



## CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

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May 29, 2025

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

**SUBJECT: *A request from John S. McGehee and Sandra L. Quigg to close an undeveloped public alley between 291 and 295 Franklin Street***

**EXTRACT FROM THE DRAFT MINUTES OF HARRISONBURG PLANNING  
COMMISSION MEETING HELD ON: May 14, 2025**

Chair Baugh read the request and asked staff to review.

Ms. Rupkey said in 1901, a subdivision was recorded that created lots within the City along Franklin Street. In 1907, an existing 10-foot alley that was a part of the 1901 subdivision was closed by the existing property owner (K. Lineweaver). That property owner and an adjacent owner (J.W. Lovegrove) each dedicated an easement for five feet of width as a public alley on their property. Since then, the alley's access has continued to be maintained by the property owners of 291 and 295 Franklin Street. While on GIS it appears that the existing property lines end where the alley begins, the property line extends to the center of the alley and the underlying land belongs to the property owners of 291 and 295 Franklin Street.

The applicant is requesting to close +/-2,500 sq. ft. of undeveloped public alley located between properties addressed as 291 and 295 Franklin Street and identified as tax map parcels 26-L-11 and 12, respectively. The applicant owns 295 Franklin Street. In the applicant's letter, they describe that they wish to limit the ability of people to cut through the property. The alley serves as the driveway for 295 Franklin Street and provides access to the rear yard of 291 Franklin Street and 294 Campbell Street. The applicant is in discussion with their neighbors to continue providing access to their properties.

The City has no plans to construct this alley nor maintain it. Additionally, there are no utilities in the alley. Staff supports the alley closing request with the following condition:

A private shared access agreement shall be established among the owners of 291 Franklin Street (TM 26-L-11), 295 Franklin Street (TM 26-L-12), and 294 Campbell Street (TM 26-N-11) to maintain the ability to access the rear yard of each of the three properties from Franklin Street.

### *Recommendation*

Staff Recommend approval of the alley closing request.

Chair Baugh asked if there any questions for staff.

Vice Chair Finnegan said can you go back to the image with the alley outlined. Ash Tree [Lane] in the lower left corner kind of takes a hook there off to the left. Did Ash Tree [Lane] originally go up to Ott [Street]?

Ms. Rupkey said yes, in 1990 that portion of Ash Tree [Lane] was closed.

Mr. Fletcher said which, then, this alley would have connected. This alley dead ends.

Chair Baugh invited the applicant or applicant's representative to speak to their request.

John McGehee, the applicant, came forward to speak to the request. He said I did not have prepared remarks, but I do appreciate you all considering this. I think there is really no public interest in the alleyway. The alley dead ends at the [294] Campbell Street property. It is really shared by my neighbor, John Little, at 291 Franklin Street. I think it makes a lot of sense to close off any potential access to people who would want to walk down the alleyway or something. There is no endpoint to it. It would dead end at somebody else's property where they would have to trespass to be able to get anywhere on it. That is really the reason we are asking to close it. I appreciate your consideration.

Chair Baugh said are there any questions for the applicant.

Chair Baugh said anyone in the room wishing to speak to the request. Hearing none he opened up the item for discussion.

Councilmember Dent said I guess alleys are all over the place and are often up for contention or what to do with them. This is a fairly unusual case in that it is an alley to nowhere. Apparently, it used to connect to the alley that became Ash Tree Lane but no longer does. As they say, it really only abuts three properties. I am gathering that is the reason that this time staff unusually recommends approval.

Vice Chair Finnegan said I understand the arguments for closing it. It seems like a reasonable request but what is unreasonable to me is that 1990 this other alley was closed. Part of my concern is we just keep saying "yes" to these alley closures. The more alley closures we say yes to, we are shutting off pathways for people to walk. I do understand that this particular alley does not connect into what used to be an alley in 1990. It feels like doubling down on the mistakes of the 90s. I do not know that I will be supporting this.

