



# CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

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February 9, 2023

## **TO THE MEMBERS OF CITY COUNCIL CITY OF HARRISONBURG, VIRGINIA**

**SUBJECT:** *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*

## **EXTRACT FROM MINUTES OF HARRISONBURG PLANNING COMMISSION MEETING HELD ON: December 14, 2022**

Chair Finnegan read the request and asked staff to review.

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

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.

Councilmember Dent interrupted the presentation to ask does that mean that, unlike in most cases, the layout is proffered?

Ms. Dang said the term “proffer” is used for rezonings. This commits them to a substantially similar to what is here. You are right, in other cases we show layouts and say that it is not proffered or that it is conceptual. This sheet, labeled Site Layout Development Plan is the one that matters. The other sheets included are renderings and conceptual layouts.

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).

Councilmember Dent asked do the dark bands here indicate steps? There is a steep grade there, right?

Ms. Dang said correct. The stippled areas show sidewalks and the lines would be steps because of the grade that we saw earlier. Staff is appreciative of proposing this condition. We support the addition of connection between parcels, such as this.

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.

Within the packet is the Site Grading Plan. It shows the heights of the adjacent existing buildings relative to what is proposed. Also included is a rendering of what the buildings might look like.

Councilmember Dent asked how many stories is that?

Ms. Dang said the development plan describes five to six, depending on the grade or the side of the building.

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-feet in length turn lane with a 75-feet 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.

Councilmember Dent asked has the adjacent developer been contacted about the idea of moving the bus stop from on their property to up the hill onto The Hills property?

Ms. Dang said I will allow the applicant to speak to that.

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.

The applicant has also submitted a concept shown as Option E, which you all [Planning Commissioners] received by email this morning and a copy is provided in front off you, where the 20-ft. long turn lane with 75-ft. taper is shown, with a bus pull of downstream or past the development's entrance. This is described in condition 7.a.

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.

Chair Finnegan asked if there any questions for staff.

Commissioner Armstrong said this says that the development is geared towards single-bedroom and efficiency units. Why have they expanded the parking to 1.3?

Ms. Dang said it is not just one-bedroom and efficiency units. They can have one-, two- and three-bedroom units.

Commissioner Armstrong said the proposal says that “it is further noted that the project is geared toward single-bedroom and efficiency units.”

Ms. Dang said that may be a mistake.

Chair Finnegan said it says 30 percent of one-bedroom or studio units.

Commissioner Armstrong said that is not geared toward it, is it?

Councilmember Dent added and maximum of 20 percent three-bedroom. So then 50 percent two-bedroom.



Commissioner Armstrong said did you not say that they are proposing an excess of parking spaces than what is required?

Ms. Dang said the Zoning Ordinance requires one parking space per unit. I will let the applicant speak to what they believe the market, the types of tenants that they have and what their past experience is. They want to provide 1.3 spaces. Some of the units will have three bedrooms. You have to think about visitors too.

Commissioner Armstrong said that is looking like somewhere around 480 more cars added. Is the TIA a VDOT defined process or does our Public Works have leeway in that?

Ms. Dang said there is a state VDOT process and the Public Works Department...

Commissioner Armstrong said implements it.

Ms. Dang said it is varied a little bit. Our threshold for triggering the need for a TIA is smaller than what VDOT is. VDOT generally focuses on county areas versus urban areas. I think that is the reason. We mimic what VDOT does but there are some differences.

Commissioner Armstrong said this is leading to this definition that we are looking at peaks as a.m. and p.m. I have brought this up in past applications. Given that this is feeding onto Port Republic Road which is feeding onto the JMU campus and Port Republic Road is crazy according to JMU's class schedule, not a.m. and p.m. That is not being done.

Ms. Dang said that we have Tom Hartman, Director of Public Works, and Gerald Gatobu, Director of the Department of Public Transportation, here.

Mr. Hartman asked that Commissioner Armstrong repeat the question about peak hour determination.

Commissioner Armstrong said they are always defined as looking at a.m. and p.m. However, particularly on Port Republic Road, which is accessing the campus, the peak hours can be anything according to current JMU class schedule. It is full of students, often with one student per car. I live on Port Republic Road and do not travel on it anymore because it is too congested. What I am wondering is why we are doing TIAs based on a.m. and p.m. rather than on the actual use and looking at peaks according to what is realistically happening.

