



City of Harrisonburg

City Hall
409 South Main Street
Harrisonburg, VA 22801

Meeting Minutes - Final Planning Commission

Wednesday, January 11, 2023

6:00 PM

Council Chambers

1. Call To Order

The Harrisonburg Planning Commission held its regular meeting on Wednesday, January 11, 2023, at 6:00 p.m. in the City Council Chambers, 409 South Main Street.

Present 5 - Brent Finnegan, Jim Orndoff, Adriel Byrd, Donna Armstrong, and Valerie Washington

2. Roll Call/Determination of Quorum, Election of Officers, and acknowledgement of Ethical Principles in Planning

Members present: Brent Finnegan; Adriel Byrd; Jim Orndoff; Dr. Donna Armstrong; and Valerie Washington. Absent: Laura Dent. Vacancies: One.

Also present: Thanh Dang, Assistant Director of Community Development; Meg Rupkey, Planner; Adam Fletcher, Director of Community Development; Wesley Russ, Assistant City Attorney; and Nyrma Soffel, Office Manager/Secretary.

Ms. Dang called the meeting to order and said that there was a quorum with five members present. It was noted that item 5.a. on the agenda regarding the Beery Road closing has been postponed. The public hearing related to the Bluestone Town Center project is scheduled for Tuesday, January 17, 2023.

Ms. Dang said the first order of business is the election of officers for 2023. Are there any nominations for the position of Chair?

Commissioner Orndoff nominated Commissioner Finnegan.

Commissioner Armstrong seconded the motion.

All members voted in favor of appointing Commissioner Finnegan as Chair for 2023.

Chair Finnegan continued the meeting. Are there any nominations for the position of Vice Chair?

Commissioner Armstrong nominated Commissioner Byrd.

Commissioner Orndoff seconded the motion.

All members voted in favor of appointing Commissioner Byrd as Vice Chair for 2023.

Chair Finnegan asked if there were any nominations for the position of Secretary.

Commissioner Byrd nominated Nyrma Soffel.

Commissioner Orndoff seconded the motion.

All members voted in favor of appointing Nyrma Soffel as Secretary for 2023.

Chair Finnegan asked if there any nominations for the position of Board of Zoning Appeals (BZA) representative.

Commissioner Byrd nominated Commissioner Orndoff.

Commissioner Armstrong seconded the motion.

All members voted in favor of appointing Commissioner Byrd as BZA representative.

Chair Finnegan said that the bylaws state that Planning Commission members must acknowledge the *Ethical Principles in Planning*. Commissioner Finnegan read the following statement:

“I pledge to use the American Planning Association’s “Ethical Principles in Planning” document as a guide to ethical conduct while performing my duties as a Commissioner of the Harrisonburg Planning Commission.”

And then asked all members to acknowledge the pledge by saying “aye.”

All members acknowledged the *Ethical Principles in Planning*.

2.a. Election of Chair, Vice-Chair, and Secretary, and appointment of Board of Zoning Appeals member for 2023

2.b. Acknowledgement of Ethical Principles in Planning

3. Approval of Minutes

Chair Finnegan asked if there were any corrections, comments or a motion regarding the December 14, 2022 Planning Commission minutes.

Commissioner Byrd moved to approve the minutes.

Commissioner Orndoff seconded the motion.

All members voted in favor of approving the December 14, 2022 Planning Commission minutes.

A motion was made by Byrd, seconded by Orndoff, that this be approved. The motion carried by a voice vote.

3.a. Minutes from the December 14, 2022 Planning Commission Meeting

4. New Business - Public Hearings

4.a. Consider a request from Thomas W. Rogers and Allison G. Kauffman for a special use permit to allow short-term rental at 71 Broad Street

Chair Finnegan read the request and asked staff to review.

Ms. Rupkey said that the Comprehensive Plan designates this area as Mixed Use. The Mixed Use category includes both existing and proposed areas for mixed use. Mixed Use areas shown on the Land Use Guide map are intended to combine residential and non-residential uses in neighborhoods, where the different uses are finely mixed instead of separated. Mixed Use can take the form of a single building, a single parcel, a city block, or entire neighborhoods. Quality architectural design features and strategic placement of green spaces for large scale developments will ensure development compatibility of a mixed use neighborhood with the surrounding area. These areas are prime candidates for “live-work” and traditional neighborhood developments (TND). Live-work developments combine residential and commercial uses allowing people to both live and work in the same area. The scale and massing of buildings is an important consideration when developing in Mixed Use areas. Commercial uses would be expected to have an intensity equivalent to a Floor Area Ratio of at least 0.4, although the City does not measure commercial intensity in that way.

Downtown is an existing area that exhibits and is planned to continue to contain a mix of land uses. The downtown Mixed Use area often has no maximum residential density, however, development should take into consideration the services and resources that are available (such as off-street parking) and plan accordingly. Residential density in Mixed Use areas outside of downtown should be around 24 dwelling units per acre, and all types of residential units are permitted: single-family detached, single-family attached (duplexes and townhomes), and multi-family buildings. Large scale developments, which include multi-family buildings are encouraged to include single-family detached and/or attached dwellings.

