighborhood; well, there is no neighborhood. It continues by saying consideration should be given to make them easily accessible to pedestrians and bicycles; that is not happening. Not dominated by parking lots, I did not see a plan, but I would think most of the land would be for parking. Is there even a playground? This site is land locked and there is no area for growth. This site does not fit any of the criteria. I am asking that you hold the line on this, just like you did with the property on Port Republic Road.

Leonard VanWyke, 1065 South Dogwood Drive, said I have done various transportation things for the City for about fifteen years and I spend a fair amount of time over in this area, as my daughter goes to high school, I play golf, and my son is involved with First Tee. I am familiar with the site. I would like to cut through the clutter and try to focus on what the Chair said we should focus on, and that is does this site fit with the Comprehensive Plan. Mr. Fletcher has made a case that it does; but, I think realistically there are two things we need to consider. First, we would not be discussing this site if it was not already owned by the City. I do not believe this site would have been sought out by the school board as the best site to build a new elementary school – on the edge of town, where the nearest neighborhood is a 55years and older community and land locked. Secondly, one of the things that always comes up when you are reviewing the Comprehensive Plan is the need for more bike and pedestrian connectivity. One of the first rules for bike and pedestrian connectivity is that you build things that decrease the distance required to get there. Mr. Fletcher has mentioned

how we could get people to this site, but this is truly putting the egg before the chicken. If you can find a site that decreases the distance and where there are people who already live in and around the site, it tends to encourage alternative modes of transportation. This area may end up being a neighborhood twenty years from now and we may desire to build a school there; but not now. So an argument can be made that this site does not satisfy the needs of the Comprehensive Plan.

Mr. Wade Robinson, 2945 Inglewood Drive, said he is here to read a letter from Mac Sullivan who could not attend tonight's meeting. *"I take this opportunity to inform you of my dismay with the City that would allow the construction of a three story elementary school on this marginal site and any other site in the City for this matter. How in the world are the teachers suppose to get the handicapped or special needs children out of the building when elevators are shut down, bells and whistles are blasting, and there is total bedlam. Talk to special need teachers from the county or other localities and hear for yourself the facts. I did. All children are special and it is your and my job to make sure they are safe. Find a site that will accommodate a one story school with room for expansion.*

In 1969 when my family came to Harrisonburg we found it to be a forward thinking community that listened to its people and made forward thinking decisions for the good of the people. We moved to the county in 1996 but still within minutes of the City. We love this area and have made it our home. I find it unimaginable that the City would now be so short sited as to build a school on land that allows no room for expansion and in doing so shuts down any potential growth for the First Tee program.

The First Tee is an example of the City and the community coming together to build a dream and is one of the most recognized and respected youth programs in America. Having been a major benefactor for this endeavor it is devastating to think that a special child may not get the opportunity to learn the lessons of life, and yes, maybe a little about the game of golf, that First Tee teaches. Do not box in First Tee with a decision that does not look to the future.

Finally, I have been in construction for over 45 years and I am still amazed that school boards, city councils, board of supervisors who have never built a building of this size never, never contact [sic] the local construction for thoughts, ideas, etc. This is not a do it yourself project and it doesn't come in a kit. What happened to ask an expert. You probably need 15 experts on project like a school. Also, I have not seen a multiple story elementary school constructed in years.

Thank you in advance for considering the above, but most importantly, for looking to the future of all our special children and keeping them safe.

Thank you,

Mac Sullivan, COB, Sullivan Mechanical Contractors, Inc.

Chair Fitzgerald thanked Mr. Robinson for reading the letter. She then asked if anyone else desired to speak.

Dan Nardi, 310 New York Avenue, said I grew up in Harrisonburg and I had the benefit of being able to walk to the neighborhood elementary, middle, and high school. I realize that Harrisonburg is not quite the same as it was in the 1960's and 1970's, but the idea of the neighborhood school was very beneficial to my upbringing. At previous meetings I have let it be known that I disagree with the Garbers Church Road school site; but tonight I am not going to speak about those same issues.

Tonight I am speaking on behalf of the First Tee program. I am the current board chair of the First Tee and I am here to convey some of our concerns with the impact of our long term program and our growth. In 2014 the First Tee had over 300 local youth being certified in the program and outreach programs that reached over 2,500 youths in our community. We certainly want to grow those numbers.

I am not going to repeat the history of the First Tee program; I want to focus on some things that I believe are paramount to the First Tee program. Locating the school on the limited acreage adjacent to the First Tee eliminates future plans for both organizations on day one; it is not an appropriate long term strategy.

Some local officials have commented that having a new elementary school beside the First Tee facility makes future students have better access to the facility. The First Tee currently reaches out to multiple schools locally and the long term impact of limiting our expansion far outweighs any short term gain that a few extra students would have by having close proximity to the facility. The recent drawings of the proposed school show infringement upon the access road to the First Tee building.

To my knowledge the First Tee Board has never been approached to have dialogue and talk about our considerations regarding the proposed school. We would be extremely happy to participate with other community groups to address these issues and opportunities. I understand that time is of the essence due to the projections for City growth, but hope that the Planning Commission focuses on the objectives of sound and financially prudent long term planning outcomes. Lastly, while this topic of school expansion and location selection has been an issue for several months, I hope that an open mind for options will be maintained and that a decision can be found that is more inclusive of the Harrisonburg community and all the organizations that are directly impacted by this specific decision.

Tom Domonoske, 461 Lee Avenue, said first I want to thank you all for the time you spend working for the City. Also, I am very happy that you decided to conduct the 2232 review as a public hearing. It did not have to be a public hearing. I know you are still working on how to conduct 2232 reviews, but given the number of people who have come here tonight to talk it shows the importance of always including a public hearing in the 2232 review process. One of the benefits of that is that people come forward to talk about the Comprehensive Plan and it helps people understand the importance of the Comprehensive Plan. I also appreciated that as part of the Planning Commission packet you included not only the staff report, but many letters from people who objected to the plan.

As you work on conducting the 2232 review it is interesting that there is the City Code which models the statute which says "location, character, and extent." However, we do not have a definition of what character and extent mean. Does character just mean school? Does it mean elementary school? In this case I think one of the characteristics of this school that is being built is that it is a very energy efficient school. I would say that one of the primary characteristics is an energy efficient school that is being built. That is part of a 2232 review where you are looking at location, character, and extent; you can look at some of those design characteristics in the review. Particularly Chapter 9, Goal 8 of the Comprehensive Plan is to preserve and enhance the City's natural resources and encourage development that is compatible with nature. Further under that Goal it talks about performance standards. The architect team working on the project has certain performance standards in mind for the energy efficiency of this building and I think a 2232 process

could ask of any proposed building what are the energy efficiency standards that you are building towards. From the many meetings I have been to regarding this project I think that you would find that the energy efficiency proposals for this building make it a tremendous compliance with Chapter 9, Goal 8 of the Comprehensive Plan.

Some of the people who are objecting to this I notice that their submissions talked about wanting an opportunity for more public participation earlier in the process by which we build schools. I was wondering about the timing for this 2232 review and if it occurred before the City Council allocated the money, then some of the objections could have been met in that process. Furthermore, it is a tremendous amount of thought and analysis that you do to prepare a report that is valuable to City Council. I would think that City Council would appreciate having your report at the same time that it gets the formal presentation from the school about what school it wants to build and how much it will cost. Sufficient details of the project existed at that time for you to do your job of location, character, and extent. I do realize that developing a process for these 2232 hearings is still going on and I urge you to consider moving it earlier in the process as a way of getting the public participation and having a full report to City Council for deciding on money allocation.

J.M. Snell, 1310 Little Sorrel Drive, said I have a whole lot of issues with this plan and your job tonight is to see if it fits into our Comprehensive Plan. The Comprehensive Plan has been updated since I was on Planning Commission and it has not been changed very much from when Mr. Baugh and I spent a lot of time writing it. Those items that have been put into the Comprehensive Plan give you a lot of latitude to consider and we did that purposefully because there are lots of ways to plan how to build this City. I imagine what I would do if I had to cast a vote on this tonight.

First and foremost the site is too small. It will either have to expand by acquiring adjacent parcels of land or just be too small. Secondly, the site is too small. The superintendent told me that I would get used to the idea of a three story building there on a very compact site; but I do not believe it. Thirdly, the site is 10.8 acres, it is too small. The Board of Education gives guidelines on how much space you should have and this is 33% smaller than their recommendation. That is not a minor detail. This will also make the building cost more; going vertical costs money.

The superintendent has told us that the school can fit there, and it will fit there. He can get the required parking on site as well; whatever he determines the required parking should be. But it will cost more money than a traditional elementary school, like the ones we have built recently. Lastly, this really has no bearing; but, you can make one correlation to the school, the Comprehensive Plan, and the First Tee facility in that there is a driving range there. The driving range serves a purpose for both the golf course and First Tee. That driving range exists there already. Who in the world would build a school adjacent to a driving range? A safety net is not a reasonable compromise for selecting a school site adjacent to a driving range.

The Comprehensive Plan has a fiscal responsibility, so going vertical on a small site is an objection to the Plan. The Comprehensive Plan has in it a component – the Capital Improvement Plan, I think you reviewed and approved it last month. You should have done it in November and submitted it in January; but, it is done so that is better than nothing. However, the lack of planning by the school board and the superintendent does not make this a crisis. Our schools have been crowded before and our children have been in those trailers. It is not a good scenario, but it is not nearly as bad as building a school next to a driving range.

Do not be bullied into believing that you need to push this through because by 2017 we will have more children than we will have room for.

Dick Blackwell said I actually live in the County, but I have a business in the City and I own several properties in the City. Mr. Blackwell presented an engineered site plan of the First Tee property to the Planning Commission. He continued by saying this plan for the First Tee was done in 2007; perhaps it is not the City's plan, but all the same, First Tee has a plan. It has been planned for the First Tee to expand; that is why a number of people put up funds to help the City purchase the property. The school going on the adjacent site prevents being able to build a par three course for the First Tee program. This First Tee program is one of the best in the country and adding this small par three course would make it one of the very best. We have the opportunity to do that in the City. I know there was a lot of controversy about the golf course; but, in a way we are shooting ourselves in the foot when taking away the possibility of expanding First Tee.

Just down the street there is as much as twenty acres available that could be sold to the school. They could expand there, or have additional future schools there. This projected site would not be able for any expansion. I hate to see the First Tee program reduced when there is other property available at the same value as this site.

Chair Fitzgerald asked if there was anyone else wishing to speak. Hearing none, she asked Dr. Kizner if he would like to come forward to respond.

Dr. Kizner said I first want to thank everyone raising the question about safety. That is really the only thing I am going to touch upon. Just so everyone understands, the elementary and high school schedule is one hour apart; therefore, traffic is not going at the same time. I think you also respect that the school board, superintendent, and staff would never do anything to put any of our students in any compromise when it comes to safety.

I would also ask you to think about all of our other elementary schools and where they are located. I wonder if the question was raised at that point. We just basically built a speedway around Stone Spring Elementary School. We have kids on West Market Street at Thomas Harrison Middle School that cross over Market Street to the neighborhood across the street. Keister has Maryland Avenue and Central Avenue in their back yard. We are about to build a roundabout at Reservoir and Carlton where kids are playing at Spotswood Elementary School. It is an issue. We have traffic and we have schools. We will do everything, which we have always done, to make sure our children are safe. I just want you to understand that in the City, unlike the County, traffic is going to be there. The evidence is around our schools already.

The size of the school has not been decided. The last three schools built in Harrisonburg have all been two levels and this school will be at least two levels; however, no decision has been made if it is going to be three levels. I raise this point because we would never put a child with a disability, or any child for that matter, in harm's way. Remember, most of our schools are multiple levels.

We support First Tee and we will continue to support that program. The students are participants in that program and we think there is a great way of coexisting with First Tee. This is probably beyond the scope of what you are asked, but I just want to make sure that the narrative that we were putting kids in a safety risk is totally untrue.

Chair Fitzgerald asked if there was anyone else wishing to speak. Hearing none, she closed the public hearing and asked Mr. Fletcher to please provide the power point slide that shows the constraints of what a 2232 hearing is. A reminder that our purview is really narrow and one of the things we are not here to decide is to vet other sites for a school. It is absolutely the case that if Council or the school board would like us to look at another site and decide if another site met the

location, character, and extent suitable to the Comprehensive Plan; we would be delighted to do that. However, we are not here to do that tonight, we are here to evaluate this site only. Also, we are not here to decide if this is the best school site, but whether, if this is a site that is substantially in conformance with the Comprehensive Plan.

Mr. Colman said I think there are arguments in both ways in terms of compliance and non-compliance. If you can argue both ways does that mean it is questionable?

Chair Fitzgerald said I do not know if that is necessarily the case, I think it means that there are tradeoffs. There are going to be tradeoffs with any site. The question is whether or not the tradeoffs, according to the Comprehensive Plan, lead you to the conclusion that it is substantially in conformance with the Plan.

