



CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

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To: Eric Campbell – City Manager
From: Adam Fletcher – Director, Department of Community Development and Harrisonburg Planning Commission
Date: September 14, 2021 (Regular Meeting)
Re: Rezoning – 1051 & 1351 Peach Grove Avenue (The Residence at Peach Grove) (R-5C, High Density Residential Conditional Proffer Amendment)

Summary:

Public hearing to consider a request from Skylar & Talli, LLC to amend proffers for a +/- 5.44-acre property zoned R-5C, High Density Residential District Conditional. The property is addressed at 1051 & 1351 Peach Grove Avenue and is identified as tax map parcel 92-F-10.

Staff and Planning Commission (5-0) recommended denial of the rezoning request to amend the proffers.

Background:

On June 11, 2019, the subject property was rezoned from B-2, General Business District to R-5C, High Density Residential District Conditional while also receiving approval of three special use permits, (SUP) which included:

1. To allow multi-family dwellings of more than 12 units per building per Section 10-3-55.4(1) of the Zoning Ordinance,
2. To allow multi-family buildings to be greater than four stories and/or fifty-two (52) feet in height per Section 10-3-55.4(2) of the Zoning Ordinance, and
3. To allow retail stores, convenience shops, personal service establishments, restaurants (excluding drive-through facilities), and business and professional offices per Section 10-3-55.4(4) of the Zoning Ordinance.

The 2019 staff report described the following with regard to the proposed project at that time:

“If all the requests are approved, Skylar & Talli, LLC plans to construct one, six-story mixed-use building containing non-residential and multi-family residential units. The applicant’s letter describes plans for the building to contain approximately 16,000 sq. ft. of retail (i.e. non-residential) space that may include uses such as restaurants, coffee shops, bookstores, clothing retailers, and convenience stores. The applicant also plans to include the following on the first

floor of the building: interior dumpster facilities, a loading dock to serve both retail and residents, and residential amenities such as a lobby, exercise room, computer room, laundry facilities, and space for bike storage. The second through sixth floors of the building are planned to contain apartments with 1, 2, 3, and 4-bedroom configurations. The applicant's letter describes plans for a total of 120 multi-family dwelling (apartment) units."

While the applicant described in their 2019 proposal to provide "an approximate mix of 20 – 1-bedroom units, 20 – 2-bedroom units, 30 – 3-bedroom units, and 50 – 4-bedroom units for a total of 120 total units," this was not proffered.

In 2019, staff recommended denial of the rezoning stating "[w]hile staff supports the location of this site for a mixed use development staff has concerns about the proposed entrance location, does not believe that the project, as presented, supports the mixture of uses between this property and neighboring properties, and does not believe that the project provides a safe and comfortable pedestrian environment that promotes walkability for residents and visitors as described in the purpose section of the R-5 district in Section 10-3-55.2..."

Planning Commission (PC) recommended denial of the rezoning with a 4-3 vote. Both staff and PC recommended approval of the three special use permit requests if the rezoning was approved. City Council (CC) approved the rezoning and special use permits unanimously. The May 28, 2019 CC agenda packet, including an extract of minutes from the April 10, 2019 PC meeting, is available at: <https://harrisonburg-va.legistar.com/Calendar.aspx>. (May 28, 2019 was the first reading and public hearing for CC and June 11, 2019 was the second reading on CC's consent agenda.)

About seven to eight months after receiving approval of the rezoning and SUPs, the applicant began the process of pre-requisite submissions for the engineered comprehensive site plan (ECSP) review process by submitting for a Preliminary Fire Review and a Preliminary Engineering Report for water and sewer matters. As noted above, the publicly discussed concept plan at PC and CC indicated 120 units with 1, 2, 3, and 4-bedroom units, however, when going through the ECSP process, the project had 100, 4-bedroom units. The ECSP was ultimately accepted for construction (approved) on August 17, 2020. While the ECSP is accepted for construction, before the applicant can begin land disturbing activities and construction, there are requirements including, but not limited to, submitting an acceptable form of surety for public improvements and recordation of stormwater best management practice (BMP) maintenance agreements, as well as other miscellaneous matters.