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

- Site: Duplex Dwelling, zoned R-2
- North: Single family dwelling, zoned R-2
- East: Across Broad Street, single family dwelling, zoned R-2
- South: Parking lot, zoned B-2
- West: Parking lot, zoned B-2

The applicant is requesting a special use permit (SUP) per Section 10-3-40 (8) to allow for a short-term rental (STR) within one unit of a duplex on a property zoned R-2, Residential District. The parcel is +/- 4,279 square feet, is addressed as 71 Broad Street, and identified

as tax map parcel 34-U-11. The property contains an unsubdivided duplex with one dwelling unit on the lower-level and a second dwelling unit on the upper-level.

As defined in the Zoning Ordinance (ZO), a STR is “[t]he provision of a dwelling unit, a guest room or accommodation space within the dwelling unit, or any accessory building that is suitable or intended for transient occupancy for dwelling, sleeping, or lodging purposes and is offered in exchange for a charge for the occupancy.” STRs are further regulated by Article DD of the ZO. Among other things, a STR differs from the by right homestay use by allowing operators to exceed 90 lodging nights per year and in allowing more than four guests at one time.

The applicant is the property owner, who noted that they would reside in the upper-level unit being their principal residence. As explained in the applicant’s submitted letter they will have three accommodation spaces within the unit with plans to allow up to six guests at one time.

While the applicant has explained their operation plans for the STR, the SUP is not restricted to only the current applicant/operator. All SUPs transfer to future property owners; thus, if the applicant sells the property, any future property owner could operate a STR so long as they meet the requirements of the ZO and any conditions placed on the SUP. How the STR could be operated by any future property owner should be considered and evaluated as part of this request.

With regard to off-street parking matters, the ZO requires one off-street parking space for each dwelling unit and, unless conditioned otherwise, one parking space for each accommodation space of a STR. This means that five parking spaces would be needed to meet the requirements of the ZO—one for each unit of the duplex and one each for the three accommodation spaces of the STR. Nonetheless, in this particular situation, if the STR is approved as requested, the one unit of the duplex would not be used long-term and would only be used as a STR. The applicant’s letter describes that the property contains a driveway that offers parking capacity for two vehicles and a third parking space is available upon removal of a large planting box. Given this, if the request is approved, staff recommends conditions that the property owner limit the number of cars associated with each stay to no more than two vehicles and to require only one off-street parking for the STR.

Given the circumstances of this request, where the operator does not reside within the dwelling in which the STR would operate, staff believes the request should be denied. At the August 10, 2022, regular Planning Commission meeting, staff proposed amendments to the ZO that, if the amendments were already in effect, would have prevented the property owner from being able to apply for a STR as requested. In brief, among other amendments, staff had proposed to amend Section 10-3-205 (2) as shown below:

Sec. 10-3-205. General Regulations

(2) Operators shall maintain the ~~property~~ [dwelling](#) as their primary residence, as indicated on a state-issued license or identification card [or other documentation deemed acceptable by the Zoning Administrator](#).

Planning Commission unanimously (7-0) recommended for City Council to approve all of the ZO amendments that were proposed at the August 10, 2022, regular meeting. However, at City Council's public hearing regarding the amendments at the September 13, 2022, meeting, while there appeared to be differing opinions on the matter, Council tabled the request and advised staff to draft an option that would allow one unit of a duplex property to be used as a STR by SUP. At this time, staff plans to bring this matter back to City Council's attention in February 2023. Also of note, is that at the October 12, 2022, regular meeting, Planning Commission received a similar request for a STR in one unit of an unsubdivided duplex at 375 Broad Street. Staff recommended denial of that application and Planning Commission also unanimously (7-0) recommended denial. On November 22, 2022, City Council denied the request with a vote of 3-2. On December 14, 2022, Planning Commission received a similar request for a STR in one unit of an unsubdivided duplex at 524 Long Avenue. Staff recommended denial of that application and Planning Commission also unanimously (7-0) recommended denial. City council will be voting on that request on January 10, 2023.

While the outcome of the revised ZO amendment is still unresolved, under the current regulations and in this particular situation, staff believes it is in the best interest of the community to only allow such transient accommodations within the dwelling in which the operator resides. Staff believes the most recent proposed amendments for the STR and homestay regulations is a good middle ground for the many and diverse opinions as to how such uses should be permitted in the City.

However, if there is a desire to approve the request, staff recommends the following conditions:

- a. All STR accommodations shall only be permitted within the lower-level dwelling unit of the existing principal structure.
- b. There shall be no more than three STR guest rooms or accommodation spaces.
- c. The number of STR guests at one time shall be limited to six.
- d. Minimum off-street parking spaces may be reduced to one and do not need to be delineated. The STR shall limit the amount of visitor cars to two per visit.
- e. Prior to operation, the operator shall submit to City staff a completed Short-Term Rental Pre-Operation Form. Furthermore, the operator shall maintain compliance with the items identified in the Pre-Operation Form when short-term rental guests are present.
- f. If in the opinion of Planning Commission or City Council, the short-term rental becomes a nuisance, the special use permit can be recalled for further review, which could lead to the need for additional conditions, restrictions, or the revocation of the permit.