Mr. Colman said therefore, the substantial part is what we need to ensure. Certainly important issues have been raised here tonight. I think it is important as to whether this site can accommodate expansion, especially given questions of Pre-K location.

Mr. Baugh said I do not know if they have officially said this, but the school board has already moved on from this site with the Pre-K building.

Mr. Colman said but can the site be expanded in the future if need be?

Mr. Way said it seems logical to look at the Education chapter in the Comprehensive Plan and pick some things out from there. The things that stand out to me are Objective 5.3 – To work with the School Board to encourage needed neighborhood elementary schools in underserved areas of the City. I believe there is a debate as to whether this is underserved or whatever. I think the keyword here is “neighborhood,” and I am hearing compelling reasons as to why this may not be considered a neighborhood. In Strategy 5.3.2 – To design all new schools to fit into their neighborhood. I do not want to harp on the chicken and egg thing but I think if you read that strategy by the letter of what it says, it is challenging. I feel that within the Education chapter itself there are some interesting things to challenge us as to location of the school. I am open to be convinced either way.

Mr. Heatwole said I am in agreement with Mr. Colman in regard that any location could be argued for or against. I do not think it would matter what location in the City you were looking at, there would be pros and cons. In determining the location, character, and extent, I have concerns with the multiple levels, the size of the lot, and I would like to hear from the representatives of the school board or the architect. I would like to hear about the consideration for expansion, the use of the lot itself, and concerns of a safety net and how it may pertain to the cost impact of the construction.

Mr. Da'Mes said I would like to hear more regarding the recreational facilities. There is a question as to whether all the recreational facilities would be located on site. I would like to know the facts as to that.

Bob Moje, Charlottesville resident and architect with this project, said I am glad to try and answer all those questions if you just go through them one at a time. Let's begin with multi-stories, the oldest school that the City is using is Waterman Elementary, the second oldest is Keister Elementary, both are multi-story schools. The newest elementary/middle school is Smithland and Skyline which is a multi-story school. Multi-story schools have been part of the American educational fabric for hundreds of years. I understand that in the 1960's and 1970's we spread out all these schools and made single level buildings. These are not energy efficient, they are not efficient for moving the children through them; it actually takes more time to move children along

corridors than it does to move them up and down. There is also tremendous new information that the mere act of moving up and down the stairs is critical to stimulating your blood flow, brain function, and has tremendous benefits educationally. So I think there is a lot of evidence that multi-level schools have tremendous amount of benefits and they can be less expensive as well.

Mr. Heatwole said my concern is not just about the multi-levels, but that the lot size is 30% less than the recommended size for schools.

Mr. Moje said you mentioned state law, the standards for a school lot size were established in the 1950's. State legislation has tried to revise those standards and have been unable to do so; therefore, they are hopefully out of date. The Department of Education has rewritten things and made recommendations because they cannot get it through the legislative process. Again, these are standards that were established in a time when we were spreading things out and had lots of land. I am not an expert in urban planning but, Harrisonburg is going through a lot of growth, not just with schools, but throughout the City. Therefore, as a Planning Commission you are going to be faced with these kinds of issues over and over again about how you are transitioning from largely a suburban spread out city to an urban city. So this is not a subject necessarily of this site and this project, this is a City wide issue of what you are going through. We have spent a lot of time looking at the demographics of your school system and they tend to be a precursor of what is going to happen everywhere else. There is significant growth that is happening and it is going to continue to happen for the foreseeable future. Your available choices for land are limited because of the size. This is not unique. We work all over the state and I consult all over the country on these issues. I can tell you right now we are working in Arlington, Alexandria, and Fairfax County – they do not have places to build schools. We currently have schools under construction on existing school sites where we are doubling up and tripling up schools; there has actually been discussion in Arlington about looking at and building on sites over the top of Interstate 495. There is no place for the growth that is happening; the growth that is happening in school systems in Virginia is in small cities exactly like Harrisonburg. The fastest growing city is Fredericksburg, Harrisonburg is number two, and Winchester is also near the top of the list. The reason for that is the fundamental cultural changes that are going on. For a couple of decades we have been spreading out and now in a relatively short period of time we are going the other direction and there are a number of significant issues that are related to the demographic change and the cultural change. One of the most important issues, which I think is embedded within your Comprehensive Plan Goals, is the building of community. The reason they want that convenience store back and that bus stop there, are the community issues that we now understand were lost when we spread out.

Another issue that was touched on is the City School Board's plan for this is also a comprehensive one for the City as well, being able to move the fifth grade back to all those other neighborhood schools and it is a very complex thing. It is not a one of a kind, one site only thing we are looking at.

Mr. Heatwole asked about safety concerns with the golf driving range and the First Tee program behind the school.

Mr. Moje said golf courses are significant issues; but, there are driving ranges next to interstates. There are safety programs; there is engineering and a number of companies that can engineer exactly to very precise specs of what they need to do to prevent a golf ball from going to a particular place. You can drive down Interstate 81 and see driving ranges, and if someone wanted to they could hit a ball onto Interstate 81.

This elementary school will be the largest in the City; it will be 50% larger than the other ones. When we talked about expansion, the idea with this is to build it to what is considered the maximum size that we ever want. This would be constructed to what we feel is a reasonable number for educational standards for the number of students that you want on that site. We do not want it to go bigger, that is one of the reasons we recommend that the Pre-K not go on that site. We think this is on the smaller size for normal standards, but those standards are rapidly changing. I can take you to lots of places in the state where they are building on substantially smaller sites because of their urban condition. We just opened one in Old Towne Alexandria and it is half the size of this site with the same number of students; it is a K through 8th school. It is three stories and houses handicap and special needs students from throughout Alexandria. This is just part of what the world is these days.

Mr. Da'Mes said the last question would be to address the recreational facilities.

Mr. Moje replied that the recreational fields and play areas for the planned student body will all be accommodated on this site. There will not be a need for the elementary students to cross the street. There is some discussion that there can be shared uses over time, for instance if you have students in high school that are interested in early education, they may want to come across to this site. Also, I believe there is some synergy with parking, that there may be some type of shared parking with all the adjacent uses when there are special events.

Mr. Da'Mes said I feel the school board took your recommendation in terms of location pretty heavily in their decision making. What weight did you put on neighborhood in terms of ideal location for an elementary school?

Mr. Moje said we were not hired to specifically look for sites; therefore, we have not evaluated every site within the City. I just want to put that caveat out there. One of the things that has always amazed me about a comprehensive plan is that the localities have control over their schools, but I have yet to see a comprehensive plan that really says a school will be here and a school will be there. There are no perfect sites within your City. You are not constructing brand new neighborhoods and identifying here is where the elementary school goes. You have some existing neighborhoods that have schools in them and I think this overall plan that the school system has come up with is going to strengthen them by moving the fifth grade back to those schools. Putting 20% of the K-5 population back into the existing neighborhood schools and those are truly neighborhood schools. Your growth that you are having now is a different kind of demographic and a different kind of wave that is coming at you. This is not really coming out of neighborhood growth; it is coming from a shifting demographic and more people moving into existing houses. It is not like you have a big, new neighborhood, which the Comprehensive Plan somewhat presupposes, that you suddenly have to serve. From my look through your City you do not have that situation. In a perfect world you would have this elementary school located in that neighborhood; we no longer live in that world and we do not have that situation here. The idea of the larger school here is to accommodate moving the fifth grade back to serving your existing neighborhoods as much as possible and to locate this one in a place that helps to deal with the shifting demographics that you have with more students coming out of different types of housing that are spread in different diverse areas of your City.

Chair Fitzgerald said for me that is really helpful for neighborhood issues within the Comprehensive Plan. She then asked if there were any further questions for the architect.

Mr. Colman said you are saying that the building you will design for the site we have before us right now will be designed to fit that site with no expansion, because it will be designed for the maximum size.

Mr. Moje replied that is correct. The maximum that we are looking at is that this school will be 50 percent larger than your average school size now. There is a lot of evidence, particularly at the K-5 population that you do not really want to get much larger than that for a whole series of logistical reasons. It is easy to say we can add another 50 or 100 kids; but each one of those are individual children and no matter what you do, the more you gather them together, the harder it is to specialize in the child. The trend about 12-15 years ago was to build larger schools; however, we are going in the opposite direction now.

Mr. Baugh said I think for information purposes, when you go back to the beginning of this process and Dr. Kizner alluded to it, the first thing that was looked at were the existing sites. The conclusion was that for what you would pay for the relatively small bang for your buck, it was not the best idea for expansion. But it also gets into this idea for the site and it ties into what is being suggested now, in that you are getting a school that you know going in, and is constructed to utilize the space to the fullest.

If you ask the question of why does it not work to use existing buildings or do expansions you will realize that it is often the engineering of the existing structure. You cannot just add an additional wing to an existing building; often times the building will not support an addition. You are limited as to what you can do with existing buildings. Another thing is the topography of the existing sites. We have sites with open space, but how much of it is flat. We truly have buildings that we are limited as to what can be done and open space around those buildings that probably have no other long term use other than being open space around a school. Of course you may have a site where you can basically build the new school right next to the existing school, like what we are doing with the Municipal Building.

Mr. Colman said there seems like we have urgency with this to move forward and process everything this evening. Part of what I am not comfortable with is the fact that typically when someone brings something here for our review we want the issues with the neighborhood to be worked out or at least an attempt to work them out. It seems like there are significant issues here, like the First Tee being a City supported program that has issues with the site.

Chair Fitzgerald questioned if that was relevant to whether the site was substantially in accord with the Comprehensive Plan.

Mr. Colman said yes, I think that it is. We are talking about integration into a neighborhood; it needs to be integrated with the surrounding neighbors.

Mr. Way said for every site we analyze we do consider what is going on with adjacent properties and judge what is appropriate for that site. Location implies relative space; it implies relationships with the surroundings.

Mr. Da'Mes said as brought up by Mr. Domonoske earlier, the question of at what point should we be conducting the 2232 review, should we be asking ourselves this now.

Mr. Way said to build on that thought I would like to add if you think about what we have – we do not have much in terms of character of this project. We do not have the details of the site, the building, the parking, etc. This is more about the location only and in my mind is the most critical

thing to be thinking about right now. It does not mean this is how we should always be doing this and perhaps this is a test run of this process for us. I completely agree that moving forward, we need to think about when is the best time in the decision making process do we need to review these and what is the level of information we need.

Chair Fitzgerald said that is true for the next plan; however it is not true for this proposal tonight.

Mr. Way said I agree. What we are going on, with this tonight, is just the location. To be honest, I am a little uncomfortable making this decision here because I feel we do not have very much to go on. We do not have much of the history of the site. I feel for future reviews we need to know these things.

Dr. Dilts asked where is this project not in accord with the Comprehensive Plan. If our job is to think about whether or not it is substantially in accord with the Plan, then let us also think about how it is not in accord with it. I believe if you think about it that way, it puts some limits on what we are to be doing this evening. So, can we answer the question of how it is not in accord?

Mr. Da'Mes said I believe a lot of that was brought up tonight in terms of traffic, traffic flow, and safety. The question came up in terms of what is going to be the ingress and egress from the site. Will it be suitable to get buses and traffic in to the site? The answer is that there will come a time and point when that needs to be addressed and it will have to meet certain standards. I do not want to paraphrase, but this is something we need to have confidence in the system for and we need to say yes, it is not our determination, we are not the experts on design, but it will come within the system. There are steps ahead that will review these issues. In some regard we work in silos – we have the school board that worked diligently; we have City staff and they have done their part; the departments have looked at it from their point of view; and it has been through school board and Council votes. We have a purpose here to consider if there is a substantial reason to say “no” to this site. Through this process I have not felt comfortable with all the information; but, feel comfortable enough with the answers I have gotten to the questions I do have. I am good enough to say I feel comfortable enough with the site, with reservations; and then note the reservations.

Mr. Baugh said let me mention that the school board and Council have had a lot of good communication regarding this site. In many respects, if I had to come down on what was the last issue that Council and School Board had to bridge on this, it was that the school board is approaching the construction of this project differently than it has in the past. In the past there has been more of – you hire the architect; the architect comes up with the plans; you review the plans; and it goes forward. So times in the past we would have more of a picture to look at than what we have now. We are not doing it that way this time. We are doing it differently because the School Board has made a conscience decision and they talked about this tonight. They want the community input as part of the design process. Therefore, they want the commitment on the site, the commitment from Council on funding, which no funds have really been allocated for this yet, just a working budget, and then the public input on design. So because of that, we do not have the picture to present tonight and I am sure there are a lot of questions that are unanswered.

Chair Fitzgerald said if you think about that, there are many goals, objectives, and strategies within the Comprehensive Plan that address the idea of more public input.