Commissioner Porter said I would only speak to it saying that when I approach these matters, I think about the folks that are most directly affected; which are the three property owners. I know that if I put myself in their place, I would be making the same request. I would also be of the mind of possibly agreeing with the opinion that these alleyways are important pathways, but this goes nowhere. I would be more inclined to accept this as an option than I would normally. If this was a

pathway that was being used, and it had a clear direction to some destination other than the property line of another property that is closed off to it, I would be more inclined to have a different feeling about it. But I think in this particular case it seems reasonable.

Councilmember Dent said here is an off the wall question, would it be possible to reopen the alley that was closed that connects to Ash Tree [Lane]?

Mr. Fletcher said you would have to buy property from property owners.

Vice Chair Finnegan said once it is closed, it is closed. It does not come back.

Councilmember Dent said that is a hesitation.

Chair Baugh said of course because these are older ones, I assume, that was probably the same nature. That we did not own that any way, we owned the right to go over it. We would not be able to acquire that now. Now you could not just buy an easement, you would have to buy the property.

Mr. Fletcher said I suppose you could technically request to buy an easement from those private property owners to allow for public passage.

Chair Baugh said you could, but I do not think that is something that we do. I am not even entirely sure you could.

Vice Chair Finnegan said if property A and C agree and property B does not then...

Chair Baugh said I think what is getting me is... I think the answer is you could, but if you ever wanted to turn it into a street then you might have an issue. The rules have changed about how we go about acquiring property to make a public street. Mr. Russ is nodding his head like that sounds like that is probably right. That is where I was getting hung up. We could get an easement if we had some reason to use it other than bringing it into the street system. I hope that answers your question Councilmember Dent.

Commissioner Porter said based on where it is oriented and its location on this block, I cannot see a feasible reason why it would be in the public interest to have a passage way or reopening based on the fact that it is not even squared up in a manner that would be logical would be to have an access there.

Commissioner Porter continued I would like to make a motion to accept the recommendation of staff and approve the request for the closing of the alley with the condition of the agreement among the property owners.

That motion failed due to a lack of a second.

Vice Chair Finnegan said since that motion died, I will make a motion to deny the request.

That motion failed due to a lack of a second.

Chair Baugh said I am more with [unintelligible] than I with [Commissioner] Finnegan on this one. I think [the alley] does not go anywhere and I wish that street was still there but there is nothing for it to connect to. If a motion is appropriately made and seconded unless somebody changes my mind I am going to vote...

Commissioner Porter said I would just like to hear a further articulation of...and again I understand the initial point that you made Brent, but I would just like to understand the opposing argument a bit better.

Vice Chair Finnegan said I generally do not support alley closures. We are using them. I understand that this one does not connect and that if City Council had not made the decision that they made in 1990, then the existing alley would connect in. I do not like the idea of doubling down on mistakes of that past. We are such a private property centric society. I am not objecting to this specific request; I am objecting to the idea that all land is private and cannot be walked on. I have a sidewalk in the side yard of my house; I live on a corner lot and people walk in front of my house all the time. There was a sidewalk that was added. Obviously, sidewalks are different than alleys; but I believe that public use makes my neighborhood better. On principle, I do not support alley closures.

Councilmember Dent said which part was closed in 1990?

Mr. Fletcher said the whole length.

Commissioner Alsindi said we have the chance to ask the applicant but if there is more explanation for the reasons for closing it. Is it noise or what? I am generally in support of what Commissioner Finnegan is saying here. Closing a place that is accessible for people to walk generally or to have any space. The reasons behind closing it, again, are they compelling enough?

Chair Baugh said their statement was it does not connect to anything and there are three property owners. So, at least I think for the person that is here and representing for, at least one of the neighbors that they would prefer it not to be public right of way.

Commissioner Alsindi said what are the negative implications of having this...