Chair Finnegan asked if there were any more questions for staff. Hearing none, he opened the public hearing and invited the applicant or applicant's representative to speak to their request.

Thomas Rogers, 71 Broad Street, came forward regarding his request. I am grateful for this process. This process has made my wife, Allison Kauffman, and I think about the City-wide

impact of us potentially running a STR. I am not originally from here, but this is now my home. I am grateful for a process that means that we are looking out for the City as a whole. We had a pre-application meeting with staff. They raised some of the opinions that staff and the Planning Commission have expressed. Obviously, we are not experts. In our opinion, if we were to run a STR in our extra unit at 71 Broad Street, that would have more of a positive impact than a negative for us and for the City. Our motivations behind our application were that our current tenants are looking to buy a house, so they may not be resigning their lease in May. Another factor was the risk management of potential vacancies of the extra unit. We know of a few landlords who have struggled to fill units in a similar price range to ours. We prefer the risk associated with STRs. The revenue potential of the unit is likely greater as a STR. Finally, we hope to have more accessibility to host family and friends and to be able to provide a space for our family and friends. From listening to a few of these meetings, it seems that the majority opinion among City staff and Planning Commission is that STR should only exist within the dwelling unit in which the operator resides. I would appreciate getting to understand more about why that is and your thoughts and opinions on that, so that I can update my opinion. I welcome any questions and thoughts that you have about our application.

Chair Finnegan asked if there were any questions for the applicant.

Chair Finnegan said the reason that I tend to vote against these, my line in the sand is, "is this taking a full-time, year-long rental off the market for someone who lives here?" If the answer is "yes," I tend to vote to recommend denial. If the answer is "no" because there is no kitchen and it could not be an apartment, I vote yes. That is my personal line.

Commissioner Armstrong asked are you aware that you have a by-right option of 90 nights per year?

Mr. Rogers said yes, that is something that we would consider doing. Right now, we have tenants, so it is not something that we are doing at the moment. We are aware of that option, but we would prefer to be able to use it as a STR for the full year or more than 90 days.

Commissioner Byrd said if things go the way that I think they are going to go, you might want to keep the homestay option in mind. If things change in the future, keep it in mind when you present before City Council, since they will bring that up.

Chair Finnegan said even if the SUP is denied, you could rent out your house, where you live for up to 90 nights.

Chair Finnegan asked if there were any questions for the applicant's representative. Hearing none, he asked if there was anyone in the room or on the phone wishing to speak to the request. Hearing none, he closed the public hearing and opened the matter for discussion.

Commissioner Byrd said concerning this particular type of subject, duplexes, until I hear a definitive position from City Council, I am more likely to stay with the position of denying

these. If, in the future, City Council decides that there is no reason to view duplexes in the way that I envision, I might consider revising my position on it. Until that happens, my current position would be to deny this request.

Chair Finnegan said I agree with Commissioner Byrd. There was one further down Broad Street, about two blocks away, that we denied for a very similar situation. It was a duplex and they wanted to live in one side and rent out the other side as a STR. We denied that one.

Commissioner Byrd moved to recommend denial of the request.

Commissioner Armstrong seconded the motion.

Chair Finnegan called for a roll call vote.

Commissioner Armstrong	Aye
Commissioner Byrd	Aye
Commissioner Orndoff	Aye
Commissioner Washington	Aye
Chair Finnegan	Aye

The motion to recommend denial of the SUP request passed (5-0). The recommendation will move forward to City Council on February 14, 2023.

This PH-Special Use Permit was recommended for denial to City Council due back on 2/14/2023

Yes: 5 - Finnegan, Orndoff, Byrd, Armstrong and Washington

No: 0

4.b. Consider a request from the City of Harrisonburg for a special use permit to allow public uses which deviate from the requirements of the Zoning Ordinance at 1111 N Main St

Chair Finnegan read the request and asked staff to review.

Ms. Rupkey said The City of Harrisonburg purchased 1111 North Main Street, which is a +/- 3.68-acre property with an existing 6,730 square-foot two story building, with plans to use this property to create a permanent space for a low-barrier emergency shelter and to use the building as a centralized hub for service providers who assist individuals experiencing homelessness. Information about the project is available on the City website at: <https://www.harrisonburgva.gov/homeless-services-center>.

The Comprehensive Plan designates this area as mixed use. The Mixed Use category includes both existing and proposed areas for mixed use. Mixed Use areas shown on the Land Use Guide map are intended to combine residential and non-residential uses in neighborhoods, where the different uses are finely mixed instead of separated. Mixed Use

can take the form of a single building, a single parcel, a city block, or entire neighborhoods. Quality architectural design features and strategic placement of green spaces for large scale developments will ensure development compatibility of a mixed use neighborhood with the surrounding area. These areas are prime candidates for “live-work” and traditional neighborhood developments (TND). Live-work developments combine residential and commercial uses allowing people to both live and work in the same area. The scale and massing of buildings is an important consideration when developing in Mixed Use areas. Commercial uses would be expected to have an intensity equivalent to a Floor Area Ratio of at least 0.4, although the City does not measure commercial intensity in that way.