With regard to the Comprehensive Plan, the site is designated as Mixed Use. The Mixed Use designation 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: Undeveloped property, zoned R-5C

North: Retail and other commercial uses, zoned B-2

East: Convenience store, fueling station, and restaurant, zoned B-2

South: Across Peach Grove Avenue, private school, retail, and a single-family detached dwelling, zoned B-2

West: Undeveloped property, zoned B-2

Key Issues:

The applicant is requesting to amend proffers for a +/- 5.44-acre property addressed as 1051 and 1351 Peach Grove Avenue and zoned R-5C, High Density Residential District Conditional. If approved, the applicant plans to construct one, six-story multi-family building without commercial or retail uses.

The applicant explains their reasons for seeking a rezoning to amend the proffers in an attached letter titled “Reasons for seeking a rezoning of the property to amend proffers.”

The approved and existing proffers (from the 2019 rezoning) include the following (written verbatim):

- 1) The site shall contain residential and non-residential uses.
 - a) There shall not be any residential dwellings located on the first floor of any building. However, the first floor of buildings may contain residential lobby area and other residential amenities for use by residential tenants, such as recreational facilities, computer room, and laundry, etc. These amenities shall not be counted as non-residential.
 - b) A minimum of 15,000 square feet of non-residential uses as permitted by Section 10-3-55.4(4) (i.e. retail stores, convenience shops, personal service establishments, restaurants (excluding those with drive-through facilities), and business and professional offices shall be contained on the first floor of buildings. The proffer does not preclude the property from adding non-residential uses up to the entire first floor of any building.
- 2) The site shall contain no more than 400 bedrooms.
- 3) No more than two rows of parking and associated drive aisles can be located between any building and Peach Grove Avenue and between any building and the existing private access road on the property.
- 4) A sidewalk shall be provided along the southwestern side of the private access road from Peach Grove Avenue to tax map parcel 92-F-11 as generally depicted on the submitted layout titled “The Shoppes at Peach Grove” dated February 23, 2019.

- 5) A right-turn taper shall be provided for the proposed driveway. The taper shall have a minimum taper length of 125 feet.

The revised, new proffer statement includes the following (written verbatim):

1. The site shall contain no more than 460 bedrooms.
2. No more than two rows of parking and associated drive aisles can be located between any building and Peach Grove Avenue and between any building and the existing private access road on the property.
3. A sidewalk shall be provided along the southwestern side of the private access road from Peach Grove Avenue to tax map parcel 92-F-11 as shown on the accepted site plan with the project name, "The Shoppes at Peach Grove" dated August 17, 2020.
4. A right-turn taper shall be provided for the proposed driveway. The taper shall have a minimum taper length of 125 feet as shown on the accepted site plan with the project name.
5. A bus pull off will be constructed along with a concrete pad for a bus shelter, and a bus shelter easement will be dedicated to the City at a location acceptable to the Department of Public Transportation.
6. All traffic generating uses from the site shall not exceed the maximum number of trips in the traffic impact study accepted by the Harrisonburg Department of Public Works on April 2, 2019, as calculated using the latest edition of the Institute of Transportation Engineers' Trip Generation Manual.

Note that within the applicant's supporting documents, Exhibit D-2 is sheet C3 from the accepted site plan that is referenced in Proffer #3 of the proposed revised proffers. No other element of the accepted site plan is proffered.

New proffer #1 is similar to the 2019-approved proffer #2, except that the applicant has increased the number of allowed bedrooms from 400 to 460. While the applicant has described in their letter a building containing a mix of 22, 2-bedroom units and 100, 4-bedroom units for an approximate total of 126 total units, this is not proffered. As noted above, the accepted ECSP has 100, 4-bedroom units, which is different than what was planned and illustrated during PC's and CC's 2019 review. However, the applicant was allowed to change their plans as the bedroom per unit makeup was not proffered.