Mr. Hartman said you have to remember that we are modeling. We are forecasting how many trips that one to one unit will produce on the roadway. We are using nationwide studies out of a manual called the ITE Trip Generation Manual. When they do those studies nationwide, they do not look at every hour throughout the day. They look at the trends for those different types of development. They get to a.m. generated peaks and p.m. and generated peaks. Sometimes we have to differentiate between the peak of the site or the peak the generator. In some uses, like a coffee shop might have a higher peak in the morning versus the afternoon. Hotels will have a higher peak in the evening and not a higher peak in the morning. It is a statistical analysis. That is the nuance that we have to take into account when we are reviewing the TIA, knowing that Port Republic Road is peaky. We

do our best to look at how those intersections operate during those a.m. and peak hours and how that would be pushed out throughout the day, knowing that within that 15 minute window in the a.m. or the p.m. hour is going to be consistent with what that peak hour is going to be at noon or at 2:30 or at 4:00 depending on class change. It is looking at that peak for that spec in time throughout the day.

Commissioner Armstrong said I understand, in my retired profession, we use mathematical modeling and statistical modeling, so I understand that process. Allowing an excess of parking places where there is a street that already has significant congestion, you have to look at how well is your model actually representing reality.

Mr. Hartman said for the trips on Port Republic Road and Peach Grove Avenue we use collected data from intersections. The intersections are counting traffic 24/7. We provide that data to the traffic engineers. They modeled both the existing condition of how the intersections operate today based on known information. The modeling part was to build in their impact on Peach Grove Avenue, then from Peach Grove Avenue to Port Republic Road and Neff Avenue, then getting out throughout the areas.

Commissioner Armstrong said what I understood you to say is that you are taking that a.m. and p.m. and you are extrapolating that to other periods and assuming that those other periods...

Mr. Hartman said not mathematically. We are reviewing that...

Commissioner Armstrong said you are making an assumption.

Mr. Hartman continued ...a.m. peak hour that we studied for that time period and p.m. peak hour, knowing that we can look at the volume on Port Republic Road throughout the day and that if modeled the a.m. and p.m. we are going to see something similar that we would see at a 10 o'clock class change or 2 o'clock class change without breaking the model up in to five, six or seven different scenarios for each build model.

Commissioner Armstrong said thank you for your explanation. I understand how you are doing it better. I do not think it is working very well because Port Republic Road is incredibly crazy. I am not the only person who thinks this. I interact with different people and people say that Port Republic Road is a mess. To say that we are going to introduce over 480 more cars onto Port Republic Road and there is no traffic impact of that, it is like an alternate universe for me. I think the modeling is not representing reality very well.

Mr. Harman said this is 350 units. The peak hour was just over 100. One hundred trips in the peak hour. If we are probably in the 2,000-2,500 peak hour trips on Port Republic Road, 100 out of 2,500 is four percent...

Commissioner Armstrong said I understand your model, but it is not working very well because Port Republic Road is insane.

Mr. Hartman said that is an outside discussion from the development. From Port Republic Road, we understand the challenges. We have done significant studies, improvement projects. We have two improvement projects that we are currently designing to help improve Port Republic Road. We incorporated new signal timings. All the signals on Port Republic Road now talk to each other, talk to the cloud and change timing dynamically within seven minutes if we see peaks and valleys. We are seeing improvements with the queue. It is just that there are so many vehicles that are trying to get there with two lanes in each direction, that sometimes the level of service is going to drop below what we would think would be acceptable, but it is going to be acceptable, as long as we make it as safe as possible. That is why we are pushing hard for the bus accommodations. I would rather have extra parking spaces, where the cars stay there, and the kids get on the bus.

Commissioner Armstrong asked is it an alternative to not allow the 1.3, to put pressure on the...

Chair Finnegan said that would be a question for Ms. Dang.

Councilmember Dent said I want to make sure I understood. Your role and the sequence about the discussion about the traffic lanes and the tapers and so on. What was the point at which you said, that will not do, try something else, or this is acceptable, but should do something else? I do not remember exactly.

Mr. Hartman said the first submittal of the TIA showed a taper of 50 feet based on the reasoning that they had 50 feet of available frontage to build a taper. Within the TIA, they provided a warrant analysis that is based on VDOT's standard that look at the volume of vehicles on Peach Grove Avenue, as well as the line of vehicles that need to make a right turn. There is chart and based on the determination of that chart, it said that a full turn lane and taper were warranted, which in an urban setting means they needed to provide a 100-foot turn lane and a 100-foot taper. They did not recommend that. They recommended a 50-foot taper because that is all the frontage that they had. That is the reason that we disagreed. There have been multiple discussions and meetings. We went a step above what we would typically do, instead of just a simple warrant analysis, we went into the modeling and modeled the minimum turn lane and taper configuration that will not cause a problem on Peach Grove Avenue at the intersection. That is how we got to the 20-foot turn lane, 75-foot taper based on that increased conversation and modeling that their engineer performed.