Chair Baugh said if somebody chooses to walk up in there and I guess we could go out there right now and just pace back and forth and as long as we are not doing anything to bother anybody by making too much noise or otherwise creating a nuisance; we are free to do that. It was certainly like that when they bought the property. It has been like that for over 100 years, but it is also atypical for residential areas. Particularly ones like this where you are talking about it in the middle of the residential area; and not something that is, maybe, on the edge and abutting other uses.

Commissioner Alsindi said if I am a resident and I feel safe to walk in such a space rather than somewhere else you are now prohibiting me from having another option or choice rather than walking somewhere else that might be riskier. I would also want to hear from Commissioner Finnegan more on when he said, "once it is closed, it is closed."

Vice Chair Finnegan said once it is closed it is closed. Any of these alley closures... they do not come back. It is not like the City says actually that thing we said yes to a couple of years ago, we would like it back. Mr. Russ could probably speak to the process. Eminent domain would not be a viable option to take it back, would it?

Chair Baugh said it would be. Typically, we do not do that in situations like that where the property owner is not in favor of it – unless it is for like a major road project.

Mr. Russ said yes, a major road project. Or it is the only viable way of getting a water line or something through somewhere.

Chair Baugh said Council could, but the long-standing practice would have been if confronted with something like this and the property owners would not agree to it voluntarily. Everybody would just look at the other stuff that they have to work on and decide to work on that. Especially since there is no money budgeted to go acquire property like that, unless you put some in there.

Vice Chair Finnegan said to answer Commissioner Alsindi's question, I think, on principle, I am opposed to this idea that the City has interest here. I know it only leads to one other property on the back on Campbell Street. Again, nothing against the applicant or the request. On principle I do not tend to support these.

Commissioner Washington said it says here that the City has no plans to construct this alley nor maintain it, so who is maintaining it as of now?

Chair Baugh said that was actually said in the report, I believe.

Vice Chair Finnegan said all alleys in Harrisonburg are not maintained by the City.

Commissioner Washington said so if the City vacates rights to this, how would they divvy up who is responsible for what?

Vice Chair Finnegan said it just becomes a yard.

Chair Baugh said which is really what it is now because the City does not own it.

Commissioner Porter said they are using it as a driveway.

Ms. Rupkey said the land underneath the alley... there are a couple of different types of situations that occur, this one is a relatively easier one. The land underneath the alley is in the name of the property owners that adjoin on the other side, it is split down the middle. Five feet on each side would go back to the property owner. There is also a process that involves having to buy back a portion of the alley, named for the easement, through the real estate office as well.

Councilmember Dent said if we close it as a City alley, does it revert to a line down the middle to each property owner and then it is up to them to create that agreement?

Chair Baugh said I think that is the piece where we are getting confused. I am not sure why it matters that much, but we will go with this. For some of these streets and alleys that were dedicated long enough ago, the City only required an easement. When you acquire an easement, the City does not own the property. What we own is a right to relatively, unfettered use of that property for public purposes. I want to be clear of this because there seems to be some confusion as what we are or are not doing or what the City does not have. I think it was some time in the 1920s that process sort of stopped. The only time you run into this is with some of these older dedicated streets; forward to now if you are developing the property and putting in the streets or alleys, it is actually dedicated as a public street and the property belongs to the City. So when you abandon those, then you do have an element of okay the City now sells the property back to adjoining landowners or works out something that we see on those. You do not do that here because we do not own it. It is giving up a right to go over it. Does that help clear it up for you? Most of the time when we abandon interest in an alley that property goes up for sale because we owned it and we are now giving up the right to actual ownership to the land but that was not the case here.

Vice Chair Finnegan said you can actually see an alley on the lower right side, is that correct? That little section between those two properties that is a more modern alley?

Ms. Dang said I do not know. We would have to do some deed research to verify that.

Vice Chair Finnegan said there is a gap between those two properties.

Ms. Dang said I understand but without doing some research...

Mr. Fletcher said the alley we are speaking of would look the exact same as the other. Our map is inaccurate in the way that we represent alleys in these particular cases.