Downtown is an existing area that exhibits and is planned to continue to contain a mix of land uses. The downtown Mixed Use area often has no maximum residential density, however, development should take into consideration the services and resources that are available (such as off-street parking) and plan accordingly. Residential density in Mixed Use areas outside of downtown should be around 24 dwelling units per acre, and all types of residential units are permitted: single-family detached, single-family attached (duplexes and townhomes), and multi-family buildings. Large scale developments, which include multi-family buildings are encouraged to include single-family detached and/or attached dwellings.

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

Site: Public use, zoned B-2 and M-1

North: Data center, zoned M-1

East: Commercial use, zoned B-2; and across Tyco Street, vacant parcels zoned B-2 and M-1

South: Across North Main Street, residential uses, zoned R-2

West: Single family residential and commercial uses, zoned B-2 and M-1

The City of Harrisonburg is requesting a special use permit (SUP) per Sections 10-3-91 (16) and 10-3-97 (15) to allow public uses to deviate from the requirements of Title 10, Chapter 3 of the Zoning Ordinance (ZO). Specifically, the request is to deviate from parking requirements that the ZO requires for a homeless shelter and support services facility.

Section 10-3-91 (16) and 10-3-97 (15) are SUP options within B-2 and M-1, respectively, that allow for any use defined as a “public use” to deviate from any requirement of Title 10 Chapter 3, which is the City’s ZO. A public use is defined by the ZO as “[a]ny instance where a lot or parcel of land, or any improvement on a lot or parcel of land, is used by (1) the city, or (2) another governmental entity having a contractual relationship with the city for the use of such lot or parcel or improvement.”

In the past, City staff determined that a homeless shelter would be considered a “transient accommodation” within the B-2 district per Section 10-3-90 (3): “Hotels, motels and similar types of transient accommodations. Nontransient housing facilities are not permitted nor may existing housing facilities be expanded” and that the off-street parking calculation would be based on the number of beds using Section 10-3-25 (9): “Hotels, motels and

similar transient housing: One (1) parking space for each sleeping room or suite plus one (1) parking space for each four-seat capacity of dining and/or assembly spaces. In addition, one (1) parking space per employee.” For the shelter, the number of beds in a shelter is used to represent the number of sleeping rooms.

MFTA Architecture, a consultant hired by the City for the shelter project, explains in an attached letter that Harrisonburg does not have specific off-street parking requirements for homeless shelters. They further noted that, for individuals experiencing homelessness in Harrisonburg they estimate that 1 in 7.5 guests have personal vehicles and that other parking would be for support staff and volunteers on-site.

There is 5,000 square feet of space that will be used for office and clinic space, as well as 88 beds for shelter use. Using the City’s parking requirements for business or professional offices, which requires one off-street parking space for each 300 square feet of gross floor area, and the ratio of 1 off-street parking space for every 7.5 beds, in their letter, MFTA calculated that approximately 29 off-street parking spaces should be required and recommended no more than 30 off-street parking spaces.

Staff recommends approval of the request with the following condition:

The special use permit shall be applicable only to a homeless shelter and support services facility. The minimum off-street parking required for the homeless shelter and support services facility use is 29 spaces. Any future expansions to provide more beds shall comply with the ratio of 1 space per 7.5 guests. Any future expansions of the support services or for any new uses that might operate on the site shall comply with the Zoning Ordinance’s off-street parking requirements, unless another special use permit to deviate from the minimum number of parking requirements is approved.

Chair Finnegan asked if there were any questions for staff.

Chair Finnegan asked if this is just about parking, if it get denied, that does not change the use of the building, correct?

Ms. Rupkey said correct.

Chair Finnegan said City Council has already purchased that building. This is just about parking spaces.

Chair Finnegan asked if there were any more questions for staff. Hearing none, he opened the public hearing and invited the applicant or applicant’s representative to speak to their request.

Amy Snider, Acting Deputy City Manager, came forward regarding the request. I am the project lead for the Homeless Services Center project. Thank you all for your service as Planning Commissioners and for your consideration of this request. Staff has outlined well

the rationale for our request. I am happy to answer any questions.

Chair Finnegan asked if there were any questions for the applicant’s representative. Hearing none, he asked if there was anyone in the room or on the phone wishing to speak to the request. Hearing none, he closed the public hearing and opened the matter for discussion.

Chair Finnegan said I do want to recognize that we did get at least one email in opposition to this request. It came through today.

Ms. Rupkey said yes, I got one email today.

Chair Finnegan said it was from the owner of the Dollar General that is next door. That was against the request. As we discussed earlier, denying this request would not do anything regarding the use of the building. It would only change the shape of the parking lot. I am in favor of this request. The City has already purchased the building for this purpose. A lot of what we do behind this dais has an impact on the housing that gets built in the City. Homelessness is one of the many symptoms of communities that do not have enough housing. I would be in favor of this request.

Commissioner Byrd said I do not see a reason to have more parking spaces than necessary, especially when the property has so much grass. I am also in favor of this request.

Commissioner Byrd moved to recommend approval of the request, as presented.