Councilmember Dent asked is that option (a)?

Mr. Hartman said it is options (d) or (e) because of the bus stop location.

Chair Finnegan said that the problem with Alternate Option E is that the property owner has not signed off on it because it is a neighboring property.

Commissioner Byrd asked you went with 350 units because you did not know that the number was 376 units?

Mr. Hartman said we did not do the study. They provided 350 in the study, then somewhere changed it. They have to update the TIA to make sure that the assumptions did not change. Then we would be comfortable with the higher number.

Chair Finnegan asked you are in favor of a new TIA?

Mr. Hartman said their site has been studied for 350 units. That is what the turn lane and taper have been analyzed for. If they want a higher one, then they would have to go back and remodel it. It might change. It could still be 20 feet and 75 feet, potentially, but we would want to see that analysis with the 376 units.

Commissioner Whitten asked is this taking into account all the school buses that also travel through there on any given morning and afternoon?

Mr. Hartman said we only count traffic for the data collection when JMU is in session and when school is in session. We do not count traffic on a Saturday. We do not count traffic on July Fourth. We make sure that we are at normal loading when we count. Any background trips with school buses or parents taking kids to and from school, all those trips are included in the background data.

Commissioner Whitten said Peach Grove Avenue is very dangerous. I drive it twice a day, every day. The turn movements going in and out of CVS and in and out of Food Lion where the signal is upcoming and people are stacked up already. The people that have to go first cut through, across traffic. It is very scary. I think a tapering lane, while it sounds great, is going to be another opportunity, when it is free, to be a passing lane.

Mr. Hartman said not in this situation, because it would lead right into the entrance. You would taper then you would be... You would not have the ability to get back into the through lane because of your radius and turning into the site. You would not have the ability to get over. It would be a turn lane taper right into the development. There would not be an ability to get back into traffic.

Commissioner Whitten said I have seen some very creative things at that very little section that we are talking about.

Mr. Hartman said the best engineers cannot prevent those types of things.

Commissioner Whitten said I understand that. What we are not talking about is the other building to be built right next door. It is going to be another 300 probably. I do not remember the number.

Ms. Dang said it was 100 four-bedroom units.

Councilmember Dent said I want to understand this terminology of storage and taper. Could you explain that?

Mr. Hartman said storage is the full-width twelve foot turn lane. You are fully off of the main line, is what we would call the storage lane. The taper is that point from where you are in the main line over to that point where you are completely off the main line of traffic. That is the taper portion.

Councilmember Dent said so the storage is the full width part at the end of the taper.

Mr. Hartman said correct. It would be 20 feet in in length in this case.

Mr. Gatobu said Commissioner Whitten said a lot of what I was going to say in terms of Peach Grove Avenue. We are thankful to the applicant for considering option 4 [correction: option E]. The operations team and I had a big discussion about this. It is a matter of how many entrances you have within a certain space. There is a lot going on there. To be able to be in a 35-foot bus and look to see who is doing what and know what people do. The ideal would be to have the one entrance, but that is beyond our control. With the two it creates a lot of turning movements left and right. If you have to pull a bus into that situation, stop and then have to look again... There is a school down the road where a lot of people drive there and come back. It is matter of ensuring the safety of the driver, the passengers and the people entering and exiting those two developments. With us going a little bit farther on option 4, we at least get some clearance in terms of where the entrances are, and we can drop people off. The key is we do not know where all these people are going to go. Somebody might decide to cross the road. There are all these options that we have to consider when trying get the safest possible location for a bus stop. You have to consider the future volume for any decisions. I am also the treasurer of the transit liability pool, which is an insurance pool. The more accidents we have, the insurance goes up. That is one of the hidden costs people do not see that we have to consider. If we are the ones causing a lot of the accidents there, and it is already built, I am going to have to look for an alternative location that is safer, at my cost. Those are the things we weigh. It is not just a present decision. It is the future value of that decision that we made in 2022, but we may be talking about it in 2025.

Chair Finnegan said to clarify, when you are talking about insurance rates for the HDPT. You are saying that even when the driver is not at fault, the driver has stopped, and car rear-ends the driver. The driver is 100 percent at fault.