Mr. Way said thank you for that discussion, it certainly helps me understand a little bit more of the process and why we are at this point now.

Mr. Baugh said it is challenging and I know Council and school board wrestled with it as well.

Mr. Da'Mes said I appreciate that school board members are here tonight to hear, yet again, the discussion. They are here for the input from citizens and from Planning Commission.

Mr. Way said I must say that regardless of many of the issues that have been discussed tonight regarding transportation, pedestrian and bicycle access, safety, and so on, I am mildly swayed by the argument that we are increasing a grade within the existing elementary schools, back to K-5. I can understand the rationale and logic in that and it does go somewhat to convincing me.

If we try to answer Dr. Dilts' question of how does it not conform to the Comprehensive Plan, I think we can definitely pick out some goals and strategies which it does not conform to. I still have a hard time understanding how this site is fitting with the neighborhood model. Having said all that, I can find many things that the site is in conformity with and if you go back to the overall Goal 5 of providing wide and equitable school opportunities for children in Harrisonburg, this clearly serves those purposes. Perhaps it comes down to the scale of which we value most.

Chair Fitzgerald said that is the tradeoff I was referring to.

Dr. Dilts said I cannot see any way that it is not substantially in accord with the Comprehensive Plan. So we have a few tradeoffs; but I will vote that we are in substantial accord. I do think that it would be nice to have conversations with First Tee. I think that at some point the neighbors worry about Garbers Church Road and its safety; but, at some point we must trust the City to both work with the current problems and with the future issues. We need to trust the City and school board that when this school opens it will be safe for the children.

Dr. Dilts said with that, I move that the proposal for the school site is substantially in accord with the Comprehensive Plan.

Mr. Fletcher said in the past what we have done is Planning Commission lists out particular items where you are finding the proposal to be in substantial accord with the Comprehensive Plan. With the Park View Water Tank site Planning Commission made a recommendation based upon particular objectives, goals, and strategies that you noted and then staff crafted a findings document for Planning Commission to review and ensure that the motion was covered within the document. The Chair then signed the findings document and we forwarded it on to City Council.

Dr. Dilts then clarified that she finds the proposal substantially in accord with Goals 3, 5, 8, 10, and 11.

Chair Fitzgerald asked if there was a second for the motion.

Mr. Da'Mes asked Dr. Dilts if she would like to include in the motion that there are concerns regarding the definition of neighborhood schools. Perhaps Mr. Way could elaborate more on that.

Mr. Way said it is the two strategies within Objective 5.3 that I have a big question mark. I believe there needs to be some justification about this not being a particularly integrated neighborhood at the moment.

Mr. Da'Mes suggested that Mr. Fletcher could put the language together.

Mr. Colman said I have reservations about whether we are meeting Objective 5.3 and strategies.

Mr. Fletcher said we as staff will not be trying to write what we thought you meant; Planning Commission really needs to specify any particular reservations that you want included within the findings document.

Chair Fitzgerald said perhaps we should list all the goals that Dr. Dilts listed – 3, 5, 8, 10, and 11, with reservations associated with the trade-offs and costs with not meeting Objective 5.3.

Mr. Colman said let me mention that Goal 5 is the one that is exclusively for educational facilities and that is the one we have reservations about.

Chair Fitzgerald replied we have reservations regarding a particular strategy that is associated with that goal. In other words, we are creating other educational facilities; but not in the particular way that one of the strategies associated with Goal 5 indicates.

Mr. Way said lets think about what is the broader message that we are going to convey by this. In some ways nothing could be done about this particular school by us articulating reservations on this basis, this is moving forward. I suppose what I am trying to say is that when future planning is happening for educational facilities we need to think about strategy 5.3 and the neighborhood factor and neighborhood dimensions.

Mr. Colman said that makes sense.

Chair Fitzgerald said we have a motion, is there a second?

Mr. Heatwole said for the sake of more discussion on the matter I will second the motion.

Chair Fitzgerald asked for further discussion.

Mr. Da'Mes said I do not see any alternative from what the motion states; so therefore, I have nothing more to say on the issue.

Mr. Fletcher said just for clarification, the motion states that you find it substantially in conformance with the Comprehensive Plan, calling attention to Goals 3, 5, 8, 10, and 11, with the reservations and trade-offs and costs associated with...

Chair Fitzgerald interrupted and said with reservations about the trade-offs and costs.

Mr. Colman said no, it needs to say reservations about 5.3.

Mr. Way said my particular concern is the extent to which it is in conformity with Objective 5.3; that is my concern.

Mr. Colman asked Mr. Fletcher to read what he had written down.

Mr. Fletcher said the Commission finds that the proposed site is substantially in conformance with the Comprehensive Plan, calling attention to Goals 3, 5, 8, 10, and 11, with the reservations about the trade-offs and costs associated with Objective 5.3.

Chair Fitzgerald asked for further comments. Hearing none, she called for a roll call vote on the motion.

Mr. Fletcher said before we do a roll call vote let me read what Objective 5.3 states – “to work with the School Board to encourage needed neighborhood elementary schools in underserved areas of the City”.

Mr. Colman said no, it needs to include 5.3.1 and 5.3.2.

Mr. Fletcher replied those are strategies; those are suggested strategies that were crafted at the time of the Comprehensive Plan adoption as ways in which to meet the objectives. Do you also have concerns with the strategies that are listed?

Mr. Colman said the strategies are the ones we have concerns with in order to meet the goal.

Dr. Dilts asked is a strategy as strong as a goal.

Chair Fitzgerald said a strategy is something you do to achieve a goal.

Dr. Dilts asked is it the only way you can achieve a goal or is it a suggested way to achieve a goal.

Mr. Fletcher said the strategies as they are presented in our Comprehensive Plan are suggested ways to achieve the objective. The objectives are things that you work towards to achieve the overall goal.

Chair Fitzgerald asked Mr. Colman are you concerned about the fact that we are listing Goal 5 and saying that it generally supports Goal 5, but not specifically Objective 5.3.

Mr. Way said I do not want to speak for Mr. Colman, but I am in favor of Goal 5 because I think that this school provides a wide and equitably distributed range of educational opportunities for all ages. I am flagging Objective 5.3 because of the neighborhood element. Therefore, I think you can be in favor of meeting Goal 5, but against Objective 5.3.

Chair Fitzgerald said I understand, it supports Goal 5, but it does not support Objective 5.3.

Mr. Fletcher said thank you, this basically gets us what we need. I think calling attention to the strategies really threw me off.

Chair Fitzgerald called for a roll call vote.

Commissioner Way – yes.

Commissioner Da'Mes – yes.

Commissioner Dilts – yes.

Commissioner Heatwole – yes.

Commissioner Colman – yes.

Commissioner Baugh – yes.

Chair Fitzgerald – yes.

Chair Fitzgerald said this will move forward to City Council on May 12th.

Unfinished Business

None.

Public Input

None.

Report of secretary and committees

Mrs. Banks said proactive enforcement visited Purcell Park and Park View neighborhoods this cycle where they found 17 violations – six in Purcell and eleven in Park View. Next month they will do two more areas, the Northeast and the Industrial/Technology areas. This should catch us up with proactive zoning from when we were on hiatus. There was also a question last month regarding the sign violations from the Valley Mall area. If you recall there were 27 violations, 25 of

them were for signs; 21 of those violations have been corrected at this time. Zoning Inspectors are still working with some of the property owners at this time.

Mr. Da'Mes said perhaps at a future meeting we can talk about how we can address arterial roadway signage. This seems like a seasonal thing; the signs go up, and we do not always hit the area proactively at that time.

Mr. Fletcher said we actually hit that area more than once every three year cycle because complaints come in. Complaint driven numbers are not reflected within the proactive zoning; therefore, you do not see them.

Mr. Baugh said City Council has not taken up any new Planning Commission items since our last meeting.

Other Matters

None.

Adjournment

Planning Commission adjourned at 10:40 p.m.

DRAFT

Proposed Wireless Telecommunications Facilities Regulations and Related Ordinance Amendments

Amendments and additions to each section are described under the section heading.

Section 10-3-24. Definitions.

Add and remove the following definitions as shown:

Alternative support structure: With regard to wireless telecommunications, any structure currently used primarily for something other than supporting a wireless telecommunications facility.

Antenna: a whip, panel, disc, rod, dish, or similar device used for transmission or reception of telecommunications.

Base station: A wireless telecommunications facility; such facility may consist of radio transceivers; antennas; coaxial, fiber optic, or other cables; a regular and back-up power supply; and other associated electronics and technology. Such facilities are sometimes referred to as base transceiver stations. Base stations may also be structures that currently support or house any of the technology listed in this definition or other associated equipment that constitutes part of a base station in any technological configuration, including distributed antenna systems and industrial microcells.

Camouflage: With regard to wireless telecommunications facilities, a way of painting, mounting, or locating related equipment so it is not readily apparent to the casual observer. ~~Such practice shall not increase the height of any support structure in order to accommodate the facility.~~ Camouflaged wireless telecommunications facilities are often collocated, utilize flush mounted antennas and related equipment, are painted to match the color of the support structure, or hidden from view by things like parapet walls. Camouflaging equipment is not equivalent to concealing equipment.

Collocate: With regard to wireless telecommunications facilities, the act of locating wireless telecommunications facilities on any existing support structure. ~~Support structures that must be added to existing buildings or structures to accommodate the facility and which increases the height of the building or structure shall not meet the intent of this definition.~~

~~*Communications tower:* A structure that is intended to send and/or receive radio, television and other telecommunications signals.~~

Concealed wireless telecommunications facility: Any wireless telecommunications facility that is integrated as an architectural feature of an existing structure or any new support structure designed so that the purpose of the facility or support structure for providing wireless telecommunications services is not readily apparent to a casual observer. Examples include but are not limited to: bell towers, clock towers, faux trees,

flag poles, minarets, monuments, parapets, religious symbols, smoke stacks, steeples, or structures intended as art.

Consumer microcell: With regard to wireless telecommunications, a signal booster that is marketed and sold to the general public for use without modification. These types of devices do not require professional installation and are used for personal use by individuals to improve coverage in a home, car, boat, recreational vehicle and other related areas.

Distributed antenna systems (DAS): A wireless telecommunications facility; a system or network of spatially separated antennas connected to a common transport medium (i.e. coaxial, fiber optic, or other cable) to a signal source, such as a base station or an external antenna capable of connecting to a base station wirelessly. Such systems/networks commonly have three primary components: remote communications nodes, each having at least one antenna for transmission and/or reception; a high capacity signal transport medium, which is either underground or aerial; and a central communications hub to propagate and/or convert, process or control signals transmitted and received through the nodes. DAS may also include additional equipment such as amplifiers, remote radio heads, signal converters, power supplies, and other related equipment.

Equipment cabinet: With regard to wireless telecommunications, a cabinet, shed, shelter, or other structure, where equipment is housed to support wireless telecommunications services.

~~*Flush Mounted Antennas:* Antennas that project no more than twelve (12) inches from a support structure. The measurement shall be taken from the outside of the support structure to the outside edge of the antenna.~~

Industrial microcell: A wireless telecommunications facility; a stand alone, short range radio transceiver located in specific locations, either indoors or outdoors, where there is often low signal quality and high demand for a wireless telecommunications signal. Examples include but are not limited to industrial signal boosters, repeaters, bi-directional amplifiers, and devices specifically identified as microcells. Consumer microcells, such as femtocells, for residential or household use or mobile use (i.e. vehicular, boat, etc.) are excluded from this definition.

Macrocell: Any wireless telecommunications facility not considered a concealed wireless telecommunications facility, a consumer microcell, an industrial microcell, or a distributed antenna system.

Telecommunications: Any transmission, emission or reception of signs, signals, sounds, voice, text, images, video, data, information or intelligence of any nature by wire, radio, optical or other electromagnetic systems.

Telecommunications Tower: Any structure, except concealed wireless telecommunications facilities, designed, constructed, erected, repurposed or re-used for

the sole or primary purpose of providing and supporting wireless telecommunications services. Such structures include but are not limited to guyed structures, monopole structures, lattice-type structures, and other freestanding self-supporting structures as well as decommissioned water towers and tanks, feed mills, utility towers, public safety towers, and other decommissioned structures that were erected primarily for something other than providing and supporting wireless telecommunications services.

Temporary Wireless Telecommunications Facility: A readily movable self-contained wireless telecommunications facility used to provide provisional wireless telecommunications services. An example is a cell on wheels (cow).

Support Structure: With regard to wireless telecommunications, any structure that may support a wireless telecommunications facility including but not limited to telecommunications towers, alternative support structures, and structures that may be attached to or on top of buildings and other structures.

Wireless telecommunications facility: Any unmanned facility established for the purpose of providing wireless telecommunications services. Such facilities can consist of one or more antennas and accessory equipment, equipment cabinets, towers, concealed wireless telecommunications facilities, distributed antenna systems, industrial microcells, base stations, or any combinations thereof. This definition does not apply to equipment for radio or television studios, facilities designed for amateur radio use, or for residential or household uses (i.e. consumer microcells, etc.).

