



# CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

409 SOUTH MAIN STREET, HARRISONBURG, VA 22801

OFFICE (540) 432-7700 • FAX (540) 432-7777

To: Planning Commission  
From: Department of Community Development  
Date: December 14, 2022 (Regular Meeting)  
Re: Special Use Permit – Peach Grove Avenue (To Allow Multiple-Family Dwellings and/or Mixed Use Buildings in the B-2 District) (Lingerfelt Development Apartments)

### **Summary:**

Public hearing to consider a request from James Madison University Real Estate Foundation Inc. for a special use permit per Section 10-3-91 (17) to allow multiple-family dwellings and/or mixed use buildings in the B-2, General Business District under conditions set forth in subsection 10-3-93 (d). The +/- 9.91-acre property is addressed as Peach Grove Avenue and 1071 Port Republic Road (although the property only has frontage on Peach Grove Avenue) and is identified as tax map parcel 92-F-6.

### **Background:**

The Comprehensive Plan designates this site as Governmental/Quasi-Governmental. These lands include properties owned or leased by the City of Harrisonburg, the Commonwealth of Virginia, the federal government, and other governmental /quasi-governmental organizations. Examples of entities included in this category are City Hall, City administrative and support facilities, Harrisonburg City Public Schools, James Madison University, Rockingham County Administrative Offices, Rockingham County Public Schools, and the Massanutten Regional Library. Properties within this designation may already include uses supplied by the entities mentioned or are planned to be used by such public entities for any type of uses necessary for their services. Some Governmental/Quasi-Governmental uses, such as James Madison University, other state agencies, and the federal government are not subject to some of the City's land use regulations. City parks are included in the Conservation, Recreation, and Open Space Category. Furthermore, it should be understood that properties that are owned or leased by the City, which may not be designated as Governmental/Quasi-Governmental by the Land Use Guide, may be developed with public uses, as defined by the Zoning Ordinance, to operate and provide services supplied by the City in any zoning district, which as of the approval of the 2018 Comprehensive Plan, is every zoning district in the City.

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

**Site:** Undeveloped/vacant property, zoned B-2

**North:** Multiple-family dwellings, zoned R-3

**East:** Commercial uses, zoned B-2 and undeveloped/vacant property planned for multiple-family development, zoned R-5C

**South:** Common area for multiple-family dwellings, zoned R-3; and across Peach Grove Avenue,

undeveloped/vacant property, zoned R-1

West: Multiple-family dwellings, zoned R-3

**Key Issues:**

The applicant is requesting a special use permit (SUP) to allow multiple-family dwellings in the B-2 district. The property is +/- 9.91 acres, has frontage along Peach Grove Avenue, and is located approximately 650 feet west from the intersection of Peach Grove Avenue and Port Republic Road. If the SUP request is approved, the applicant intends to develop up to 376 multiple-family dwelling units within three structures and to provide surface parking and a two-level parking deck.

While staff would like to proceed with holding the public hearing for this request and explaining the proposed application, staff would like it known upfront that we recommend for Planning Commission to hold the public hearing and table the SUP request until at least the January 2023 regular Planning Commission meeting. After a great deal of brainstorming with the developer and discussing potential solutions to a problematic transportation scenario regarding the site's entrance, staff continues to have significant concerns with this matter, and at this time, cannot responsibly make a recommendation on the SUP request without better assurance in knowing how the developer will accommodate the most appropriate transportation needs for the potential residents of the site and the rest of the community that travels this area of the City.

With regard to the details of the proposal, as specified by Section 10-3-93 (d) of the Zoning Ordinance (ZO), the applicant has submitted a development plan to be in accord with the requirements of the SUP. Section 10-3-93 (d) states that “[f]or multiple-family dwellings and mixed use buildings, the development plan submitted with the special use permit shall govern development on the site and shall be used as a basis for subdivision and engineered comprehensive site plan approval.” If the SUP is approved, then details of the development plan would be used to ensure that what is proposed and evaluated during the SUP review is what is developed. If significant deviations are desired by the property owner in the future, the property owner must apply to amend the development plan by going through the SUP process again.