Mr. Gatobu said there are still costs associated. You just do not see a lot of them. This is an ideal location for transit. We have four routes going through there. At full capacity we have green, black, red, at least four. If you go by there two times for eight hours, that is 16 times, without making a mistake. You have to make sure because it is zero. We work with a lot of these developments. We worked with The Retreat which is now Redpoint. We have worked with The Cottages. We worked with JMU for Jennings Hall to make sure we have bus turnarounds. The safety of the driver and the pedestrians is paramount in this, but the hidden cost is what happens if there is a collision long term. Injuries to not just the passengers, but the driver. Then there is the collision aspect itself. A lot of times, insurance will look at some of these things and give you a rate based on whether you are safe. Is there an increase in injuries or what they call "preventable accidents"? Are they preventable or non-preventable? In this case we have a decision to make, and there are access management standards to consider. If we make a decision that goes against those standards and there is an accident, then I am responsible. So, long-term. Eventually we will have to find a safer location which will come at my cost, as the community. That is how we look at this issue. It is not just this location; it is all of them. It is, what is the future value of this decision in transporting this many people over the long-term?

Ms. Dang clarified a previous statement about the number of units to be constructed on the adjacent property. We had said 100 units with four bedrooms. It could be allowed to have up to 126 units.

The Assistant City Attorney recommended that the Commission proceed with the public hearing even if they intended to table the request.

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.

Todd Rhea, Clark and Bradshaw, came forward representing the applicant. I have been involved in representing this well qualified applicant throughout the lengthy design and planning process for this project. We are pleased to be able to present it to the Planning Commission this evening. Here with me tonight are Randy Cosby, representing the developer, Malachi Mills, our design civil engineer, Eric Strohacker, traffic engineer who has worked closely with Public Works, and Warren Coleman on behalf of the JMU Real Estate Foundation.

Before I get into my presentation, you were talking about the parking ratios. The 1.3 parking ratio is a market standard for this type of project, which proffers out four-bedroom units. It is a one-, two-, and three-bedroom units. It is exactly the same parking ratio that was recommended by this Commission and approved by City Council in the Regal Cinemas Armada Hoffler SUP back in February of this year. This is only the second request under that ordinance change that I am aware of. The Regal Cinemas project being the first, and our project here on Peach Grove Avenue being the second.

As staff has outlined in detail, the owner and applicant are requesting approval for a multi-family SUP within the B-2 zoning district in response to the need for a pedestrian oriented multi-family development within the City. The proposed SUP approval would allow for this vacant, infill parcel to be developed in a walkable residential community with fully developed neighboring commercial amenities. The approval would also directly address the class C existing need for additional housing stock, units of various types and sizes, and additional density as identified in the City's housing study. The following excerpt from the City's Community Development staff report from last February, when the B-2 ordinance was amended to allow for these residential SUP describes and fits the location and policy rational for the present application like a glove. I will quote:

Creating a SUP to allow for multi-family units within the B-2 district would, among other TND principles, allow residents to work, shop, and carry out many of life's other activities within the neighborhood and allow residents to walk, ride a bicycle, or take transit for many trips between home, work, shopping, and school.

It is further noted that the project is geared toward single- and two-bedroom units. Eighty percent would be either efficiency, one- or two-bedroom units. Restricted out are traditional four-bedroom, four-bathroom student housing layouts. This is the same proffer as in the Regal Cinemas project. The smaller and varied unit mix is reflective of changing lender preferences and provides options further down the affordability scale for both student and non-student rentals. The number of units adheres to allow the density within the B-2 district under the SUP request. The proposed amenities on-site include a fitness center, business and coworking area, outdoor pool and grilling area, clubroom and sidewalks. The community would also benefit, as a high-end community like this does, from professional full-time property management and maintenance staff on-site.

As staff indicated, the parking layout on this site is driven largely by the single point of access to Peach Grove Avenue that does not allow buildings to be pushed close to that public street. We also have that triangle from The Hills property between us and Peach Grove Avenue along a lot of that frontage. Also, the sloping topography, as you look at the site is higher on the left and lower to the right, is about a 7-story or 70-foot drop across that parcel. This dictates moving structures away from the property lines because there are retaining walls built on neighboring sites and our site that can hold up parking, but not necessarily structures along those lines.

The developer is also committed to sustainable features within this development plan and proposed supplemental conditions. These include solar panels to power its amenities areas, EV charging stations for resident use, and ample bike storage and parking will be provided to allow residents to access bike trip options. As this Commission has consistently highlighted, dense developments of this type are much more environmentally friendly on a per unit basis than a similar number of housing units spread out over a less dense footprint.