Commissioner Orndoff seconded the motion.

Chair Finnegan called for a roll call vote.

Commissioner Armstrong	Aye
Commissioner Byrd	Aye
Commissioner Orndoff	Aye
Commissioner Washington	Aye
Chair Finnegan	Aye

The motion to recommend approval of the SUP request passed (5-0). The recommendation will move forward to City Council on February 14, 2023.

A motion was made by Byrd, seconded by Orndoff, that this PH-Special Use Permit be recommended to City Council, due back on 2/14/2023. The motion carried with a recorded roll call vote taken as follows:

Yes: 5 - Finnegan, Orndoff, Byrd, Armstrong and Washington

No: 0

5. New Business - Other Items

- 5.a. Consider a request from the City of Harrisonburg to close a portion of Beery Road public street right-of-way

This agenda item has been postponed.

6. Unfinished Business

- 6.a. Consider a request from James Madison University Real Estate Foundation Inc. for a special use permit to allow multiple-family dwellings and/or mixed use buildings in the B-2 district at Peach Grove Avenue

Chair Finnegan read the request and asked staff to review.

Ms. Dang said on December 14, 2022, Planning Commission held a public hearing to consider the subject request and tabled the request (6-1) because it was unknown how the developer would accommodate the need for a bus pull off for public transportation needs and safety. Please refer to the December 14, 2022, agenda packet and staff memorandum for more details about the request.

Since the December 14th Planning Commission meeting, the applicant has updated the traffic impact analysis (TIA) to include the impacts expected from a 376 multifamily residential dwelling unit count. The Department of Public Works reviewed and accepted the updated TIA and the TIA acceptance letter is attached.

The applicant has also identified a new contact for the property owner of The Hills Southview and is working with the City Attorney's Office for their assistance in obtaining cooperation from The Hills Southview. The applicant and staff have also worked together to revise condition #7, and the applicant has proposed the following:

Owner/developer shall construct along Peach Grove Ave just west of the subject property a bus pull off and a concrete pad for a bus shelter on TM 091-H-1 at a location acceptable to the Department of Public Transportation. However, if the owner of TM 091-H-1 has provided in writing that they are unable/unwilling to provide an easement or public right-of-way at fair market value for a bus pull off and concrete pad, then the owner/developer shall only be responsible for constructing a concrete pad for a bus shelter within the existing 80' wide ROW in front of TM 091-H-1.

As previously described in the December 14th staff report, the property is adjacent to existing and planned multiple-family complexes. Staff believes that the request is consistent with the Comprehensive Plan's Land Use Guide and is helping meet the need for providing more housing in the City with respect to the points made in the Comprehensive Housing Assessment and Market Study. Given these points, staff believes that providing multi-family units at this location can be a positive result for the community and for those that might reside in such units. While the ideal arrangement for a bus stop along Peach Grove Avenue is to include a bus pull off, staff recognizes that this can only be possible

with the participation of the adjacent property owner, to which the applicant does not have control. Similarly, staff preferred for the subject property owner and the property owner of tax map parcel 92-F-10 (1351 Peach Grove Avenue) to share an entrance to accommodate safe entering and exiting for both developments, yet staff did not have the authority to force both property owners to share a common entrance.

Given the updated TIA and revised condition #7, staff recommends approval of the SUP with the following conditions:

1. The number of dwelling units on the property shall not exceed 376 units.
 - a. A minimum of 30% of all dwelling units will consist of either studio or one-bedroom apartments.
 - b. A maximum of 20% of all dwelling units will consist of three-bedroom apartments.
2. The property shall not contain dwelling units that have more than three (3) bedrooms.
3. Owner/developer, at the time of development, will obtain necessary easements and construct the proposed pedestrian connection to the existing "Port Crossing Shopping Center" (TM 092 F 11).
4. A minimum of 1.3 parking spaces per dwelling unit shall be provided.
5. Solar panels shall be installed and maintained on a minimum of 10,000 square feet of the building roof area (approximately 15% of the total roof area).
6. Owner/developer shall install and maintain a minimum of four (4) "Level 2" (equivalent or better technology at the time of construction) electric vehicle charging stations on the property.
7. Owner/developer shall construct along Peach Grove Ave just west of the subject property a bus pull off and a concrete pad for a bus shelter on TM 091-H-1 at a location acceptable to the Department of Public Transportation. However, if the owner of TM 091-H-1 has provided in writing that they are unable/unwilling to provide an easement or public right-of-way at fair market value for a bus pull off and concrete pad, then the owner/developer shall only be responsible for constructing a concrete pad for a bus shelter within the existing 80' wide ROW in front of TM 091-H-1.
8. Owner/developer shall provide a right turn lane at project entrance with a minimum of 20' storage and 75' taper.
9. The special use permit shall be established, or any construction authorized shall be commenced and diligently pursued within 24 months from the approval date of the special use permit.

Chair Finnegan asked if there were any questions for staff.

Chair Finnegan said this is question for Mr. Russ. If this gets approved, they talk to the adjacent property owner and the price is not reasonable or they do not want to engage, is there any precedent with the City using eminent domain to put a bus stop? When a sidewalk goes in on my street, some of the neighbors might not want to lose part of their yard, but

they do not have an option.