Section 10-3-34. Uses Permitted Only By Special Use Permit within the R-1, Single Family Residential District

Amended subsection (128) as shown:

~~(128) Communication facilities necessary for public safety purposes, including towers up to two hundred (200) feet in height, which may include rental of space to private communication service providers. Concealed wireless telecommunications facilities, and the following, which among other things shall be collocated and camouflaged: industrial microcells, distributed antenna systems, and macrocells. Telecommunications towers are not permitted, except towers primarily erected for the use of the Harrisonburg-Rockingham Emergency Communications Center up to 200 feet in height. Wireless telecommunications facilities are further regulated by Article CC.~~

Section 10-3-35. Area and dimensional regulations.

Amend as shown:

Except as provided in Article T, and as required in Article CC for wireless telecommunications facilities, the following area and dimensional regulations shall apply:

Section 10-3-40. Uses Permitted Only By Special Use Permit within the R-2, Residential District.

Amended subsection (139) as shown:

~~(139) Communication facilities necessary for public safety purposes, including towers up to two hundred (200) feet in height, which may include rental of space to private communication service providers. Concealed wireless telecommunications facilities, and the following, which among other things shall be collocated and camouflaged:~~ industrial microcells, distributed antenna systems, and macrocells. Telecommunications towers are not permitted, except towers primarily erected for the use of the Harrisonburg-Rockingham Emergency Communications Center up to 200 feet in height. Wireless telecommunications facilities are further regulated by Article CC.

Section 10-3-41. Area and dimensional regulations.

Amend as shown:

Except as provided in Article T, and as required in Article CC for wireless telecommunications facilities, the following area and dimensional regulations shall apply:

Section 10-3-46. Uses Permitted Only By Special Use Permit within the R-3, Multiple Dwelling Residential District.

Amended subsection (94) as shown:

~~(94) Communication facilities necessary for public safety purposes, including towers up to two hundred (200) feet in height, which may include rental of space to private communication service providers. Concealed wireless telecommunications facilities, and the following, which among other things shall be collocated and camouflaged:~~ industrial microcells, distributed antenna systems, and macrocells. Telecommunications towers are not permitted, except towers primarily erected for the use of the Harrisonburg-Rockingham Emergency Communications Center up to 200 feet in height. Wireless telecommunications facilities are further regulated by Article CC.

Section 10-3-47. Area and dimensional regulations.

Amend as shown:

Except as provided in Article T, and as required in Article CC for wireless telecommunications facilities, the following area and dimensional regulations shall apply:

Section 10-3-48.4. Uses Permitted Only By Special Use Permit within the R-3, Medium Density Residential District.

Amended subsection (104) as shown:

~~(104) Communication facilities necessary for public safety purposes, including towers up to two hundred (200) feet in height, which may include rental of space to private communication service providers. Concealed wireless telecommunications facilities, and the following, which among other things shall be collocated and~~

~~camouflaged: industrial microcells, distributed antenna systems, and macrocells. Telecommunications towers are not permitted, except towers primarily erected for the use of the Harrisonburg-Rockingham Emergency Communications Center up to 200 feet in height. Wireless telecommunications facilities are further regulated by Article CC.~~

Section 10-3-48.5. Area and dimensional regulations.

Amend as shown:

Except as provided in Article T, and as required in Article CC for wireless telecommunications facilities, the following area and dimensional regulations shall apply:

Section 10-3-52. Uses Permitted Only By Special Use Permit within the R-4, Planned Unit Residential District.

~~Amend~~ subsection (83) as shown:

- (83) ~~Communication facilities necessary for public safety purposes, including towers up to two hundred (200) feet in height, which may include rental of space to private communication service providers. Concealed wireless telecommunications facilities, and the following, which among other things shall be collocated and camouflaged:~~ industrial microcells, distributed antenna systems, and macrocells. Telecommunications towers are not permitted, except towers primarily erected for the use of the Harrisonburg-Rockingham Emergency Communications Center up to 200 feet in height. Wireless telecommunications facilities are further regulated by Article CC.

Section 10-3-53. Area and dimensional regulations.

Add as shown:

Except as provide in Article T, and as required in Article CC for wireless telecommunications facilities, the following area and dimensional regulations shall apply:

Section 10-3-55.4. Uses Permitted Only By Special Use Permit within the R-5, High Density Residential District.

Add subsection (8) as shown:

- (8) Concealed wireless telecommunications facilities, ~~and the following, which among other things shall be collocated and camouflaged:~~ industrial microcells, distributed antenna systems, and macrocells. Telecommunications towers are not permitted, except towers primarily erected for the use of the Harrisonburg-Rockingham Emergency Communications Center up to 200 feet in height. Wireless telecommunications facilities are further regulated by Article CC.

Section 10-3-55.5. Area and dimensional regulations.

Add as shown:

Except as provide in Article T, and as required in Article CC for wireless telecommunications facilities, the following area and dimensional regulations shall apply:

Section 10-3-56.4. Uses Permitted Only By Special Use Permit within the R-6, Low Density Mixed Residential Planned Community District.

Add subsection (i) as shown:

- (i) Concealed wireless telecommunications facilities, ~~and the following, which among other things shall be collocated and camouflaged:~~ industrial microcells, distributed antenna systems, and macrocells. Telecommunications towers are not permitted, ~~except towers primarily erected for the use of the Harrisonburg-Rockingham Emergency Communications Center up to 200 feet in height.~~ Wireless telecommunications facilities are further regulated by Article CC.

Section 10-3-56.5. Area, density and dimensional regulations.

Amend subsection (f) as shown:

- (f) Unless otherwise specified within the master development plan, the provisions of Article T, and the regulations in Article CC for wireless telecommunications facilities, shall apply to the R-6 zoning district.

Section 10-3-57.4. Uses Permitted Only By Special Use Permit within the R-7, Medium Density Mixed Residential Planned Community District.

Add subsection (i) as shown:

- (i) Concealed wireless telecommunications facilities, ~~and the following, which among other things shall be collocated and camouflaged:~~ industrial microcells, distributed antenna systems, and macrocells. Telecommunications towers are not permitted, ~~except towers primarily erected for the use of the Harrisonburg-Rockingham Emergency Communications Center up to 200 feet in height.~~ Wireless telecommunications facilities are further regulated by Article CC.

Section 10-3-57.5. Area, density and dimensional regulations.

Amend subsection (f) as shown:

- (f) Unless otherwise specified within the master development plan, the provisions of Article T, and the regulations in Article CC for wireless telecommunications facilities, shall apply to the R-7 zoning district.

Section 10-3-58.4. Uses Permitted Only By Special Use Permit within the MX-U, Mixed Use Planned Community District.

Add subsection (8) as shown:

- (8) Concealed wireless telecommunications facilities, ~~and the following, which among other things shall be collocated and camouflaged:~~ industrial microcells, distributed antenna systems, and macrocells. Telecommunications towers are not

permitted, except towers primarily erected for the use of the Harrisonburg-Rockingham Emergency Communications Center up to 200 feet in height. Wireless telecommunications facilities are further regulated by Article CC.

**Section 10-3-58.5. Area, density and dimensional regulations.
Amend subsection (5) as shown:**

- (5) Unless otherwise specified within the master development plan, the provisions of Article T, and the regulations in Article CC for wireless telecommunications facilities, shall apply to the MX-U zoning district.

**Section 10-3-84. Uses Permitted By Right within the B-1, Central Business District.
Amend subsection (8) and add subsection (13) as shown:**

- (8) ~~Telecommunications equipment and facilities, provided such equipment and facilities are located in an enclosed structure. Concealed wireless telecommunications facilities, and the following, which among other things shall be collocated and camouflaged:~~ industrial microcells, distributed antenna systems, and macrocells. Telecommunications towers are permitted only by special use permit. Wireless telecommunications facilities are further regulated by Article CC.
- (13) Radio and television stations and studios or recording studios. All antennas and satellites and associated equipment shall be screened.

**Section 10-3-85. Uses Permitted Only By Special Use Permit within the B-1, Central Business District.
Amend subsection (2), ~~and (5)~~, and (6) as shown:**

- (2) ~~Telecommunications equipment and facilities not located in an enclosed structure. Wireless telecommunications facilities not permitted by Section 10-3-84 (8) or those not meeting the requirements of Section 10-3-197 (1). Wireless telecommunications facilities are further regulated by Article CC.~~
- (5) Structures, except wireless telecommunications facilities, in excess of seventy five (75) feet in height.
- (6) ~~Communication facilities necessary for public safety purposes, including towers up to two hundred (200) feet in height, which may include rental of space to private communication service providers. Reserved.~~

**Section 10-3-86. Area and dimensional regulations.
Amend as shown:**

Except as provided in Article T, and as required in Article CC for wireless telecommunications facilities, the following area and dimensional regulations shall apply:

Section 10-3-90. Uses Permitted By Right within the B-2, General Business District.
Add subsection (20) as shown:

- (20) Concealed wireless telecommunications facilities, ~~and the following, which among other things shall be collocated and camouflaged:~~ industrial microcells, distributed antenna systems, and macrocells. Telecommunications towers are permitted only by special use permit. Wireless telecommunications facilities are further regulated by Article CC.

Section 10-3-91. Uses Permitted Only By Special Use Permit within the B-2, General Business District.
Amend subsection (4), ~~and (12)~~, and (15) as shown:

- (4) Communications tower no more than one hundred twenty five (125) feet in height. Wireless telecommunications facilities not permitted by Section 10-3-90 (20) or those not meeting the requirements of Section 10-3-197 (1). Wireless telecommunications facilities are further regulated by Article CC.
- (12) Structures, except wireless telecommunications facilities, in excess of seventy-five (75) feet in height.
- ~~(15) Communication facilities necessary for public safety purposes, including towers up to two hundred (200) feet in height, which may include rental of space to private communication service providers. Reserved.~~

Section 10-3-92. Area and dimensional regulations.
Amend as shown:

Except as provided in Article T, and as required in Article CC for wireless telecommunications facilities, the following area and dimensional regulations shall apply:

Section 10-3-96. Uses Permitted By Right within the M-1, General Industrial District.
Amend subsection (15) as shown:

- (15) ~~Communications towers~~ Wireless telecommunications facilities no more than one hundred twenty-five (125) feet in height. Wireless telecommunications facilities are further regulated by Article CC.

Section 10-3-97. Uses Permitted Only By Special Use Permit within the M-1, General Industrial District.
Amend subsection (6) and (12) as shown:

- (6) ~~Communications towers more than one hundred twenty five (125) feet in height.~~ Wireless telecommunications facilities not permitted by Section 10-3-96 (15) or

those not meeting the requirements of Section 10-3-198 (1). Wireless telecommunications facilities are further regulated by Article CC.

~~(12) Communication facilities necessary for public safety purposes, including towers up to two hundred (200) feet in height, which may include rental of space to private communication service providers. Reserved.~~

Section 10-3-98. Area and dimensional regulations.

Amend as shown:

Except as provided in Article T, and as required in Article CC for wireless telecommunications facilities, the following area and dimensional regulations shall apply:

Section 10-3-129. Expansion or enlargement of a special use.

Amend as shown:

A special use may not be enlarged or expanded unless approved by city council through the approval procedure outlined in this article, or unless the expansion or enlargement was specifically authorized in the original approval, or as otherwise permitted.

Section 10-3-180. Uses Permitted Only By Special Use Permit within the U-R, Urban Residential District.

~~Amended~~ subsection (117) as shown:

~~(117) Communication facilities necessary for public safety purposes, including towers up to two hundred (200) feet in height, which may include rental of space to private communication service providers. Concealed wireless telecommunications facilities, and the following, which among other things shall be collocated and camouflaged: industrial microcells, distributed antenna systems, and macrocells. Telecommunications towers are not permitted, except towers primarily erected for the use of the Harrisonburg-Rockingham Emergency Communications Center up to 200 feet in height. Wireless telecommunications facilities are further regulated by Article CC.~~

Section 10-3-181. Area and dimensional regulations.

Amend as shown:

Except as provided in Article T, and as regulated in Article CC for wireless telecommunications facilities, the following area and dimensional regulations shall apply:

Add the following new Article:

Article CC. Wireless Telecommunications Facilities

Section 10-3-195. Purpose.

The regulations set forth in this article are to regulate wireless telecommunications facilities as defined in Section 10-3-24 Definitions. They are to provide opportunities to supply wireless telecommunications services in the City with minimal negative impact to the community while respecting both residential and commercial neighborhoods.