While staff points out that the parcel is designated as governmental, recognizing that this is a function of its ownership by the JMU Real Estate Foundation, it is not contiguous to any other governmental or quasi-governmental uses either in current use or planned on the future Land Use Guide Map. In fact, this infill parcel is adjacent to the largest designated high-density residential area in the City. That is the large brown area surrounding this site on two sides. On the other side is the developed Port Crossings Center, and the previously approved Skylar & Talli/Forbes parcel immediately to the north. Dense multi-family development at this site perfectly matches the Comprehensive Plan Land Use Guide. It impacts no existing single-family or established lower density residential neighborhoods. It is exactly the kind of infill location designed to reduce car trips, to having all the everyday amenities of grocery shopping, restaurants, and pharmacy, which are the three most common trips, already built and located next door. The property, as Public Transit indicated, is also on four separate City and university bus lines and connected to sidewalks and multi-use paths leading into the City. This infill development is equally or more favorably located to pedestrian, shopping and transit amenities than was the Regal Cinemas infill site approved earlier this year. Our development plan and supplemental conditions were crafted consistent with that approved, multi-family SUP precedent, including densities, unit mixes and parking ratios.

In addition to providing valuable housing capacity located on transit lines and surrounded by similar and compatible uses, the site would provide large fiscal benefits to the City. Based on reasonable projections for comparable existing properties under current tax rates, the project would provide the City with direct real estate tax revenues in excess of \$500,000 per year. JMU Real Estate Foundation is the current owner of the subject property. This approval and sale would also inject valuable resources into the Foundation and our local flagship university. Finally, this approval would also return the parcel to the active tax roles as it is currently an exempt parcel and generating no revenues to the City.

Finally, let us talk for a bit about the traffic and transit issues focused on extensively earlier tonight. As an infill development, with existing developed or entitled properties surround us, and with only one public street access point on Peach Grove Avenue, we do not have a clean slate to write upon. What we have done is be fully transparent and about as proactive as any applicant that I have

worked with has been with City staff and City departments to identify safe solutions within objectively demonstrated acceptable traffic, transit, and entrance service level metrics. Having been involved with many such projects, it is clear that being constrained or limited to full VDOT manual standards will do nothing but kill off much need additional housing stock applications and remove large fiscal benefits from this City in the name of simply encouraging vehicular modalities. As before this Commission and City Council roughly 15 years ago, when almost the same arguments were raised with the 865 East project on the intersection of Port Republic Road and Devon Lane. No one will deny that Port Republic Road is heavily traveled and at times congested. Such is the nature of densely developed corridors. Just like 865 East, this project has been proactively designed to meet the existing conditions with safe and feasible design solutions. The benefits to the City, in terms of housing and tax revenues, vastly outweigh the marginal impacts on the local road network. Dense development along Port Republic Road is and will be ongoing in County's Stone Spring urban development area just east of this site, and the City has designated almost all of the Port Republic Road corridor for current or future dense development in its Land Use Guide. When considering approval of projects of with large net positive impacts to the City, we can simply not afford to let marginal traffic concerns kill large design projects.

Regarding the bus stops, alternative (d) was developed after extensive consultations between our civil and traffic engineer and the Departments of Public Works and Public Transportation. The yellow is the entrance to the Forbes site with the future bus stop shown. Our entrance is the red. It shows the 20-foot stacking lane and the 75-foot taper. We have talked about that extensively this evening as an acceptably safe option. Yes, when that bus pulls out of there from the yellow bus stop and crosses, it does cross our turn lane, but it is acceptably safe. We cannot zero out all risks, and we cannot kill \$80 million dollar projects when we do have an objectively safe turn and taper lane that is supported by objective data. We have gone so far to proactively approach The Hills. We hope to get a pull off to allow Alternate Option E, but that is not going to be as convenient a stop for both of these properties. Alternate Option D is more convenient because it is centrally located between the two. Alternate Option E does remove all the conflicts with that turn lane. That triangular portion is fairly useless to The Hills, but we cannot control that. We have made requests. Just like we have made the request to share an entrance with that site next door, it sort of made it sound like the parties could not come to an agreement. That is not a fair characterization because we agreed to provide a joint entrance. That is not on us. We are infill. They have been permitted. We have only so much power to force others to do things. We are not asking you to approve an unsafe condition. We do not have ideal circumstances. We have a lot of benefits, and we have worked very hard to objectively support and not put the City in the position to say that we are making exceptions for approval of this project.

We will update from 350 units to 376 units. We would like to not delay the process. It is highly unlikely to affect the TIA outcomes. We will have those by the time this would get to City Council. We can mix unit mixes and bedrooms to come out with 350 if we wanted to, but the flexibility of the 376 allows us to put more one-bedrooms and more affordable units in there. We would not like to table it because we can run those calculations and have them by January 10<sup>th</sup>. A further not to table tonight is that you have a very big request coming up at your January meeting that is going to be moving to City Council in February on your large affordable housing development on Garbers Church Road and Erickson Avenue. We would like to avoid having City Council have to handle this large and complex public hearing on the same session as the Bluestone Town Center.