Mr. Russ said I do not think that is something the City has ever done before, but it would be lawful. It is something that the City can do. We would have to go through the easement or right-of-way acquisition process and, hopefully, come to terms that are acceptable to both the City and the property owner. If not, we can use eminent domain if it turns out that we really do need it to be a bus pull-off and not just a bus stop in the lane. It would be feasible if it came to that.

Chair Finnegan said I am an employee of James Madison University, the applicant, and I am able to participate in discussion and adoption of a recommendation on this matter fairly, objectively and in the public interest; therefore, I will participate in the discussion and vote upon a recommendation for this matter.

The public hearing was held at the previous meeting in December and will not be reopened; however, the applicant is available to answer questions.

Commissioner Armstrong said regarding the 1.3 parking spaces per unit, the requirement for this property and this project is actually one space per unit, is that correct?

Ms. Dang said that the Zoning Ordinance for this use of multi-family within the B-2 district would require a minimum of one off-street parking space per unit. The applicant has proposed as a condition, and staff recommends for approval, is that they would provide a minimum of 1.3 parking spaces per dwelling unit.

Chair Finnegan said we did a letter from Jeff Forbes saying that he does not think that there is enough parking here.

Commissioner Armstrong asked staff to comment on that letter. Mr. Forbes is providing some compelling experience and it is huge discrepancy in parking.

Ms. Dang said the number that he is working off of, and trusting that those numbers are correct, is that the Zoning Ordinance for the R-3 district does require parking ratios based on the number of bedrooms within a multi-family unit. It is much more than what is there. For example, a three or four bedroom unit would be three and half parking spaces per dwelling unit, if I recall correctly. I am interpreting that his concern is that if it is student housing, then oftentimes each of them is bringing a vehicle. If I recall, the applicant has stated that their proposal is not geared towards students. While students could live there, it is open to other types of households, not specifically geared towards students where it is a bedroom per individual rental that we usually see in student housing. Typically, what we see in college student housing is that they rent out by the bedroom to an individual. While it is not conditioned, the applicant explained at the last meeting that this rental would be by the dwelling unit, not by bedroom. Students could live there. They are not being excluded. They could live there, but it could also include other households.

Mr. Fletcher said that if this project were to get approved and get developed, and some

years down the road they sold the development, while we trust that the applicant would rent it by dwelling unit, it would not prevent a future owner from renting it by bedroom.

Chair Finnegan said I believe, Commissioner Armstrong, that you said in the last meeting that they were providing more parking than City forces them to build by the Zoning Ordinance. I think that there are people in the room, perhaps myself, that think that there is too much parking here. Mr. Forbes thinks that there is not enough.

Todd Rhea, Clark & Bradshaw, came forward representing the applicant. Going back to the parking and how this was developed, this is a new Ordinance allowing multi-family residences in the B-2 district. That Ordinance was changed and adopted last February 2022 in the context of the Regal Cinemas Armada Hoffler approval. Our application was based on that precedent, those ratios, the types of housing units involved and the parking. This body recommended approval of the Armada Hoffler project with 1.3 parking spaces per unit. This is a very similar request. We were working within what we thought was favorable precedent from Planning Commission, staff and City Council. We are between Scylla and Charybdis with respect to parking. Some people want less parking. Some people want more parking. There are valid concerns on either side. We tried to mitigate towards minimizing that to the extent we can for a successful project. We do not want to create large parking where parking is not needed because we are on a transit line, and we are next to walkable commercial which is a key component of this approval. We think it is consistent with that precedent. Given the fact that folks can ride the bus and walk to the grocery store, CVS, McDonald's or Vito's, maybe parking could be mitigated here, and our request is consistent with that previous Armada Hoffler approval. That is how we arrived at it, understanding that there are arguments on both sides.

Commissioner Armstrong said if I remember that Regal Cinema project was explicitly developed as fairly luxury student apartments.

Mr. Rhea said I do not think there is a proffer to that effect.

Commissioner Armstrong said no there is not, but the intention was clearly there in terms of the amenities that they provided. That was certainly my memory.

Mr. Rhea said we can go off of the objective metrics and conditions in that application. We mirrored or exceeded all of those metrics or applications. We tried to design our units with a smaller bedroom count per unit, without lockout bedrooms, so that it would be amenable to a mix of renters. It is not in the City, but the Altitude project out Port Republic Road and Stone Port Road is a similar concept where there is a mixture of student and non-student renters that rent by the unit and not by lock-out bedrooms.

Commissioner Armstrong said I recall you making the repeated statement that your intention is not affordable housing.

Mr. Rhea said that is not true. We made the statement that it is market rate housing, that there are no designated affordable units. Mr. Cosby, at the public hearing, did run through

the AMI metrics for the one-bedrooms, which are a large percentage of the proffered mix, and those would meet some affordability standards. Our position is that any housing helps affordability and, while this is a market rate project, the design was done intentionally so that there would be smaller units that would be more affordable on the rental scale.