With the exception of telecommunications towers primarily erected for the use of the Harrisonburg-Rockingham Emergency Communications Center as regulated by this Article, wireless telecommunications facilities considered public uses and temporary facilities needed for government-declared emergencies and disasters shall be permitted in all zoning districts at appropriate locations and heights necessary to adequately provide the service. No minimum setback requirements or maximum height regulations shall apply to such facilities, but reasonable efforts shall be made to be sensitive to the surrounding neighborhood and environment in which they are located.

Section 10-3-196. Wireless telecommunications facilities within residential districts and the MX-U, Mixed Use Planned Community District.

The requirements within this section apply to all wireless telecommunications facilities, except facilities as specified in Section 10-3-195, as identified in all residential districts and ~~to~~ the MX-U district.

(1) Uses permitted by right.

- a. There are no wireless telecommunications facilities allowed by-right within any residential district or the MX-U district.

(2) Uses permitted only by special use permit.

- a. Concealed wireless telecommunications facilities.
 - i. The height of such facilities may exceed the maximum height regulation of the district in which it is located but shall be limited to the height specified in the special use permit application or as may be more strictly conditioned and approved by City Council.
 - ii. Minimum setback regulations shall be controlled by the district in which it is located or as may be more strictly conditioned and approved by City Council.
 - iii. Equipment cabinets and related structures or equipment shall be screened or camouflaged and if not collocated shall meet the requirements for

- accessory buildings per Section 10-3-114 or as may be more strictly conditioned and approved by City Council.
 - iv. Unless otherwise required, or as part of the intent of the facility, artificial lighting is prohibited.
 - v. No advertising of any type may be placed on the facility.
- b. Industrial microcells, distributed antenna systems (DAS), macrocells, and similar facilities
- i. Other than associated equipment cabinets and other equipment that may be located on the ground, such facilities shall be collocated.
 - ii. The height of such equipment shall not increase the height of the utilized support structure by more than five (5) feet.
 - iii. All collocated equipment shall be camouflaged.
 - iv. Equipment cabinets and related structures or equipment not located within central communications hubs shall be screened or camouflaged and if not collocated shall meet the requirements for accessory buildings per Section 10-3-114 or as may be more strictly conditioned and approved by City Council. Central communications hubs shall be considered principal buildings and shall meet the minimum setback regulations and maximum height restrictions of the district in which they are located or as may be more strictly conditioned and approved by City Council.
 - v. Unless otherwise required, artificial lighting is prohibited.
 - vi. No advertising of any type may be placed on the facility.
- ~~c. Distributed Antenna Systems (DAS)~~
- ~~i. Other than associated equipment cabinets and other equipment that may be located on the ground, remote communication nodes shall be collocated.~~
 - ~~ii. The height of such equipment shall not increase the height of the utilized support structure.~~
 - ~~iii. All collocated equipment shall be camouflaged.~~
 - ~~iv. Equipment cabinets and related structures or equipment not located within central communications hubs shall be screened and shall meet the requirements for accessory buildings per Section 10-3-114 or as may be more strictly conditioned and approved by City Council. Central communications hubs shall be considered principal buildings and shall meet the minimum setback regulations and maximum height restrictions of the district in which they are located or as may be more strictly conditioned and approved by City Council.~~
 - ~~v. Unless otherwise required, artificial lighting is prohibited.~~
 - ~~vi. No advertising of any type may be placed on the facility.~~
- ~~d. Macrocells~~
- ~~i. Other than associated equipment cabinets and other equipment that may be located on the ground, such facilities shall be collocated. All such facilities shall utilize flush mounted antennas.~~

- ~~ii. The height of such facilities shall not increase the height of the utilized support structure.~~
- ~~iii. All collocated equipment shall be camouflaged.~~
- ~~iv. Equipment cabinets and related structures or equipment shall be screened and if not collocated shall meet the requirements for accessory buildings per Section 10-3-114.~~
- ~~v. Unless otherwise required, artificial lighting is prohibited.~~
- ~~vi. No advertising of any type may be placed on the facility.~~

- e.c. Telecommunications towers primarily erected for the use of the Harrisonburg-Rockingham Emergency Communications Center, which may include rental of space for private wireless telecommunications providers.
 - i. The facility shall be no taller than 200 feet in height.
 - ii. Minimum setback regulations shall be controlled by the district in which it is located or as may be more strictly conditioned and approved by City Council.
 - iii. Equipment cabinets and related structures or equipment shall be screened or camouflaged and shall meet the requirements for accessory buildings per Section 10-3-114 or as may be more strictly conditioned and approved by City Council.
 - iv. Unless otherwise required, artificial lighting is prohibited.
 - i.v. No advertising of any type may be placed on the facility.

Section 10-3-197. Wireless telecommunications facilities within the B-1, Central Business District and the B-2, General Business District.

The requirements within this section apply to all wireless telecommunications facilities, except facilities as specified in Section 10-3-195, as identified in the B-1 and B-2 districts.

(1) Uses permitted by-right.

- a. Concealed wireless telecommunications facilities.
 - i. The height of such facilities shall be controlled by the maximum height regulation of the district in which they are located.
 - ii. Minimum setback regulations shall be controlled by the district in which they are located.
 - iii. Equipment cabinets and related structures or equipment shall be screened or camouflaged and if not collocated shall meet the requirements for accessory buildings per Section 10-3-114.
 - iv. Unless otherwise required, or as part of the intent of facilities, artificial lighting is prohibited.
 - v. No advertising of any type may be placed on the facility.
- b. Industrial microcells, distributed antenna systems (DAS), macrocells, and similar facilities

- i. Other than associated equipment cabinets and other structures or equipment that may be located on the ground, such facilities shall be collocated.
- ii. The height of such facilities shall not increase the height of the utilized support structure by more than five (5) feet.
- iii. All collocated equipment shall be camouflaged.
- iv. Equipment cabinets and related structures or equipment not located within central communications hubs shall be screened or camouflaged and if not collocated shall meet the requirements for accessory buildings per Section 10-3-114. Central communications hubs shall be considered principal buildings and shall meet the minimum setback regulations and maximum height restrictions of the district in which they are located or as may be more strictly conditioned and approved by City Council.
- v. Unless otherwise required, artificial lighting is prohibited.
- vi. No advertising of any type may be placed on the facility.

~~c. Distributed Antenna Systems (DAS).~~

- ~~i. Other than associated equipment cabinets and other structures or equipment that may be located on the ground, remote communication nodes shall be collocated.~~
- ~~ii. The height of such facilities shall not increase the height of the utilized support structure.~~
- ~~iii. All collocated equipment shall be camouflaged.~~
- ~~iv. Equipment cabinets and related structures or equipment not located within central communications hubs shall be screened and shall meet the requirements for accessory buildings per Section 10-3-114. Central communications hubs shall meet the minimum setback regulations and maximum height restrictions of the district in which they are located.~~
- ~~v. Unless otherwise required, artificial lighting is prohibited.~~
- ~~vi. No advertising of any type may be placed on the facility.~~

~~d. Macrocells.~~

- ~~i. Other than associated equipment cabinets and other structures or equipment that may be located on the ground, such facilities shall be collocated. All such facilities shall utilize flush mounted antennas~~
- ~~ii. The height of such facilities shall not increase the height of the utilized support structure.~~
- ~~iii. All collocated equipment shall be camouflaged.~~
- ~~iv. Equipment cabinets and related structures or equipment shall be screened and if not collocated shall meet the requirements for accessory buildings per Section 10-3-114.~~
- ~~v. Unless otherwise required, artificial lighting is prohibited.~~
- ~~vi. No advertising of any type may be placed on the facility.~~

(2) Uses permitted only by special use permit.

- a. Wireless telecommunications facilities not permitted by, or not meeting the requirements within, Section 10-3-197 (1), including minimum setback regulations and maximum height restrictions. (Wireless telecommunications facilities exceeding seventy-five (75) feet in height do not need a separate special use permit as allowed withinby Section 10-3-85 (5) of the B-1 district or Section 10-3-91 (12) of the B-2 district.)
 - i. All regulating details of the facility (i.e. type, height, setbacks, etc.) shall be as specified in the special use permit application or as may be more strictly conditioned and approved by City Council.
 - ii. If installing a telecommunications tower, it shall be designed for more than one (1) accommodation. (This rule does not apply to telecommunications towers primarily erected for the use of the Harrisonburg-Rockingham Emergency Communications Center.)
 - iii. Support structures shall be designed to collapse upon themselves or to collapse within the smallest possible area should structural failure occur. The applicant shall submit written certification and supporting documentation from a structural engineer to this effect.

Section 10-3-198. Wireless telecommunications facilities within the M-1, General Industrial District.

The requirements within this section apply to all wireless telecommunications facilities, except facilities as specified in Section 10-3-195, as identified in the M-1 district.

(1) Uses permitted by right.

- a. Any **defined** wireless telecommunications facility.
 - i. Facilities shall not exceed one hundred twenty-five (125) feet in height.
 - ii. Support structures shall meet the minimum setback regulations of the M-1 district.
 - iii. Telecommunications towers shall be designed for more than one (1) accommodation. (This rule does not apply to telecommunications towers primarily erected for the use of the Harrisonburg-Rockingham Emergency Communications Center.)
 - iv. Support structures shall be designed to collapse upon themselves or to collapse within the smallest possible area should structural failure occur. The applicant shall submit written certification and supporting documentation from a structural engineer to this effect.
 - v. Equipment cabinets and related structures or equipment not located within central communications hubs shall be screened or camouflaged and shall meet the requirements for accessory buildings per Section 10-3-114. Central communications hubs shall meet the minimum setback regulations and maximum height restrictions of the M-1 district.
 - vi. Unless otherwise required, or as part of the intent of a concealed wireless telecommunications facility, artificial lighting is prohibited.
 - vii. No advertising of any type may be placed on the facility.

- (2) Uses permitted only by special use permit.
- a. Wireless telecommunications facilities not permitted by, or not meeting the requirements within, Section 10-3-198 (1), including minimum setback regulations and maximum height restrictions. (Wireless telecommunications facilities exceeding seventy-five (75) feet in height do not need a separate special use permit as allowed ~~within~~by Section 10-3-97 (11) of the M-1 district.)
 - i. All regulating details of the facility (i.e. type, height, setbacks, etc.) shall be as specified in the special use permit application or as may be more strictly conditioned and approved by City Council.
 - ii. Support structures shall be designed to collapse upon themselves or to collapse within the smallest possible area should structural failure occur. The applicant shall submit written certification and supporting documentation from a structural engineer to this effect.

Section 10-3-199. Submittal requirements and other application requirements.

- (1) All applicants desiring to install wireless telecommunications facilities allowed by-right shall supply information as required by Section 10-3-10 of this chapter as well as the following. Note that building permits and sub-trade permits may be required.
- a. Name, address, telephone numbers, and email addresses of the property owner, the applicant, and the ultimate owner of the facility.
 - b. Documentation from the property owner consenting to both the installation of the facility and the terms of Sections 10-3-200, 10-3-201, and 10-3-202.
 - c. If erecting a new telecommunications tower or concealed wireless telecommunications facility, a physical survey of the property must be submitted.
 - d. Location map and elevation drawings of the proposed facility prepared and certified by a professional engineer indicating:
 - i. location, type, and height of all structures associated with the facility,
 - ii. facility's planned capacity (i.e. collocation potential/number of accommodations)
 - iii. on-site and abutting land uses,
 - iv. means of access,
 - v. support structure's setbacks from property lines, and
 - vi. all applicable American National Standards Institute (ANSI) technical and structural codes.
 - e. Screening plan (i.e. fence type and/or vegetation to be planted). See definition of "screening" within Section 10-3-24.
 - f. Photo simulations of the proposed facility.

- g. If camouflaging, an explanation of how the facility will be camouflaged.
 - h. Evidence that the applicant has contacted the Emergency Communications Center (ECC) and verified the installation of the proposed equipment will not interfere with the ECC's operations.
- (2) Applicants desiring to install wireless telecommunications facilities allowed only by special use permit shall reference the requirements for special use permits per Article V of this Title. Applicants shall submit as part of their special use permit application all information as described in 10-3-199 (1) as well as the following:
- a. A listing of all property owners within one quarter (1/4) mile from the subject property. These property owners shall be notified along with the property owners notified as required by Section 15.2-2204 of the Code of Virginia. (Staff may assist in supplying this list.)
 - b. A description of how the proposed facility fits into the applicant's telecommunications network.
 - c. An explanation as to why the particularly proposed wireless telecommunications facility is needed to meet the desired results as opposed to installing a facility allowed by right that may provide the same results.
 - d. An explanation or evidence demonstrating that no existing support structure or building can accommodate the applicant's proposed facility or evidence that the applicant has made diligent good faith efforts to negotiate collocation on an existing support structure or building in the area needing service or improved service.
 - e. If requesting to install a new telecommunications tower, concealed wireless telecommunications facility, or to increase the allowable height of a facility above that permitted by-right, a balloon test shall be performed. The special use permit application shall not be considered complete until the test is performed and staff has visually witnessed the test. The applicant shall contact the Department of Planning and Community Development to schedule a date and time when the balloon test will be conducted. If inclement weather prevents the scheduled test, a new schedule shall be established. The test shall consist of raising at least one (1) balloon from the site to a height equal to the proposed facility. Proposed collocated facilities which increase the height of existing support structures shall not be required to perform a balloon test.