We greatly appreciate your positive consideration of the proposal. Our team has done its homework. We have been proactive with staff, and we are well prepared. We can answer questions and address any concerns the Commission may have this evening, or that we receive in public comments. Thank you for your leeway to present the property in full.

Chair Finnegan asked if there are questions for the applicant.

Councilmember Dent said I just heard you say one thing about more affordable. Do you just mean the one-bedroom as being more affordable or do you have specific affordability?

Mr. Rhea said it is a market rate project. We do not have affordability proffers with respect to the site. The one-bedroom and efficiency units, from day one, we designed this to have a lot of one-bedroom options which are less expensive than larger units, and they are less geared to students.

Randy Cosby came forward to in support of the request.

Mr. Cosby said thank you for considering our request and our project. We think it is a great one. I have a few things to reiterate. To address affordability, there are a number of ways that we could look at it. Mr. Rhea mentioned one. HUD median area income for Harrisonburg is \$80,500 per year. For a one to three person household that is at 80 percent of the median area income makes between \$51,000 and \$65,000 per year. These people can pay 30 percent of their income towards housing, for rent. That is the standard. That is \$1,416 on the low end to \$1,820 on the high end. As Mr. Rhea said this is a market rate project. Our pro-forma rents start at \$1,200 per unit and the average rent across all the units is \$1,590 per unit. This suggests that our rents will largely serve the 70 to 90 percent area median income earners.

Chair Finnegan said this situated between current student housing up the hill and proposed, already approved not by Planning Commission but by City Council, and down the hill, the adjacent property that is also geared towards students. I can only assume that a multi-family building like this between student housing and student housing would be some sort of student housing. The market analysis... My question is, who is this for?

Mr. Cosby said we would be kidding ourselves if we said that no students would live here. Our team has not developed student housing before, purposeful student housing. When we got interested in Harrisonburg, our intention was to develop our normal product which is a professional grade housing product. Our tenants include working professionals, teachers, nurses, first responders, sometimes it is graduate students, young engineer. We have a fair amount of regional retirees in our portfolio. We went with our standard unit mix. Some of the surveying and market study that we have done ourselves, talking with some property management firms that work here, they were very supportive of our thesis to build something that is not student housing. Intuitively, to us it makes sense. We do not want to be the same thing as all our neighbors. We want to be offering a different product. Right now, we have about 22 percent studios, 25 percent one-bedrooms, 40 percent two-bedrooms, and 12 percent three-bedrooms.

Councilmember Dent said if understand it, if you are requesting that we do not table this, but we do not have an agreement nailed down, could we say that plan A is Alternate Option E if you can get that agreement and plan B could be Alternate Option D if you do not.

Mr. Rhea said we can make it a condition of your approval that the TIA be updated to 376 units prior to City Council consideration. We do not want you to let us get passed this and not update it without it being an explicit condition of whatever motion you make. We are comfortable with that being a condition.

Councilmember Dent said what about a condition that, if possible, you go with Alternate Option E presuming that you could get that arrangement with The Hills? How would that work?

Mr. Rhea said that was in condition 7.a., I believe. Condition 7.b. would put it on The Hills property, but it would assume that we could not get an easement. Condition 7.b. was a travel lane stop like you get on East Market Street and South Main Street and a lot of other places in the City. It is not optimal, but we were trying to be as proactive as we could be to provide, at our expense, the most favorable option in the estimation of the Departments of Public Transportation and Public Works. Everyone agrees that Alternate Option E is probably the best choice. We believe Alternate Option D is acceptable and safe, if we cannot get Alternate Option E done.

Councilmember Dent said the option 7.a. is already worded provided the owner “is willing to grant the easement.”

Mr. Rhea said we reached out in earnest.

Mr. Cosby said, as staff mentioned, we have been through different iterations of the turning lane and bus stop. On the most recent, where Mr. Gatobu joined, he was rather exited to see the possibility, or he raised the possibility of moving the bus stop from the current proposed location, sandwiched in between the two entrances up to The Hills. We had a quick discussion about locating it in the travel lane. The reason that we felt that was a feasible possibility was because in our earlier conversations we proposed extending, making this a full width turn lane from the first entrance to the bus stop to the second entrance. Staff indicated that they felt a bus stop within the travel lane was much safer, which was surprising to us because in Richmond and other places we have seen it almost customary to have bus stops in turn lanes. We were trying to dance to the music that they were playing. When Mr. Gatobu mentioned the idea of having the bus stop just west of our entrance, we turned to our civil engineer and asked if we could accomplish that. Mr. Gatobu said that, at minimum, we would need a concrete pad so that we could put a shelter there. We asked our civil engineer if we could fit that within the existing right of way, which would mean that we would not need consent from The Hills owners to put the bus stop there. It would lack a bus pull-off. It would be in the travel lane. It would require a small retaining wall, but we could do it. We would be committing to doing it and bearing that cost if that was a benefit to Public Transportation. It sounds like it is, compared to the Alternate Option D situation. If the adjoining owner would be cooperative, which we would hope they would be because that is rather unusable acreage for them and I would think that they would see it as a benefit to have a bus stop with a pull-off right there, then we would be happy, and we have committed in writing to build the concrete pad for the bus shelter and the bus pull-off. That is if they would grant the easement. That is how it is currently