Chair Finnegan said to the market rate versus affordable housing, if the land is market rate, if the materials are market rate, if the labor is market and there is no subsidy, then they will be market rate.

Commissioner Byrd said I have no issue with the 1.3 parking ratio because there are certain populations that tend to have guests more than other populations and tend to have them more regularly than other populations, and as the City becomes denser, the idea of everyone driving to meet each other is going to become unfeasible, therefore people will adapt to the situation. I have lived in denser places than Harrisonburg. When I go back to visit my family and I tell them that we call this place a city and it is run like a city, they say that place is small. People still feel that more suburb, rural driving idea, but the City itself is becoming more dense. We have to change our thinking about always driving separately to go to a place. The 1.3 might be more than some people want and less than others want, but the City is going to get denser over time and the parking is going to become unfeasible regardless of how many spaces it is. I would be in favor of this in light of the issues with the bus stop and what may or may not happen in the future as that may become the City having to come up with its own solution if private entities cannot meet each other on their own.

Commissioner Orndoff moved to recommend approval of the SUP.

Commissioner Byrd seconded the motion.

Commissioner Armstrong said even though the zoning permits this density, and surrounding areas are dense, the traffic congestion in this area when JMU is in session is very serious. It is dangerous too, whether or not it is from the bus stop. In light of “if it walks like a duck and talks like a duck” this looks like luxury student housing to me. We went through the pricing of these units. For a studio apartment, it was not particularly affordable to the professions I made note of in the last meeting. I am going to oppose this because, at some point, we need to start rationing City resources and services, and prioritize affordability and availability for truly family housing. In light of the contribution and burden it will put on the traffic conditions in that area which are already really congested and because we need affordable housing, and I do not think this is, I will vote against this.

Chair Finnegan said I think you make some good points. I think we need affordable housing in the City. I agree with Commissioner Byrd, there is not easy bridge to get from where we are with driving and parking to where we need to be. I would be in favor, in the future, in doing away with parking requirements altogether and letting the developer decide how many spaces they would like. I agree that this is market rate housing. This is not affordable housing. In the Housing Study, it did point out that there was a shortage of one-bedroom apartments. I will be voting in favor of this for those reasons, but I think you make some

good points about that.

Commissioner Byrd said regarding one-bedroom units, I pay for a two-bedroom unit. I do not use the other room because I am one person and I do not have that much stuff. If I had the option of a one-bedroom place I would consider it, but when I was looking there were none. I have an empty room that I pay for and more rent.

Chair Finnegan said when it comes to parking, I will reiterate what I said last month. This applicant can do more to reduce demand by encouraging high-occupancy vehicle parking on campus.

Chair Finnegan called for a roll call vote.

Commissioner Armstrong	No
Commissioner Byrd	Aye
Commissioner Orndoff	Aye
Commissioner Washington	Aye
Chair Finnegan	Aye

The motion to recommend approval of the SUP request passed (4-1). The recommendation will move forward to City Council on February 14, 2022.

A motion was made by Orndoff, seconded by Byrd, that this PH-Special Use Permit be recommended to City Council, due back on 2/14/2023. The motion carried with a recorded roll call vote taken as follows:

Yes: 4 - Finnegan, Orndoff, Byrd and Washington

No: 1 - Armstrong

7. Public Comment

Mac Nichols, representing Skyler & Talli, came forward. Thank you for allowing me to make a comment regarding the SUP on Peach Grove Avenue. My client does not take any position in support or opposing the SUP except with respect to the bus stop. As you may be aware, they have a proffer in place with respect to the bus stop that is being placed on their property. My client is currently under contract with a purchaser, but there are contingencies that still need to be satisfied, so we are not sure if they are going to be purchasing the property or not. My client and the purchaser feel that the bus stop on the Skyler & Talli is of benefit to them and they would like to retain it. The purchaser modified their plans to accomplish the bus stop which then resulted in a decrease in density as far as their project was concerned. The purchaser relied, to a certain extent, on the bus stop being there. They saw that as a benefit. They could market to their tenants that the bus stop is on premises. If the plan is approved, that would make it impossible for my client or the purchaser to comply with the existing proffer. I understand from talking with staff today that the Department of Public Transportation can legally take the bus stop at their discretion; however, there is this proffer in place that it be placed on my client's property. I understand that the City's position is that they could initiate a rezoning process with respect to that

property to remove that proffer from that property. I do not know if that is the case, but I understand that Mr. Russ feels that is the case. It occurred to me that, possibly, this proffer may constitute a vested right with respect to the property. The current purchaser has expended money associated with the property and they have already submitted preliminary plans to the City with respect to their project that does incorporate the bus stop.

Chair Finnegan clarified that there will be another public hearing on this matter before City Council.

8. Report of Secretary & Committees

8.a. Rockingham County Planning Commission Liaison Report

Commissioner Byrd said there was a rezoning request addressing an industrial zone to allow an accessory building that is a residence for the stated purposes of security or maintenance to the site. Someone would live on the industrial property site and their responsibility is to maintain security or maintenance. It was approved (4-0). They had an amendment in an Urban Development Area (UDA) for the B-1 and B-2 which changes a list of 16 by-right uses to SUP. Staff wanted the Board of Supervisors to be able to hear about these properties when they were going to do one of these 16 uses. The Commissioners needed more time with that list, so they tabled it (4-0).