The proposed, revised proffers #2, 3, and 4 are similar to the 2019-approved proffers #3, 4, and 5, respectively, except for the noted reference to the accepted ECSP.

With proffer #5, a concrete pad will be constructed and an easement dedicated for a future bus shelter. The Harrisonburg Department of Public Transportation will provide the bus shelter.

The revised, new proffers do not include the 2019-approved proffer #1 that required residential and non-residential uses on the site. Because the SUPs approved in 2019, which included a SUP to allow retail stores, convenience shops, personal service establishments, restaurants (excluding drive-through facilities), and business and professional offices remains valid, and because new proffer #2 would allow 60 more bedrooms than previously proffered, city staff encouraged the applicant to consider a limit on the traffic generated from the site that is in line with the traffic impact analysis (TIA) study accepted by the Department of Public Works on April 2, 2019. Therefore, the applicant has offered Proffer #6. This

proffer allows the applicant to have any combination of allowed uses on the site that would not exceed the maximum number of trips in the accepted TIA study. The current proposal for 460 bedrooms and no non-residential uses compared to 400 bedrooms with non-residential uses results in a calculated decreased number of vehicle trips during peak hours. Attached within the applicant's supporting documents is a memorandum from Ramey Kemp Associates dated August 5, 2021 that describes that information.

During the 2019 rezoning, with the plans for a mixed use building, staff recommended that the building be located to the front property line (along Peach Grove Avenue) and along the private access road, and to not have parking spaces or drive aisles between the building and the public street and private road. At that time, the applicant said that such a design is not desirable because retailers want parking in front of the building to serve customers and that moving the building closer to Peach Grove Avenue would impact the availability of parking spaces within the development. As noted above, with the current 2021 rezoning request, the applicant proposes to remove all nonresidential uses from the building.

While staff did not reiterate to the applicant to relocate the building as suggested in 2019, we continue to believe this is a desirable option. During the review of the current request, however, and with the intent to have a site layout that we thought could encourage future development that would promote a pedestrian friendly and mixed use area, rather than continuing forward with the applicant's desired layout, staff offered for them to consider two different site layout options. The two options included: (A) to move the structure towards the James Madison University Foundation property to the west so that the building's pedestrian entrance/exit is in line with the sidewalk in front of the existing shopping center. This could make it easier for residents to have access on foot to the existing commercial uses without having to navigate a large parking lot. This option could preserve a portion of the Peach Grove Avenue frontage for a future commercial or mixed use building, or (B) to rotate the structure about 90 degrees and push it as close as possible to the rear property line adjacent to the existing shopping center parking lot to the north. This option could preserve the entire Peach Grove Avenue frontage for a future commercial or mixed use building. The applicant explained that they have already invested a lot and are so far along with site development and building plans that they are not interested in changing the location or configuration of the building. The applicant is aware, however, that their proposal will require revisions to the accepted ECSP and building plans for the removal of the non-residential spaces and the addition of more dwelling units to the building.

As we all know, since the 2019 approval of the rezoning and SUPs and during the review and ultimate acceptance of the ECSP, a great deal has happened in the world associated with the Covid-19 pandemic. In the applicants document titled "Reasons for seeking a rezoning of the property to amend proffers," it states, "[d]ue to the many challenges created for the commercial/retail industry by the Covid-19 pandemic, we are asking to amend the proffers for this property." Staff recognizes these struggles. However, as most know, since the rezoning approval and acceptance of the ECSP, the City has completed a Comprehensive Housing Assessment and Market Study (Housing Study), which provides a great deal of information in understanding the housing situation in the City and offers recommended tools for improvement.