written. Staff had made the suggestion to strike option 7.b. to build the concrete pad and have the bus stop in this location but without the pull-off if that owner was not cooperative.

Commissioner Armstrong asked the \$1,200 per month rent was for the studio?

Mr. Cosby said correct.

Commissioner Washington asked when you say units, are they pay per room or are they...

Mr. Cosby said we do not do any leasing per bedroom.

Commissioner Whitten asked, the conversation with The Hills, what is the deal? Are they not sure? Are they waiting for you to obtain agreement from Planning Commission? I do not think that it is unusual for somebody to say they can do that, it is in their benefit.

Mr. Cosby said getting easements are not always easy. We did have a great experience with the shopping center owner, the Wheeler folks. We are trading documents with them right now. Strategically, we felt like it gave us and the City the best chance of getting this easement from the Hills if the JMU Real Estate Foundation approached them rather than the potential competing developer. That is what we have done, two separate rounds now. The first time, we got a little bit of a cold shoulder. We eventually learned that they were putting the property on the market. We have since reached back out to them and got an automatic reply that our contact was on vacation. She responded and said that she passed it one to the owner for consideration.

Commissioner Whitten asked when that occurred.

Mr. Cosby said that more recent conversation was today. We have been reaching out for several months and have had mostly contact with the property management team who have been shielding the owner from direct conversations with us. As of today, they have communicated our request to the owner.

Commissioner Whitten said that is unfortunate timing. The lobbying from your side to us is really on point I would say, but to them, not quite meeting the mark.

Councilmember Dent said that is a bit of a flag, if it is on the market. I do not know what that might mean. Could you buy it from them? Buy a piece of property to put a bus stop on.

Mr. Cosby said we are open to anything. We cannot do anything without them being responsive.

Commissioner Washington asked if the TIA includes the approved development.

Mr. Cosby said yes.

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 Whitten asked what the school system had to say about this development.

Ms. Dang said Mr. Hartman and Mr. Gatobu had to leave for a 7:30 p.m. meeting to plan for the inclement weather that is coming. They intended to stay, but they had to go to that meeting.

Chair Finnegan said it was helpful to have them here to answer questions.

Ms. Dang said the Harrisonburg City Public Schools offered their general comment that they do for any residential development stating “[a]nytime there is the potential for an increase in residential construction within the city or rezoning to allow for higher population density, it can have an impact on the enrollment in our schools.” They went on to acknowledge that they have over-capacity in many of our schools, but “also understand the continued demand for affordable housing within our City.”

Commissioner Whitten said Stone Spring Elementary is definitely over capacity.

Chair Finnegan said I am frustrated with the unwillingness or inability of different property owners to work together to make neighborhoods work. I know that is nothing that anyone in this room can necessarily do about that. Developers do have to comply with Public Works regulations and VDOT regulations to make them connect in the streets. If we are talking about people walking and taking the bus, it is frustrating to me that there is seemingly nothing we can do to force folks to play together nicely and to get infrastructure that works for people that do not want to drive all the time.

Commissioner Orndoff asked is there any way that we can facilitate this conversation by denying the request? Would that force a conversation?

Chair Finnegan said we can deny, approve or table. My understanding is that there were attempts made, not just by the developer, but by Community Development to facilitate that conversation.

Ms. Dang said back in July of this year, it was the director of Public Works and the director of Community Development who reached out to the Forbes and Skyler and Talli property and this development to talk. Staff did not facilitate a conversation with The Hills. The applicant with the JMU Foundation reached out to The Hills on their own.

Mr. Rhea said we did have several conversations with the contract purchaser for the Forbes property. They shut us down hard. We said we are all in for a shared entrance. They said that they have their plans approved. We are at the unfortunate disadvantage of what has been approved next door that is now hindering a better situation.

Commissioner Byrd said there are three options available. Are people considering tabling this? That is the first conversation to have before having a conversation about approval or denial. If we are going to table it, then we have other things on the agenda.