Section 10-3-200. Reporting of wireless telecommunications facilities.

For each wireless telecommunications facility, the property owner on which a facility is located shall be responsible for ensuring a report is submitted to the Zoning Administrator once a year, no later than June 30, stating, at minimum, the following:

- (1) ~~The support structure's (including alternative support structures) location (latitude and longitude), street address, height, and structure type. Name, address, telephone numbers, and email addresses of the property owner and, if applicable, the owner of the support structure.~~
- (2) ~~The owner of any facility and the property owner on which any facility is located shall be identified and contact information provided. The support structure's (including alternative support structures) location (latitude and longitude), street address, height, and structure type.~~
- (3) The current user status of the facility ~~to include~~including the name and contact information of each active tenant/wireless service provider leasing space from the site. If vacant/collocation space is available, the report shall indicate such information and explain the facility's available accommodations.
- (4) An explanation or listing of each tenant's/wireless service provider's equipment identifying at least the type and number of all antennae, equipment cabinets, and any other supporting equipment. The location of such equipment shall also be described or illustrated.

Section 10-3-201. Maintenance of wireless telecommunication facility sites; enforcement.

- (1) All required screening, landscaping, camouflaging, concealment mechanisms, and other features shall be maintained, repaired, or replaced.
- (2) Enforcement and penalties due to violations of any section of this Article shall be as otherwise stated in this Title.

Section 10-3-202. Removal of defective or abandoned wireless telecommunications facilities.

- (1) Any component of a wireless telecommunications facility that is found to be defective or unsafe shall be repaired immediately by the owner or operator to comply with federal, state, and local safety standards or removed within thirty (30) days upon receipt of written notice.
- (2) A wireless telecommunications facility that is not operated for a continuous period of twenty-four (24) months shall be considered abandoned. The owner of the property on which the facility is located shall be notified in writing and given ninety (90) days from the receipt of the written notice to remove the facility and all associated components and equipment and return the site to its condition prior to construction of the facility or to a seeded or sodded condition.

Upon receipt of the notice, the first thirty (30) days of the ninety (90) day rectification period shall be the amount of time the property owner has to demonstrate the facility has not been abandoned. If the property owner fails to prove the facility is actively operating, the owner shall have the remaining sixty (60) days to remove the facility. If the facility is not removed within the allotted time, the City may cause the facility to be removed at the property owner's expense.

Section 10-3-203. Utilization of Section 6409 Wireless Facilities Deployment of the Spectrum Act being part of the Middle Class Tax Relief and Job Creation Act of 2012.

The permissions granted by the ~~Middle Class Tax Relief and Job Creation Act of 2012~~ Spectrum Act Section 6409 Wireless Facilities Deployment (Section 6409) shall be applicable only to wireless telecommunications facilities deemed to be an eligible facility in existence prior to the original enactment of this Article. Modifications shall not substantially change eligible facilities.

To make modifications to a wireless telecommunications facility per the permissions of Section 6409, the property owner shall submit the following information:

- (5) Name, address, telephone numbers, and email addresses of the property owner, the applicant, and the owner of the facility proposed for modification.
- (6) Evidence that the wireless telecommunications facility is an eligible facility that existed prior to the original enactment of this Article.
- (7) Location map and elevation drawings of the existing facility and the proposed modifications prepared and certified by a professional engineer. The information shall include all existing equipment from all providers and, if applicable, all equipment owned and operated by railroad companies. (The information provided for the existing eligible facility may be used as the baseline of facts regarding the site's characteristics if it is the facility's first utilization of Section 6409 and shall be used to prevent abuse of the legislation.)
- (8) Submit a letter describing the request. The letter, and additional application submissions as required above, must clearly demonstrate the proposed modification would not substantially change the existing eligible facility. Substantial changes are made if any one of the following occurs:
 - (a) for towers outside of public rights-of-way, it increases the height by more than twenty (20) feet or ten (10) percent, whichever is greater; for those towers in the rights-of-way and for all wireless telecommunication facilities, it increases the height of the facility by more than ten (10) percent or ten (10) feet, whichever is greater;
 - (b) for towers outside of public rights-of-way, it protrudes from the edge of the tower more than twenty (20) feet, or more than the width of the tower structure at the

level of the appurtenance, whichever is greater; for those towers in the rights-of-way and for all wireless telecommunications facilities, it protrudes from the edge of the support structure more than six feet;

- (c) it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets;
- (d) it entails any excavation or deployment outside the current site of the wireless telecommunications facility;
- (e) it would defeat the existing concealment elements of the wireless telecommunications facility; or
- (f) it does not comply with conditions associated with the prior approval of the tower or base station unless the non-compliance is due to an increase in height, increase in width, addition of cabinets, or new excavation that does not exceed the corresponding “substantial change” thresholds.

Proposed Wireless Telecommunications Facilities Regulations and Related Ordinance Amendments

Amendments and additions to each section are described under the section heading.

Section 10-3-24. Definitions.

Add and remove the following definitions as shown:

Alternative support structure: With regard to wireless telecommunications, any structure currently used primarily for something other than supporting a wireless telecommunications facility.

Antenna: a whip, panel, disc, rod, dish, or similar device used for transmission or reception of telecommunications.

Base station: A wireless telecommunications facility; such facility may consist of radio transceivers; antennas; coaxial, fiber optic, or other cables; a regular and back-up power supply; and other associated electronics and technology. Such facilities are sometimes referred to as base transceiver stations. Base stations may also be structures that currently support or house any of the technology listed in this definition or other associated equipment that constitutes part of a base station in any technological configuration, including distributed antenna systems and industrial microcells.

Camouflage: With regard to wireless telecommunications facilities, a way of painting, mounting, or locating related equipment so it is not readily apparent to the casual observer. Camouflaged wireless telecommunications facilities are often collocated, utilize flush mounted antennas and related equipment, are painted to match the color of the support structure, or hidden from view by things like parapet walls. Camouflaging equipment is not equivalent to concealing equipment.

Collocate: With regard to wireless telecommunications facilities, the act of locating wireless telecommunications facilities on any existing support structure.

~~*Communications tower:* A structure that is intended to send and/or receive radio, television and other telecommunications signals.~~

Concealed wireless telecommunications facility: Any wireless telecommunications facility that is integrated as an architectural feature of an existing structure or any new support structure designed so that the purpose of the facility or support structure for providing wireless telecommunications services is not readily apparent to a casual observer. Examples include but are not limited to: bell towers, clock towers, faux trees, flag poles, minarets, monuments, parapets, religious symbols, smoke stacks, steeples, or structures intended as art.

Consumer microcell: With regard to wireless telecommunications, a signal booster that is marketed and sold to the general public for use without modification. These types of

devices do not require professional installation and are used for personal use by individuals to improve coverage in a home, car, boat, recreational vehicle and other related areas.

Distributed antenna systems (DAS): A wireless telecommunications facility; a system or network of spatially separated antennas connected to a common transport medium (i.e. coaxial, fiber optic, or other cable) to a signal source, such as a base station or an external antenna capable of connecting to a base station wirelessly. Such systems/networks commonly have three primary components: remote communications nodes, each having at least one antenna for transmission and/or reception; a high capacity signal transport medium, which is either underground or aerial; and a central communications hub to propagate and/or convert, process or control signals transmitted and received through the nodes. DAS may also include additional equipment such as amplifiers, remote radio heads, signal converters, power supplies, and other related equipment.

Equipment cabinet: With regard to wireless telecommunications, a cabinet, shed, shelter, or other structure, where equipment is housed to support wireless telecommunications services.

Industrial microcell: A wireless telecommunications facility; a stand alone, short range radio transceiver located in specific locations, either indoors or outdoors, where there is often low signal quality and high demand for a wireless telecommunications signal. Examples include but are not limited to industrial signal boosters, repeaters, bi-directional amplifiers, and devices specifically identified as microcells. Consumer microcells, such as femtocells, for residential or household use or mobile use (i.e. vehicular, boat, etc.) are excluded from this definition.

Macrocell: Any wireless telecommunications facility not considered a concealed wireless telecommunications facility, a consumer microcell, an industrial microcell, or a distributed antenna system.

Telecommunications: Any transmission, emission or reception of signs, signals, sounds, voice, text, images, video, data, information or intelligence of any nature by wire, radio, optical or other electromagnetic systems.

Telecommunications Tower: Any structure, except concealed wireless telecommunications facilities, designed, constructed, erected, repurposed or re-used for the sole or primary purpose of providing and supporting wireless telecommunications services. Such structures include but are not limited to guyed structures, monopole structures, lattice-type structures, and other freestanding self-supporting structures as well as decommissioned water towers and tanks, feed mills, utility towers, public safety towers, and other decommissioned structures that were erected primarily for something other than providing and supporting wireless telecommunications services.

Temporary Wireless Telecommunications Facility: A readily movable self-contained wireless telecommunications facility used to provide provisional wireless telecommunications services. An example is a cell on wheels (cow).

Support Structure: With regard to wireless telecommunications, any structure that may support a wireless telecommunications facility including but not limited to telecommunications towers, alternative support structures, and structures that may be attached to or on top of buildings and other structures.

Wireless telecommunications facility: Any unmanned facility established for the purpose of providing wireless telecommunications services. Such facilities can consist of one or more antennas and accessory equipment, equipment cabinets, towers, concealed wireless telecommunications facilities, distributed antenna systems, industrial microcells, base stations, or any combinations thereof. This definition does not apply to equipment for radio or television studios, facilities designed for amateur radio use, or for residential or household uses (i.e. consumer microcells, etc.).

Section 10-3-34. Uses Permitted Only By Special Use Permit within the R-1, Single Family Residential District

Amend subsection (8) as shown:

- (8) ~~Communication facilities necessary for public safety purposes, including towers up to two hundred (200) feet in height, which may include rental of space to private communication service providers.~~ Concealed wireless telecommunications facilities, industrial microcells, distributed antenna systems, and macrocells. Telecommunications towers are not permitted, except towers primarily erected for the use of the Harrisonburg-Rockingham Emergency Communications Center up to 200 feet in height. Wireless telecommunications facilities are further regulated by Article CC.

Section 10-3-35. Area and dimensional regulations.

Amend as shown:

Except as provided in Article T, and as required in Article CC for wireless telecommunications facilities, the following area and dimensional regulations shall apply:

Section 10-3-40. Uses Permitted Only By Special Use Permit within the R-2, Residential District.

Amend subsection (9) as shown:

- (9) ~~Communication facilities necessary for public safety purposes, including towers up to two hundred (200) feet in height, which may include rental of space to private communication service providers.~~ Concealed wireless telecommunications facilities, industrial microcells, distributed antenna systems, and macrocells. Telecommunications towers are not permitted, except towers primarily erected for the use of the Harrisonburg-Rockingham Emergency Communications Center up

to 200 feet in height. Wireless telecommunications facilities are further regulated by Article CC.

Section 10-3-41. Area and dimensional regulations.

Amend as shown:

Except as provided in Article T, and as required in Article CC for wireless telecommunications facilities, the following area and dimensional regulations shall apply:

Section 10-3-46. Uses Permitted Only By Special Use Permit within the R-3, Multiple Dwelling Residential District.

Amend subsection (4) as shown:

- (4) ~~Communication facilities necessary for public safety purposes, including towers up to two hundred (200) feet in height, which may include rental of space to private communication service providers.~~ Concealed wireless telecommunications facilities, industrial microcells, distributed antenna systems, and macrocells. Telecommunications towers are not permitted, except towers primarily erected for the use of the Harrisonburg-Rockingham Emergency Communications Center up to 200 feet in height. Wireless telecommunications facilities are further regulated by Article CC.

Section 10-3-47. Area and dimensional regulations.

Amend as shown:

Except as provided in Article T, and as required in Article CC for wireless telecommunications facilities, the following area and dimensional regulations shall apply:

Section 10-3-48.4. Uses Permitted Only By Special Use Permit within the R-3, Medium Density Residential District.

Amend subsection (4) as shown:

- (4) ~~Communication facilities necessary for public safety purposes, including towers up to two hundred (200) feet in height, which may include rental of space to private communication service providers.~~ Concealed wireless telecommunications facilities, industrial microcells, distributed antenna systems, and macrocells. Telecommunications towers are not permitted, except towers primarily erected for the use of the Harrisonburg-Rockingham Emergency Communications Center up to 200 feet in height. Wireless telecommunications facilities are further regulated by Article CC.

Section 10-3-48.5. Area and dimensional regulations.