Features of the development plan submitted with the SUP that would be used as the basis for an engineered comprehensive site plan approval include, but are not limited to:

1. The general location of buildings and structures as illustrated.
2. The general number of stories within proposed buildings and structures as illustrated.
3. The general location of parking areas as illustrated.
4. The general location of pedestrian connections as illustrated.
5. The general location of the emergency access as illustrated.

Additionally, the applicant has proposed the following conditions, which are described on the development plan as “Owner/Developer Proposed Conditions” (written verbatim):

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” (or current technology at the time of construction) electric vehicle charging stations on the property.
7. Owner/developer proposes to construct along Peach Grove Ave just west of the subject property either:
  - a. 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 and provided owner of TM 091-H-1 is willing to grant an easement at conditions deemed acceptable by the applicant.
  - b. Or 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.

If the site contained the proposed maximum 376 units, and if the development met the minimum and maximum bedroom percentage breakdowns as described above, the site would contain 113 one-bedroom units, 187 two-bedroom units, and 76 three-bedroom units. With regard to minimum off-street parking requirements, the ZO allows one parking space per unit for multi-family development in the B-2 district. The developer’s proposed conditions would require a ratio of 1.3 parking spaces per unit, which would require a minimum of 489 parking spaces for 376 units. The plan of development shows 504 spaces, where 222 spaces would be located within the parking deck.

As previously stated, the property is designated by the Comprehensive Plan’s Land Use Guide (LUG) as Governmental/Quasi-Governmental; this is because it is owned by the James Madison University (JMU) Real Estate Foundation. The LUG designates the adjacent property to the northwest as Mixed Use and the adjacent property to the southwest as High Density Residential. The Comprehensive Plan states that Mixed Use areas outside of the downtown area should be around 24 units per acre while High Density Residential is planned to allow up to 24 units per acre. The subject proposal of 376 units is a density of 37 dwelling units per acre, which is just under the maximum allowed 38 units per acre permitted in the B-2 district regulations. Given the site’s size, the maximum number of allowed units is 385.

The property is located adjacent to existing multiple-family complexes (The Hills Southview to the west and Deer Run to the north). Likely the subject site will end up adjacent to another multi-family development—probably marketed for student housing—to the northeast of the site at 1051 Peach Grove Avenue identified as tax map parcel 92-F-10. That site was rezoned to R-5C in 2019 and then again with a proffer amendment in 2021. The developer of that project recently began the prerequisite submittals to continue with the project and to move toward an engineered comprehensive site plan review.

From a design and site layout perspective, staff typically prefers to have buildings massed closer to the public street, however, we acknowledge that there are limitations with the site’s elevations and narrow property frontage. We appreciate the idea to provide structured parking. We questioned whether the

applicant would consider building units on top of the structured parking with the hope that more open green space could be provided on site, but it appears that it would not be economically feasible for their desired project.

As most are aware, the City's Comprehensive Housing Assessment and Market Study (Housing Study) identified a shortage of rental housing units that are affordable to the lowest and highest income renter households (0-30% and above 80% Area Median Income (AMI)) and found that "[t]here is significant mismatch with many higher income households residing in more affordable units and lower income households residing in more costly units." Among renters, the study noted several key findings of the housing mismatch, which included that there are significantly more households than units in the 0-30% AMI tier; the vast majority of rental units are naturally occurring affordable housing; higher income households occupy rental units that cost less, and thus increasing competition for lower income households; and the vacancy rate is low at 2% (or 3.5% per American Community Survey data), which causes a tight market, "where the lowest income households have the fewest options."

The Housing Study places the subject property within Market Type C. Along with other details of this market type, it is the smallest but fastest growing market type in the City. Among other characterizations, Market Type C has a large number of university students. The Housing Study states "[l]ike Market Type A, Market Type C has above median overall access to amenities such as public transit within walking distance, full-service grocery stores, and multiple parks and recreation facilities." It goes on to say that "Market Type C has above median access to amenities yet is the most affordable market type in the City. The creation and preservation of affordable housing and construction of middle income housing would be appropriate here as there are already amenities in place that would make these areas attractive locations for housing..." The Housing Study also notes that "[h]aving an adequate supply of smaller apartments in Market Types A and C is important because these block groups have higher scores for access to amenities such as jobs, parks, full-service grocery stores, and public transit."