Ms. Dang said alleys are represented as the same shape as the public right of way regardless of ownership. Every time somebody comes to us with a request like this, we have to do research to figure that out.

Councilmember Dent said you find these 1907 things.

Mr. Fletcher said if I could maybe ask a clarifying question or confirmation to Ms. Dang, I thought I heard a comment said that the City does not maintain any alleys and I do not know if that is 100% true because there are a few alleys probably in the Downtown that are paved that the City might be maintaining.

Ms. Dang said I believe you are correct about that statement but speaking just about this property you are correct. If the statement was implied for just this one then generally speaking the City does not maintain alleys, there are exceptions. In this case, the City does not maintain this one.

Vice Chair Finnegan said I do feel like this comes up every time the alley closure comes up. It is always like well why does the City not maintain the alleys? Well that is just not what alleys are here. What is the plan for the alleys? We do not have a plan, but I do think when I look at lack of

safe routes to school these are pathways that could be utilized and activated in the future for either paved, gravel, or dirt paths to get around. They are all over the place in my neighborhood.

Commissioner Porter said I think we are back at a place of principle versus practicality. If I thought there was any possible reason why it would be in the public interest to maintain this space as an alley and it would eventually be reconnected to something, I would feel very differently about this. The reality is that it is likely not. It dead ends at a private property. I have heard that it does not seem like there is going to be much interest in going through the process of trying to acquire that land to be able to reopen an alleyway, or an easement, that would get us to this particular strip of land. I have a hard time restricting and impacting three households for a principle that may not even be in play in this particular case. I think this is one of those odd things that happens over time when properties get placed and we have these little lines that just do not quite line up and this is one of those times. If I was parking my vehicle on this piece of property, I would want to know that I could limit people from passing through that area. If I was the Campbell Street owner and this was coming directly into my backyard, I would feel better knowing that this was not a public access. If there is anything in the public interest that this closure would impact I would be more inclined to say no. But in this circumstance, it just seems like a commonsense issue related to what is really an anomaly in our City planning.

Councilmember Dent said I guess I am not an enthusiastic yes, but as you say not a real reason to say no. Which inclines towards yes.

Chair Baugh said I am not taking issue with any of the general statements about liking and to preserve these things and wanting to air on the side of preserving them and seeing some of the decisions of the past as being not what we should have done. A lot of things in my life it is hard to get me to use words like “always and never”. I personally would not phrase it as I see no public interest in maintaining this. I would say that I see whatever public interest there would be in maintaining this to be small enough that I am not inclined to see us going the effort to insist on keeping this open.

Councilmember Dent said small enough probability that it could ever be really used for what it is intended for is the easement.

Chair Baugh said if you are going to go there, you are actually in a part of the City that is, for a lot of these issues, about connectivity that you cannot make now without a lot of difficulty because you did not do it in the first place. I think that is right. We should be slow to give that up, but this is not really an area where I see is suffering from connectivity. I think if you never expanded alleys or anything in this part of the City...it is hard to see anything that would do that. There are times when it is a whole lot harder to get from point A to point B than it should be because the planning was not done initially. This is a pretty older, dense residential area. I am just not seeing this situation where this keeps somebody from having to go eight blocks out of their way to get from point A to point B. It is just not something you are going to see there.

Commissioner Porter said I would like to renew the motion to approve the request with the condition that has been set forth by staff that there is an agreement among the affected property owners.

Councilmember Dent said fine point, our motions are to recommend approval.

Councilmember Dent seconded the motion.

Chair Baugh called for a roll call vote.

Vice Chair Finnegan	No
Councilmember Dent	Aye
Commissioner Alsindi	Aye
Commissioner Washington	Aye
Commissioner Porter	Aye
Chair Baugh	Aye

The motion to recommend approval of the alley closing passed (5-1). The recommendation will move forward to City Council on June 10, 2025.