Amend as shown:

Except as provided in Article T, and as required in Article CC for wireless telecommunications facilities, the following area and dimensional regulations shall apply:

Section 10-3-52. Uses Permitted Only By Special Use Permit within the R-4, Planned Unit Residential District.

Amend subsection (3) as shown:

- (3) Communication facilities necessary for public safety purposes, including towers up to two hundred (200) feet in height, which may include rental of space to private communication service providers. Concealed wireless telecommunications facilities, industrial microcells, distributed antenna systems, and macrocells. Telecommunications towers are not permitted, except towers primarily erected for the use of the Harrisonburg-Rockingham Emergency Communications Center up to 200 feet in height. Wireless telecommunications facilities are further regulated by Article CC.

Section 10-3-53. Area and dimensional regulations.

Add as shown:

Except as provide in Article T, and as required in Article CC for wireless telecommunications facilities, the following area and dimensional regulations shall apply:

Section 10-3-55.4. Uses Permitted Only By Special Use Permit within the R-5, High Density Residential District.

Add subsection (8) as shown:

- (8) Concealed wireless telecommunications facilities, industrial microcells, distributed antenna systems, and macrocells. Telecommunications towers are not permitted, except for towers primarily erected for the use of the Harrisonburg-Rockingham Emergency Communications Center up to 200 feet in height. Wireless telecommunications facilities are further regulated by Article CC.

Section 10-3-55.5. Area and dimensional regulations.

Add as shown:

Except as provide in Article T, and as required in Article CC for wireless telecommunications facilities, the following area and dimensional regulations shall apply:

Section 10-3-56.4. Uses Permitted Only By Special Use Permit within the R-6, Low Density Mixed Residential Planned Community District.

Add subsection (i) as shown:

- (i) Concealed wireless telecommunications facilities, industrial microcells, distributed antenna systems, and macrocells. Telecommunications towers are not permitted, except towers primarily erected for the use of the Harrisonburg-Rockingham Emergency Communications Center up to 200 feet in height. Wireless telecommunications facilities are further regulated by Article CC.

Section 10-3-56.5. Area, density and dimensional regulations.

Amend subsection (f) as shown:

- (f) Unless otherwise specified within the master development plan, the provisions of Article T, and the regulations in Article CC for wireless telecommunications facilities, shall apply to the R-6 zoning district.

Section 10-3-57.4. Uses Permitted Only By Special Use Permit within the R-7, Medium Density Mixed Residential Planned Community District.

Add subsection (i) as shown:

- (i) Concealed wireless telecommunications facilities, industrial microcells, distributed antenna systems, and macrocells. Telecommunications towers are not permitted, except towers primarily erected for the use of the Harrisonburg-Rockingham Emergency Communications Center up to 200 feet in height. Wireless telecommunications facilities are further regulated by Article CC.

Section 10-3-57.5. Area, density and dimensional regulations.

Amend subsection (f) as shown:

- (f) Unless otherwise specified within the master development plan, the provisions of Article T, and the regulations in Article CC for wireless telecommunications facilities, shall apply to the R-7 zoning district.

Section 10-3-58.4. Uses Permitted Only By Special Use Permit within the MX-U, Mixed Use Planned Community District.

Add subsection (8) as shown:

- (8) Concealed wireless telecommunications facilities, industrial microcells, distributed antenna systems, and macrocells. Telecommunications towers are not permitted, except towers primarily erected for the use of the Harrisonburg-Rockingham Emergency Communications Center up to 200 feet in height. Wireless telecommunications facilities are further regulated by Article CC.

Section 10-3-58.5. Area, density and dimensional regulations.

Amend subsection (5) as shown:

- (5) Unless otherwise specified within the master development plan, the provisions of Article T, and the regulations in Article CC for wireless telecommunications facilities, shall apply to the MX-U zoning district.

Section 10-3-84. Uses Permitted By Right within the B-1, Central Business District.

Amend subsection (8) and add subsection (13) as shown:

- (8) ~~Telecommunications equipment and facilities, provided such equipment and facilities are located in an enclosed structure.~~ Concealed wireless

telecommunications facilities, industrial microcells, distributed antenna systems, and macrocells. Telecommunications towers are permitted only by special use permit. Wireless telecommunications facilities are further regulated by Article CC.

- (13) Radio and television stations and studios or recording studios. All antennas and satellites and associated equipment shall be screened.

Section 10-3-85. Uses Permitted Only By Special Use Permit within the B-1, Central Business District.

Amend subsection (2), (5), and (6) as shown:

- (2) Telecommunications equipment and facilities not located in an enclosed structure. Wireless telecommunications facilities not permitted by Section 10-3-84 (8) or those not meeting the requirements of Section 10-3-197 (1). Wireless telecommunications facilities are further regulated by Article CC.
- (5) Structures, except wireless telecommunications facilities, in excess of seventy five (75) feet in height.
- (6) Communication facilities necessary for public safety purposes, including towers up to two hundred (200) feet in height, which may include rental of space to private communication service providers. Reserved.

Section 10-3-86. Area and dimensional regulations.

Amend as shown:

Except as provided in Article T, and as required in Article CC for wireless telecommunications facilities, the following area and dimensional regulations shall apply:

Section 10-3-90. Uses Permitted By Right within the B-2, General Business District.

Add subsection (20) as shown:

- (20) Concealed wireless telecommunications facilities, industrial microcells, distributed antenna systems, and macrocells. Telecommunications towers are permitted only by special use permit. Wireless telecommunications facilities are further regulated by Article CC.

Section 10-3-91. Uses Permitted Only By Special Use Permit within the B-2, General Business District.

Amend subsection (4), (12), and (15) as shown:

- (4) Communications tower no more than one hundred twenty five (125) feet in height. Wireless telecommunications facilities not permitted by Section 10-3-90 (20) or those not meeting the requirements of Section 10-3-197 (1). Wireless telecommunications facilities are further regulated by Article CC.

- (12) Structures, ~~except wireless telecommunications facilities,~~ in excess of seventy-five (75) feet in height.
- (15) ~~Communication facilities necessary for public safety purposes, including towers up to two hundred (200) feet in height, which may include rental of space to private communication service providers. Reserved.~~

Section 10-3-92. Area and dimensional regulations.

Amend as shown:

Except as provided in Article T, and as required in Article CC for wireless telecommunications facilities, the following area and dimensional regulations shall apply:

Section 10-3-96. Uses Permitted By Right within the M-1, General Industrial District.

Amend subsection (15) as shown:

- (15) ~~Communications towers~~ Wireless telecommunications facilities no more than one hundred twenty-five (125) feet in height. Wireless telecommunications facilities are further regulated by Article CC.

Section 10-3-97. Uses Permitted Only By Special Use Permit within the M-1, General Industrial District.

Amend subsection (6) and (12) as shown:

- (6) ~~Communications towers more than one hundred twenty five (125) feet in height.~~ Wireless telecommunications facilities not permitted by Section 10-3-96 (15) or those not meeting the requirements of Section 10-3-198 (1). Wireless telecommunications facilities are further regulated by Article CC.
- (12) ~~Communication facilities necessary for public safety purposes, including towers up to two hundred (200) feet in height, which may include rental of space to private communication service providers. Reserved.~~

Section 10-3-98. Area and dimensional regulations.

Amend as shown:

Except as provided in Article T, and as required in Article CC for wireless telecommunications facilities, the following area and dimensional regulations shall apply:

Section 10-3-129. Expansion or enlargement of a special use.

Amend as shown:

A special use may not be enlarged or expanded unless approved by city council through the approval procedure outlined in this article, or unless the expansion or enlargement was specifically authorized in the original approval, or as otherwise permitted.

Section 10-3-180. Uses Permitted Only By Special Use Permit within the U-R, Urban Residential District.

Amend subsection (7) as shown:

- (7) ~~Communication facilities necessary for public safety purposes, including towers up to two hundred (200) feet in height, which may include rental of space to private communication service providers.~~ Concealed wireless telecommunications facilities, industrial microcells, distributed antenna systems, and macrocells. Telecommunications towers are not permitted, except towers primarily erected for the use of the Harrisonburg-Rockingham Emergency Communications Center up to 200 feet in height. Wireless telecommunications facilities are further regulated by Article CC.

Section 10-3-181. Area and dimensional regulations.

Amend as shown:

Except as provided in Article T, and as regulated in Article CC for wireless telecommunications facilities, the following area and dimensional regulations shall apply:

Add the following new Article:

Article CC. Wireless Telecommunications Facilities

Section 10-3-195. Purpose.

The regulations set forth in this article are to regulate wireless telecommunications facilities as defined in Section 10-3-24 Definitions. They are to provide opportunities to supply wireless telecommunications services in the City with minimal negative impact to the community while respecting both residential and commercial neighborhoods.

With the exception of telecommunications towers primarily erected for the use of the Harrisonburg-Rockingham Emergency Communications Center as regulated by this Article, wireless telecommunications facilities considered public uses and temporary facilities needed for government-declared emergencies and disasters shall be permitted in all zoning districts at appropriate locations and heights necessary to adequately provide the service. No minimum setback requirements or maximum height regulations shall apply to such facilities, but reasonable efforts shall be made to be sensitive to the surrounding neighborhood and environment in which they are located.

Section 10-3-196. Wireless telecommunications facilities within residential districts and the MX-U, Mixed Use Planned Community District.

The requirements within this section apply to all wireless telecommunications facilities, except facilities as specified in Section 10-3-195, as identified in all residential districts and the MX-U district.

(1) Uses permitted by right.

- a. There are no wireless telecommunications facilities allowed by-right within any residential district or the MX-U district.

(2) Uses permitted only by special use permit.

- a. Concealed wireless telecommunications facilities.
 - i. The height of such facilities may exceed the maximum height regulation of the district in which it is located but shall be limited to the height specified in the special use permit application or as may be more strictly conditioned and approved by City Council.
 - ii. Minimum setback regulations shall be controlled by the district in which it is located or as may be more strictly conditioned and approved by City Council.
 - iii. Equipment cabinets and related structures or equipment shall be screened or camouflaged and if not collocated shall meet the requirements for accessory buildings per Section 10-3-114 or as may be more strictly conditioned and approved by City Council.

- iv. Unless otherwise required, or as part of the intent of the facility, artificial lighting is prohibited.
 - v. No advertising of any type may be placed on the facility.
- b. Industrial microcells, distributed antenna systems (DAS), macrocells, and similar facilities
- i. Other than associated equipment cabinets and other equipment that may be located on the ground, such facilities shall be collocated.
 - ii. The height of such equipment shall not increase the height of the utilized support structure by more than five (5) feet.
 - iii. All collocated equipment shall be camouflaged.
 - iv. Equipment cabinets and related structures or equipment not located within central communications hubs shall be screened or camouflaged and if not collocated shall meet the requirements for accessory buildings per Section 10-3-114 or as may be more strictly conditioned and approved by City Council. Central communications hubs shall be considered principal buildings and shall meet the minimum setback regulations and maximum height restrictions of the district in which they are located or as may be more strictly conditioned and approved by City Council.
 - v. Unless otherwise required, artificial lighting is prohibited.
 - vi. No advertising of any type may be placed on the facility.
- c. Telecommunications towers primarily erected for the use of the Harrisonburg-Rockingham Emergency Communications Center, which may include rental of space for private wireless telecommunications providers.
- i. The facility shall be no taller than 200 feet in height.
 - ii. Minimum setback regulations shall be controlled by the district in which it is located or as may be more strictly conditioned and approved by City Council.
 - iii. Equipment cabinets and related structures or equipment shall be screened or camouflaged and shall meet the requirements for accessory buildings per Section 10-3-114 or as may be more strictly conditioned and approved by City Council.
 - iv. Unless otherwise required, artificial lighting is prohibited.
 - v. No advertising of any type may be placed on the facility.

Section 10-3-197. Wireless telecommunications facilities within the B-1, Central Business District and the B-2, General Business District.

The requirements within this section apply to all wireless telecommunications facilities, except facilities as specified in Section 10-3-195, as identified in the B-1 and B-2 districts.

(1) Uses permitted by-right.

- a. Concealed wireless telecommunications facilities.