When considering the need for providing more housing in the City and with respect to the points made above from the Housing Study, providing multi-family units at this location can be a positive result for the community and for those that might reside in such units. However, staff cannot disregard the necessity to have safe and efficient traffic accommodations.

As required by Section 10-3-118 of the ZO, since the proposed multiple-family development met the threshold for the City to be able to review a traffic impact analysis (TIA), staff requested for traffic to be evaluated. The TIA, completed on October 26, 2022, evaluated the traffic impacts of a proposed 350-unit multiple-family residential development (26 units less than the number of units they are hoping to have permission to build) and analyzed traffic operations at four study intersections during the AM and PM peak hours. The TIA study concluded that "[a]nalysis indicates that site impacts are not expected to create unacceptable delays or traffic queues within the study area beyond those determined under background plus approved peak hour traffic conditions." Additionally, "[a]nalysis indicates all site drive movements [at the development's single entrance at Peach Grove Avenue] are expected to operate at acceptable levels of service upon buildout of the proposed site." However, the following improvements were recommended by the applicant's traffic engineer as part of the overall development plan (written verbatim from the TIA study):

- Construct a 50ft southbound right turn lane taper at the intersection of Peach Grove Avenue and Site Drive

- Pedestrian interconnection to adjacent commercial land uses. Current site plans provide a single point of pedestrian interconnection between the subject parcel and adjacent parcels to the north of the subject property.

On November 2, 2022, the Department of Public Works responded that they did not agree with the proposed mitigations because the proposed mitigations seemed to contradict the analysis. Since November 2, several meetings and phone calls between staff and the applicant have taken place to discuss possible options which the applicant explains in their letter dated December 7, 2022, with subject “Entrance Options for 9.91 Acres along Peach Grove Ave (TM 092-F-6).” On December 7, the applicant also submitted a TIA addendum that analyzed a design change for a full width of 20-foot in length turn lane with a 75-foot in length taper lane. The Department of Public Works finds this turn lane design acceptable, however, staff continues to have concerns with the turn lane conflicting with the proposed bus pull off in front of 1351 Peach Grove Avenue (tax map parcel 92-F-10).

It should also be noted that staff foresaw complications with the traffic movements in this area with the subject development and the planned development at tax map parcel 92-F-10 (1351 Peach Grove Avenue). In July 2022, City staff led and facilitated a meeting, inviting the property owners and developers of both properties to discuss: the proposed entrances to each of the developments, city staff’s concerns and interest to accommodate safe entering and exiting to both developments, and to find potential solutions such as jointly pursuing one entrance onto Peach Grove Avenue to serve both properties. Unfortunately, the parties could not come to an agreement and are proposing two separate entrances, one entrance for each property. Furthermore, staff wanted the two developers to work together to plan for and to construct the sites with the ability to allow for vehicles to pass between the sites. At this time, it appears the sites will not be developed with this opportunity.

With regard to public transit, when routes are in full service, four routes serve Peach Grove Avenue. Residents of the proposed multiple-family development would be well served by public transportation. However, it is important to City staff that safe and efficient public transit services are provided. Yet, the proposed right turn lane and taper into the subject property (which is needed for safe and efficient vehicle operations) would impact the frontage of the adjacent property addressed as 1051 Peach Grove Avenue (tax map parcel 92-F-10) and require the bus pull off that was proposed with the 2021 rezoning of 1051 Peach Grove Avenue to be relocated because there are too many conflict points as transit bus drivers and other vehicle drivers weave around each other into and out of the turn lane and into and out of the developments. The Harrisonburg Department of Public Transportation (HDPT) does not want to force drivers to navigate this type of movement.