Chair Finnegan said I am not comfortable approving something that Public Transportation is not comfortable with.

Commissioner Whitten said I do not like the characterization that this is marginal traffic concerns. This is much more than marginal traffic concerns. That was not the best use of words.

Commissioner Armstrong said, to me, it is between tabling and disapproving. One of the reasons is that I do not call this affordable housing. The alternatives to the students, the young professionals were characterized as teachers, first responders and graduate students. They are not making a median income of \$80,000. I do not think that any of those categories are. That is a lot. That is a pretty high income, \$80,000. I do not consider this affordable housing.

Chair Finnegan said it is not. I did not read this as an affordable housing development.

Commissioner Armstrong said even the descriptions of who could afford this, I do not think that is true.

Commissioner Byrd said the reason I am bringing up the question of tabling is because I am not in favor of denying this, but I am aware that since something is going to increase density, the bus is a key aspect of dealing with that density. Knowing how Public Transportation and Public Works feel about it, I would feel better about knowing that they are confident about that.

Chair Finnegan said I agree. I am not for denying this request, but I could go along with tabling it.

Councilmember Dent asked staff if the request is tabled, it does not go to City Council, but comes back to us, correct?

Ms. Dang said correct.

Councilmember Dent said I am leaning towards voting to recommend it with those conditions regarding the traffic.

Mr. Fletcher said tabling the matter to January 2023 gives them the opportunity to continue to communicate with the adjacent property owner. It does not mean that they will come back with an answer. We could end up being in the same place. At least it provides an additional opportunity for them to continue to work. As our staff report lays out, we cannot find ourselves in a responsible position to offer a recommendation. We want them to continue those conversations. It would be back here in January if it is tabled. It has been years since we have recommended to table a request, but it has been done in the past when we have these situations where there are still unresolved items.

Commissioner Orndoff asked if a denial would achieve the same goal?

Mr. Fletcher said if you deny the request, they are prohibited from reapplying for a substantially similar development for one year, per the code.

Commissioner Whitten asked what is the clock on the one next door?

Mr. Fletcher said they are in fire review still. They are in an early stage of engineering design. They have not yet entered their engineered comprehensive site plan review, which is a substantial review process, but they are making progress.

Commissioner Armstrong said we have also not discussed this 1.3 parking which is not consistent with the direction that Harrisonburg really wants to move in, which is to reduce car travel. I feel like the target here needs some pressure put on them. They do not need, “oh, park as many as you want, and if you feel like it, take the bus.” I do not think that is what we need to be doing. We have not had the opportunity to talk about that. We have a heavy agenda still. It is not just the engineering of the entrance.

Chair Finnegan said I would agree. There are cities in the United States that are implementing parking maximums at this point. Now, we see why we are doing that. I will also mention that 99 percent of the time, the applicant has no control over... The applicant says this is what the market demands. In this case, we have an organization that is connected with the primary place where people will be driving to. If JMU wanted to do something about the demand for parking, they could do that and do have control over that. They could implement an HOV deck on campus, where only cars that have two people or more could get into the deck, for example, as mentioned by a bus driver who drives that route. The demand for driving... We put the housing out here, away from the destination. In this one case, I do think that pressure could be applied to reduce the driving in other ways, in ways that other applicants do not have.

Commissioner Byrd moved to table the application.

Commissioner Orndoff seconded the motion.

Councilmember Dent said I would prefer to move ahead with recommending it, but if we do not have the feeling in the room that we will do that...

Commissioner Whitten said I think this cake is not baked.

Chair Finnegan said my primary reason for siding with tabling it is that bus and what Public Transit said about it.

Commissioner Whitten said and traffic and repercussions because of that that are not marginal.

Chair Finnegan said I will also say that I do not love the additional 0.3 parking spaces per unit.

Chair Finnegan called for a roll call vote.

Commissioner Armstrong	Aye
Commissioner Byrd	Aye
Councilmember Dent	No
Commissioner Orndoff	Aye
Commissioner Washington	Aye
Commissioner Whitten	Aye

Chair Finnegan

Aye

The motion to table the request passed (6-1).

**EXTRACT FROM MINUTES OF HARRISONBURG PLANNING COMMISSION  
MEETING HELD ON: January 11, 2023**

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 14<sup>th</sup> 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 14<sup>th</sup> 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:

10. 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.
11. The property shall not contain dwelling units that have more than three (3) bedrooms.
12. 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).
13. A minimum of 1.3 parking spaces per dwelling unit shall be provided.
14. 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).
15. 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.
16. 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.
17. Owner/developer shall provide a right turn lane at project entrance with a minimum of 20' storage and 75' taper.
18. 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.