- i. The height of such facilities shall be controlled by the maximum height regulation of the district in which they are located.
 - ii. Minimum setback regulations shall be controlled by the district in which they are located.
 - iii. Equipment cabinets and related structures or equipment shall be screened or camouflaged and if not collocated shall meet the requirements for accessory buildings per Section 10-3-114.
 - iv. Unless otherwise required, or as part of the intent of facilities, artificial lighting is prohibited.
 - v. No advertising of any type may be placed on the facility.
 - b. Industrial microcells, distributed antenna systems (DAS), macrocells, and similar facilities
 - i. Other than associated equipment cabinets and other structures or equipment that may be located on the ground, such facilities shall be collocated.
 - ii. The height of such facilities shall not increase the height of the utilized support structure by more than five (5) feet.
 - iii. All collocated equipment shall be camouflaged.
 - iv. Equipment cabinets and related structures or equipment not located within central communications hubs shall be screened or camouflaged and if not collocated shall meet the requirements for accessory buildings per Section 10-3-114. Central communications hubs shall be considered principal buildings and shall meet the minimum setback regulations and maximum height restrictions of the district in which they are located or as may be more strictly conditioned and approved by City Council.
 - v. Unless otherwise required, artificial lighting is prohibited.
 - vi. No advertising of any type may be placed on the facility.
- (2) Uses permitted only by special use permit.
- a. Wireless telecommunications facilities not permitted by, or not meeting the requirements within, Section 10-3-197 (1), including minimum setback regulations and maximum height restrictions. (Wireless telecommunications facilities exceeding seventy-five (75) feet in height do not need a separate special use permit as allowed by Section 10-3-85 (5) of the B-1 district or Section 10-3-91 (12) of the B-2 district.)
 - i. All regulating details of the facility (i.e. type, height, setbacks, etc.) shall be as specified in the special use permit application or as may be more strictly conditioned and approved by City Council.
 - ii. If installing a telecommunications tower, it shall be designed for more than one (1) accommodation. (This rule does not apply to telecommunications towers primarily erected for the use of the Harrisonburg-Rockingham Emergency Communications Center.)
 - iii. Support structures shall be designed to collapse upon themselves or to collapse within the smallest possible area should structural failure occur.

The applicant shall submit written certification and supporting documentation from a structural engineer to this effect.

Section 10-3-198. Wireless telecommunications facilities within the M-1, General Industrial District.

The requirements within this section apply to all wireless telecommunications facilities, except facilities as specified in Section 10-3-195, as identified in the M-1 district.

(1) Uses permitted by right.

- a. Any wireless telecommunications facility.
 - i. Facilities shall not exceed one hundred twenty-five (125) feet in height.
 - ii. Support structures shall meet the minimum setback regulations of the M-1 district.
 - iii. Telecommunications towers shall be designed for more than one (1) accommodation. (This rule does not apply to telecommunications towers primarily erected for the use of the Harrisonburg-Rockingham Emergency Communications Center.)
 - iv. Support structures shall be designed to collapse upon themselves or to collapse within the smallest possible area should structural failure occur. The applicant shall submit written certification and supporting documentation from a structural engineer to this effect.
 - v. Equipment cabinets and related structures or equipment not located within central communications hubs shall be screened or camouflaged and shall meet the requirements for accessory buildings per Section 10-3-114. Central communications hubs shall meet the minimum setback regulations and maximum height restrictions of the M-1 district.
 - vi. Unless otherwise required, or as part of the intent of a concealed wireless telecommunications facility, artificial lighting is prohibited.
 - vii. No advertising of any type may be placed on the facility.

(2) Uses permitted only by special use permit.

- a. Wireless telecommunications facilities not permitted by, or not meeting the requirements within, Section 10-3-198 (1), including minimum setback regulations and maximum height restrictions. (Wireless telecommunications facilities exceeding seventy-five (75) feet in height do not need a separate special use permit as allowed by Section 10-3-97 (11) of the M-1 district.)
 - i. All regulating details of the facility (i.e. type, height, setbacks, etc.) shall be as specified in the special use permit application or as may be more strictly conditioned and approved by City Council.
 - ii. Support structures shall be designed to collapse upon themselves or to collapse within the smallest possible area should structural failure occur. The applicant shall submit written certification and supporting documentation from a structural engineer to this effect.

Section 10-3-199. Submittal requirements and other application requirements.

- (1) All applicants desiring to install wireless telecommunications facilities allowed by-right shall supply information as required by Section 10-3-10 of this chapter as well as the following. Note that building permits and sub-trade permits may be required.
 - a. Name, address, telephone numbers, and email addresses of the property owner, the applicant, and the ultimate owner of the facility.
 - b. Documentation from the property owner consenting to both the installation of the facility and the terms of Sections 10-3-200, 10-3-201, and 10-3-202.
 - c. If erecting a new telecommunications tower or concealed wireless telecommunications facility, a physical survey of the property must be submitted.
 - d. Location map and elevation drawings of the proposed facility prepared and certified by a professional engineer indicating:
 - i. location, type, and height of all structures associated with the facility,
 - ii. facility's planned capacity (i.e. collocation potential/number of accommodations)
 - iii. on-site and abutting land uses,
 - iv. means of access,
 - v. support structure's setbacks from property lines, and
 - vi. all applicable American National Standards Institute (ANSI) technical and structural codes.
 - e. Screening plan (i.e. fence type and/or vegetation to be planted). See definition of "screening" within Section 10-3-24.
 - f. Photo simulations of the proposed facility.
 - g. If camouflaging, an explanation of how the facility will be camouflaged.
 - h. Evidence that the applicant has contacted the Emergency Communications Center (ECC) and verified the installation of the proposed equipment will not interfere with the ECC's operations.
- (2) Applicants desiring to install wireless telecommunications facilities allowed only by special use permit shall reference the requirements for special use permits per Article V of this Title. Applicants shall submit as part of their special use permit application all information as described in 10-3-199 (1) as well as the following:
 - a. A listing of all property owners within one quarter (1/4) mile from the subject property. These property owners shall be notified along with the property owners

notified as required by Section 15.2-2204 of the Code of Virginia. (Staff may assist in supplying this list.)

- b. A description of how the proposed facility fits into the applicant's telecommunications network.
- c. An explanation as to why the particularly proposed wireless telecommunications facility is needed to meet the desired results as opposed to installing a facility allowed by right that may provide the same results.
- d. An explanation or evidence demonstrating that no existing support structure or building can accommodate the applicant's proposed facility or evidence that the applicant has made diligent good faith efforts to negotiate collocation on an existing support structure or building in the area needing service or improved service.
- e. If requesting to install a new telecommunications tower, concealed wireless telecommunications facility, or to increase the allowable height of a facility above that permitted by-right, a balloon test shall be performed. The special use permit application shall not be considered complete until the test is performed and staff has visually witnessed the test. The applicant shall contact the Department of Planning and Community Development to schedule a date and time when the balloon test will be conducted. If inclement weather prevents the scheduled test, a new schedule shall be established. The test shall consist of raising at least one (1) balloon from the site to a height equal to the proposed facility. Proposed collocated facilities which increase the height of existing support structures shall not be required to perform a balloon test.

Section 10-3-200. Reporting of wireless telecommunications facilities.

For each wireless telecommunications facility, the property owner on which a facility is located shall be responsible for ensuring a report is submitted to the Zoning Administrator once a year, no later than June 30, stating, at minimum, the following:

- (1) Name, address, telephone numbers, and email addresses of the property owner and, if applicable, the owner of the support structure.
- (2) The support structure's (including alternative support structures) location (latitude and longitude), street address, height, and structure type.
- (3) The current user status of the facility including the name and contact information of each active tenant/wireless service provider leasing space from the site. If vacant/collocation space is available, the report shall indicate such information and explain the facility's available accommodations.

- (4) An explanation or listing of each tenant's/wireless service provider's equipment identifying at least the type and number of all antennae, equipment cabinets, and any other supporting equipment. The location of such equipment shall also be described or illustrated.

Section 10-3-201. Maintenance of wireless telecommunication facility sites; enforcement.

- (1) All required screening, landscaping, camouflaging, concealment mechanisms, and other features shall be maintained, repaired, or replaced.
- (2) Enforcement and penalties due to violations of any section of this Article shall be as otherwise stated in this Title.

Section 10-3-202. Removal of defective or abandoned wireless telecommunications facilities.

- (1) Any component of a wireless telecommunications facility that is found to be defective or unsafe shall be repaired immediately by the owner or operator to comply with federal, state, and local safety standards or removed within thirty (30) days upon receipt of written notice.
- (2) A wireless telecommunications facility that is not operated for a continuous period of twenty-four (24) months shall be considered abandoned. The owner of the property on which the facility is located shall be notified in writing and given ninety (90) days from the receipt of the written notice to remove the facility and all associated components and equipment and return the site to its condition prior to construction of the facility or to a seeded or sodded condition.

Upon receipt of the notice, the first thirty (30) days of the ninety (90) day rectification period shall be the amount of time the property owner has to demonstrate the facility has not been abandoned. If the property owner fails to prove the facility is actively operating, the owner shall have the remaining sixty (60) days to remove the facility. If the facility is not removed within the allotted time, the City may cause the facility to be removed at the property owner's expense.

Section 10-3-203. Utilization of Section 6409 Wireless Facilities Deployment of the Spectrum Act being part of the Middle Class Tax Relief and Job Creation Act of 2012.

The permissions granted by the Spectrum Act Section 6409 Wireless Facilities Deployment (Section 6409) shall be applicable only to wireless telecommunications facilities deemed to be an eligible facility in existence prior to the original enactment of this Article. Modifications shall not substantially change eligible facilities.

To make modifications to a wireless telecommunications facility per the permissions of Section 6409, the property owner shall submit the following information:

- (5) Name, address, telephone numbers, and email addresses of the property owner, the applicant, and the owner of the facility proposed for modification.
- (6) Evidence that the wireless telecommunications facility is an eligible facility that existed prior to the original enactment of this Article.
- (7) Location map and elevation drawings of the existing facility and the proposed modifications prepared and certified by a professional engineer. The information shall include all existing equipment from all providers and, if applicable, all equipment owned and operated by railroad companies. (The information provided for the existing eligible facility may be used as the baseline of facts regarding the site's characteristics if it is the facility's first utilization of Section 6409 and shall be used to prevent abuse of the legislation.)
- (8) Submit a letter describing the request. The letter, and additional application submissions as required above, must clearly demonstrate the proposed modification would not substantially change the existing eligible facility. Substantial changes are made if any one of the following occurs:
 - (a) for towers outside of public rights-of-way, it increases the height by more than twenty (20) feet or ten (10) percent, whichever is greater; for those towers in the rights-of-way and for all wireless telecommunication facilities, it increases the height of the facility by more than ten (10) percent or ten (10) feet, whichever is greater;
 - (b) for towers outside of public rights-of-way, it protrudes from the edge of the tower more than twenty (20) feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for those towers in the rights-of-way and for all wireless telecommunications facilities, it protrudes from the edge of the support structure more than six feet;
 - (c) it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets;
 - (d) it entails any excavation or deployment outside the current site of the wireless telecommunications facility;
 - (e) it would defeat the existing concealment elements of the wireless telecommunications facility; or
 - (f) it does not comply with conditions associated with the prior approval of the tower or base station unless the non-compliance is due to an increase in height, increase in width, addition of cabinets, or new excavation that does not exceed the corresponding "substantial change" thresholds.

May 2015, Proactive-Zoning Report

For the month of May 2015, the proactive-zoning program inspected the **Industrial & Technology Parks** and **Northeast** sections of the city. The violations consisted of tall grass and weeds, discarded materials and inoperable vehicles. The proactive-zoning program for June 2015, will be directed toward the **Exit 243** section of the City.

MONTH	SECTOR	5 th CYCLE VIOLATIONS	CORRECTED	2 nd CYCLE	3 rd CYCLE	4 th CYCLE
March 2015	Wyndham Woods	0	0	0	4	2
March 2015	Northfield	19	8	6	19	13
April 2015	Purcell Park	6	3	6	5	8
April 2015	Parkview	11	8	7	16	5
May 2015	Ind./Tech Park	1		1	0	0
May 2015	Northeast	45		45	63	29
June 2015	Exit 243			0	1	1
July 2015	Fairway Hills			0	0	2
August 2015	Smithland Rd.			4	0	2
September 2015	N. Main St.			4	4	10
October 2015	Liberty St.			4	18	11
November 2015	Westover			8	17	13
December 2015	Garbers Church			2	1	9
January 2016	Spotswood Acres			4	1	8
February 2016	Jefferson St.			22	35	21
March 2016	Forest Hills/JMU			1	1	1
April 2016	S. Main St.			0	2	5
May 2016	Hillandale			5	17	11
June 2016	Maplehurst/JMU			5	2	0
July 2016	Long Ave/Norwood			28	17	11
August 2016	Greystone			10	13	9
September 2016	Greendale/SE			2	5	1
October 2016	Ramblewood			8	1	11
November 2016	Stone Spring Village/JMU			10	0	2
December 2016	Sunset Heights			29	10	2
January 2017	Reherd Acres			12	9	10
February 2017	RT 33 West			16	6	13
March 2017	Chicago Ave			22	29	4
April 2017	Pleasant Hill			13	17	9
May 2017	Avalon Woods			26	11	36
June 2017	Waterman Elementary			61	18	15
July 2017	Keister Elem			5	8	7
August 2017	500-600 S. Main			30	16	4
September 2017	Court Square			3	2	5
October 2017	Bluestone Hills & Valley Mall			33	31	27
November 2017	Preston Heights			3	1	7