While the applicant has been diligently working to reach out to adjacent property owners (The Hills Southview to the west identified as tax map parcel 91-H-1 and Skylar & Talli LLC to the east at 1051 Peach Grove Avenue and identified as tax map parcel 92-F-10) to pursue proposed condition number 7.a. (which is to accommodate a bus pull off to the west of the subject property), formal agreements have not been made and it is uncertain whether public transit needs can be addressed. Staff is not comfortable accepting proposed condition number 7.b., (which is to provide a bus stop and shelter—no bus pull off—to the west of the subject property) if condition 7.a. cannot presumably be achieved. Specifically, at this location, where there would be three entrances in a short distance and where there are three lanes (one being a center turn lane), providing a bus pull off is the safest option, rather than having buses stop within the travel lane. HDPT is concerned that if buses are stopped within a travel lane, where a center turn lane could be used by a driver to maneuver around the bus, drivers stopped

behind the bus will make risky maneuvers trying to pass the bus within the center turn lane. Staff recognizes that there are times that bus stops must be located within a travel lane along a street that has a center turn lane. In fact, these scenarios will end up being created when the City completes the road reconfigurations along Evelyn Byrd Avenue and University Boulevard. However, we must evaluate each circumstance on its own merit and, given the circumstances of the subject development, if there is opportunity to prevent such a scenario, staff does not want to create this situation and thus believes another solution must be found. Additionally, the proffers associated with the 2021 rezoning for 1051 Peach Grove Avenue requires that a bus pull off, along with a concrete pad for a bus shelter, and a bus shelter easement be dedicated to the City at a location acceptable by HDPT. Also, for the comfort of transit riders, the provision of a bus shelter is important. For a corridor that has high-density residential development, public transit must be prioritized.

Lastly, it should be understood that depending upon the scale and types of commercial development that would be permitted by right, those developments could generate more traffic than the proposed multi-family development. If a developer wanted to construct such a commercial development, because such a development is by right, they might not be required to address the appropriate transportation related needs that staff is concerned with as described in this report. However, such a scenario does not mean that anyone should overlook the necessary traffic needs generated by the proposed development described in this report.

As noted earlier, at this time, staff cannot responsibly make a recommendation on the SUP request without better assurance in knowing how the developer will accommodate the most appropriate traffic needs for the potential residents of the site and the rest of the community that travels this area. Staff recommends Planning Commission table the request until at least the January 2023 regular meeting.

However, if there is a desire to approve the request, staff recommends the approval only be granted with the modifications of the proposed conditions as shown below:

1. The number of dwelling units on the property shall not exceed ~~376~~350 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” (or current technology at the time of construction) electric vehicle charging stations on the property.
7. Owner/developer ~~proposes to~~ shall construct along Peach Grove Ave just west of the subject ~~property either:~~
  - a. 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 and provided owner of TM 091-H-1 is willing to grant an easement at conditions deemed acceptable by the applicant.

~~b. Or 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.

Staff recommends modifying condition #1 to reduce the maximum allowed number of dwelling units from 376 to 350 because 350 units is what was studied in the TIA. Staff has communicated with the applicant that the TIA should be reanalyzed to reflect the 7.4% increase in vehicle trips and resubmitted to the Department of Public Works. Staff recommends deleting/not accepting condition 7.b.

**Environmental Impact:**

N/A

**Fiscal Impact:**

N/A

**Prior Actions:**

N/A

**Alternatives:**

- (a) Recommend approval of the special use permit request as submitted by the applicant;
- (b) Recommend approval of the special use permit request with suggested conditions;
- (c) Recommend approval of the special use permit with other conditions(s);
- (d) Recommend denial; or
- (e) Table the request so that the applicant can work with staff to address concerns.

**Community Engagement:**

As required, the request was published in the local newspaper twice advertising for Planning Commission's public hearing. The advertisement was published as shown below:

***Special Use Permit – Peach Grove Avenue (To Allow Multiple-Family Dwellings and/or Mixed Use Buildings in the B-2 District) (Lingerfelt Development Apartments)***

Public hearing to consider a request from James Madison University Real Estate Foundation Inc. per Section 10-3-91 (17) to allow multiple-family dwellings and/or mixed use buildings in the B-2, General Business District under conditions set forth in subsection 10-3-93 (d). The +/- 9.91-acre property is addressed as Peach Grove Avenue and 1071 Port Republic Road (although the property only has frontage on Peach Grove Avenue) and is identified as tax map parcel 92-F-6.

In addition, adjoining property owners were notified of the public hearing; the property was posted with signage advertising the request; and a notice was provided on the City's website at <https://www.harrisonburgva.gov/public-hearings>.

**Recommendation:**

Staff recommends alternative (e) to table the request so that the applicant can work with staff to address concerns.

**Attachments:**

1. Site map
2. Application and supporting documents

**Review:**

N/A