8.b. Board of Zoning Appeals Report

None.

8.c. City Council Report

Councilmember Dent was absent, so Mr. Fletcher presented the City Council report.

Mr. Fletcher said the request to rezone from R-2 to R-8 on Liberty Street was approved (4-0). The rezoning on 178 and 188 South Mason Street from B-2 to B-1 was approved (4-0). There were two SUPs for STRs. One was at Smith Avenue and the other was at Long Avenue. The Smith Avenue SUP was approved (3-1). Councilmember Robinson voted no. The SUP for Long Avenue was approved. I cannot remember the vote, but I think it was (3-1). The Cooperative Sober Living Residence amendment was withdrawn under consideration after we presented everything to keep City Council up to date on actions and information that we have learned up to this point. We presented the case and explained that we learned some additional information. We would like to withdraw that application and are likely going to come back to Planning Commission with a new proposition to do a by-right option with a slightly different take on the whole application because of some information we learned about some legislation in the General Assembly. That will be forthcoming. The posting of property amendments to the Zoning and Subdivision Ordinance was approved (4-0).

Chair Finnegan said it seems like the Planning Commission is having a very different conversation than City Council especially since Councilmember Dent was absent that night.

9. Other Matters

9.a. Review Summary of next month's applications

Ms. Dang said next month we have two items. We recommend holding one meeting on the second Wednesday in February.

Chair Finnegan asked is the first item the one we would have heard tonight?

Ms. Dang said it is a different request.

Chair Finnegan asked will we hear what was tabled?

Ms. Dang said we do not know. It is possible that there could be three items on the agenda. I still maintain the recommendation of having one meeting.

Chair Finnegan asked can you tell us any more about the request on Garbers Church Road? Where is that in relation to Bluestone Town Center.

Ms. Dang said it is to the north on the west side of the street.

Mr. Fletcher said if you are travelling west on West Market Street and you turn left onto Garbers Church Road, it is down approximately a quarter of a mile on the right-hand side. The property was recently subdivided. There is an older home that sits there and an undeveloped... It is an interesting site because it slopes. It was recently sold, and they are looking to subdivide.

The Planning Commissioners agreed to hold one meeting next month.

Ms. Dang said we are still working on the staff reports for next week's meeting. They will be published online, and hard copies will be delivered. There will be a rezoning application and a Zoning Ordinance amendment application. The Zoning Ordinance amendment to the R-7 district regulations and the rezoning request for the 90 acres of property.

Chair Finnegan asked if can be done as one hearing and two separate votes?

Ms. Dang said that we are writing them as two separate staff reports. We will decide how we will present it, but it will be two separate votes.

The date of that Planning Commission meeting will be on Tuesday, January 17, 2023. The meeting start time will be at 6:00 p.m. Members of the public can attend the meeting here at Council Chambers, or call in, or submit any written letters.

The Planning Commissioners discussed the next Rockingham County Planning Commission liaison assignments.

February 7	Commissioner Armstrong
March 7	Chair Finnegan
April 4	Commissioner Washington
May 2	Commissioner Byrd
June 6	Commissioner Washington
July 5	Commissioner Armstrong
August 1	Commissioner Orndoff

10. Adjournment

The meeting adjourned at 7:02 p.m.

NOTE TO THE PUBLIC

Staff will be available at 4:00 p.m. on the Tuesday before the next Planning Commission meeting for those interested in going on a field trip to view the sites on the next agenda.

INTERPRETATION SERVICES

Language interpretation service in Spanish, Arabic and Kurdish is available for Planning Commission meetings. To ensure that interpreters are available at the meeting, interested persons must request the accommodation at least four (4) calendar days in advance of the meeting by contacting the City Clerk at (540) 432-7701 or by submitting a request online at: www.harrisonburgva.gov/interpreter-request-form

El servicio de intérpretes inglés-español está disponible para las reuniones públicas de la Comisión de Planificación. Para asegurar la disponibilidad de intérpretes, cualquier interesado deberá solicitar la presencia de un intérprete al menos cuatro (4) días calendarios antes de la reunión comunicándose con la Secretaría Municipal al (540) 432-7701 o por medio de la página por internet al:

<https://www.harrisonburgva.gov/interpreter-request-form>

NOTE TO THE PUBLIC

Residents/Media will be able to attend the meeting.

The Public can also view the meeting live on:

- The City's website, <https://harrisonburg-va.legistar.com/Calendar.aspx>
- Public Education Government Channel 3

A phone line will also be live where residents will be allowed to call in and speak with Planning Commission during the Public Hearings and the Public Comments portion of the night's meeting. We ask those that wish to speak during the public comment period to not call in until after all the public hearings and public comment on those have been heard. This will avoid anyone calling on any other item from holding up the queue and then being asked to call back at a later time.

The telephone number to call in is: (540) 437-2687

Residents also may provide comment prior to the meeting by visiting this page:
www.harrisonburgva.gov/agenda-comments