While considering the proposed project, as indicated in the Housing Study, there are points that should be understood, which, among others, include:

- The City’s rental market is comparably tight with rental vacancy rates as low as 2 – 3.5 percent. This creates high levels of competition for scarce units and where the lowest income households have the fewest options.
- College students drive population growth and the housing market. The demand for off-campus units for college students exerts upward pressure on rental rates, pricing out non-student households.
- There is strong demand for expanding rental housing inventory at the lowest and highest income spectrums. In other words, the number of households in the lowest income group and the highest income group significantly exceed the number of housing units available for and affordable to them.
- There are very few studio apartments. Smaller units are ideal for the creation of supportive housing.

The Housing Study also 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.”

Staff does not believe that more student housing is necessarily needed at this time, which the applicant is likely marketing to given the bedroom and bathroom configuration. Staff suggested that the applicant consider proffering a multi-family building that would have one-, two, and three-bedroom units and to proffer a breakdown of the number of each type of unit. Furthermore, staff asked if the applicant would be interested in discussing an ordinance amendment to create a special use permit ability to allow multi-family units in the B-2 district at a greater density than the R-5 currently allows. Staff’s reason for doing so is because we are proposing in the draft Zoning Ordinance update for property owners with parcels zoned AUC, Auto Urban Commercial District (somewhat equivalent to the B-2, General Business District) to have the ability to apply for a special exception to allow apartment units at 38 units per acre compared to the current R-5 district’s 24 units per acre maximum. Again, the applicant explained that they have already invested a lot and are so far along with site development and building plans that they are not interested in changing their plans at this time.

The Comprehensive Plan designates this area as Mixed Use and states that “Mixed Use can take the form of a single building, a single parcel, a city block, or entire neighborhoods.” While the proposed building would not contain residential and non-residential uses, staff could envision supporting a proposal for a residential-only building if the location of the building were changed to allow opportunities for future commercial and/or mixed use development on the property as described earlier,

and if the bedroom per unit breakdown and overall per unit design provided more housing options for the non-student demographic. While staff understands that the applicant has invested a great deal in their previously planned project, with the knowledge and data of the completed Housing Study, staff does not believe changes should be made to accommodate a project for more student housing. Staff recognizes that the applicant can already build units to accommodate students with the existing zoning and ECSP, but there is an opportunity here to change direction and provide for other multi-family housing that is greatly needed for our community.

Staff recommends denial of the rezoning request to amend the proffers.

Environmental Impact:

N/A

Fiscal Impact:

N/A

Prior Actions:

N/A

Alternatives:

- (a) Approve the rezoning (proffer amendment) request; or
- (b) Deny the rezoning (proffer amendment) request.

Community Engagement:

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

Rezoning – 1051 & 1351 Peach Grove Avenue (The Residence & Shoppes at Peach Grove) (R-5C, High Density Residential Conditional Proffer Amendment)

Public hearing to consider a request from Skylar & Talli, LLC to amend proffers for a +/- 5.44-acre property zoned R-5C, High Density Residential Conditional. The Zoning Ordinance states the R-5, High Density Residential District is intended for medium to high density residential development, including townhouses and multiple family dwelling units, together with certain governmental, educational, religious, recreational and utility uses. The residential density ranges for the R-5 district are multifamily, 1,800 sq. ft. minimum/unit; multifamily quadraplex, 3,000 sq. ft. minimum/unit; and townhouse, 2,000 sq. ft. minimum/unit. The Comprehensive Plan designates this site as Mixed Use. Mixed Use areas are intended to combine residential and non-residential uses in neighborhoods, where the different uses are finely mixed instead of separated. 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. Large scale developments, which include multi-family buildings are encouraged to include single-family detached and/or attached dwellings. The property is addressed at 1051 & 1351 Peach Grove Avenue and is identified as tax map parcel 92-F-10.

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 (b) denial of the rezoning (proffer amendment) request.

Attachments:

1. Extract from Planning Commission
2. Site maps
3. Application, applicant letter, and supporting documents

Review:

Planning Commission recommended (5-0, Hull and Byrd absent) alternative (b) denial of the rezoning (proffer amendment) request.