



# City of Harrisonburg

409 S. Main Street  
Harrisonburg, VA 22801

## Meeting Minutes - Draft City Council

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Tuesday, July 9, 2019

7:00 PM

Council Chambers

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### 1. Roll Call

**Present:** 4 - Mayor Deanna R. Reed, Council Member Richard Baugh, Council Member Christopher B. Jones and Council Member George Hirschmann

**Absent:** 1 - Vice-Mayor Sal Romero

**Also Present:** 4 - Deputy City Manager Ande Banks, City Clerk Pam Ulmer, City Attorney Chris Brown and Police Chief Eric English

### 2. Invocation

Council Member Baugh offered the invocation.

### 3. Pledge of Allegiance

Mayor Reed led the Pledge of Allegiance.

### 4. Special Recognition

### 5. Consent Agenda (any item placed on the consent agenda shall be removed and taken up as a separate matter, if so requested by any member of Council, otherwise all items will be voted on with one (1) motion)

A motion was made by Council Member Baugh, seconded by Council Member Jones to approve the consent agenda as presented. The motion carried with a recorded roll call vote taken as follows:

**Yes:** 4 - Mayor Reed, Council Member Baugh, Council Member Jones and Council Member Hirschmann

**No:** 0

**Absent:** 1 - Vice-Mayor Romero

#### 5.a. Minutes from the June 25, 2019 City Council meeting

A motion was made by Council Member Baugh, seconded by Council Member Jones, to approve the minutes as presented. The motion carried with a recorded roll call vote taken as follows:

**Yes:** 4 - Mayor Reed, Council Member Baugh, Council Member Jones and Council Member Hirschmann

**No:** 0

**Absent:** 1 - Vice-Mayor Romero

## 6. Public Hearings

- 6.a.** Consider a request from the City of Harrisonburg to rezone a +/- 60 acre site located adjacent to I-81 and between Boxwood Court and East Kaylor Park Drive from R-5C, High Density Residential Conditional to B-2, General Business District.

Adam Fletcher, director of Planning and Community Development, reviewed the site parallel to Interstate 81 accessible by two undeveloped streets, Boxwood Court and East Kaylor Park Rd. He reviewed the surrounding properties, reviewed the current land use for the site and surrounding properties and the most recent schematic site plan for the new high school. He stated, as per Virginia Code Section 15.2-2232 and Section 10-1-6 of the Harrisonburg City Code, a review by Planning Commission is required whenever a project is proposed to construct, establish or authorize a public facility not shown on the Comprehensive Plan and must be approved as being substantially in accord with the adopted Comprehensive Plan. He stated at the June 12, 2019 Planning Commission meeting it was reviewed and was determined to be in accord with the Comprehensive Plan. He stated a preliminary subdivision plat will need to be done reflecting the public street dedication at some point in the future and the parking plan will need to be reviewed by the Planning Commission as well. He stated the Planning Commission is concerned about the lack of pedestrian and bicycle facilities limiting pedestrian and bike traffic to the school and hopes that future school planning can achieve the Comprehensive Plan's objective 7.2 which is to carefully plan the location of new and updated Harrisonburg City Public School facilities to enhance, connect to, and be part of the surrounding community. He reviewed objective 7.2(2).

He stated in regard to the rezoning request, it is currently zoned R-5C with over 20 proffers associated with the site and noted the request is to rezone back to B-2 as it originally was zoned in 2006. He stated the rezoning would remove all proffers, it would match the existing commercial land use designation, educational uses would be allowed by-right, and will provide more flexibility for setback and height regulations.

He stated staff recommended approval and the Planning Commission recommended approval (6-0)

At 7:11 pm Mayor Reed closed the regular session and called the first public hearing to order. A notice appeared in the Daily News-Record on Monday June 24, 2019 and Monday July 1, 2019

There being no one desiring to be heard, Mayor Reed closed the public hearing at 7:11 p.m., and the regular session reconvened.

Council Member Baugh stated this reminds him of when the original rezoning of this site was done it had the potential of being the worst land use decision made and one

way to undo that would be to put a high school on it.

**A motion was made by Council Member Baugh, seconded by Council Member Hirschmann, to approve the rezoning request as presented. The motion carried with a recorded roll call vote taken as follows:**

**Yes:** 4 - Mayor Reed, Council Member Baugh, Council Member Jones and Council Member Hirschmann

**No:** 0

**Absent:** 1 - Vice-Mayor Romero

- 6.b.** Consider a request from Henry P. Deyerle, Trustee to rezone a property located at 60 Carpenter Lane property from B-2, General Business District to M-1, General Industrial District.

Adam Fletcher, director of Planning and Community Development, presented a rezoning request for property located at 60 Carpenter Lane, from B2 to M1 zoning district and noted this use is in conformance with the land use guide. He reviewed the property, the surrounding properties and a general concept plan of a 47,000 square foot warehouse.

He stated staff recommended approval and the Planning Commission recommended approval (6-0).

At 7:12 pm Mayor Reed closed the regular session and called the second public hearing to order. A notice appeared in the Daily News-Record on Monday June 24, 2019 and Monday July 1, 2019.

Petr Borodin, representative for the applicant, stated the plan is to use the site for truck parking.

At 7:14 pm Mayor Reed closed the public hearing and the regular session reconvened.

**A motion was made by Council Member Baugh, seconded by Council Member Jones, to approve the rezoning request as presented. The motion carried with a recorded roll call vote taken as follows:**

**Yes:** 4 - Mayor Reed, Council Member Baugh, Council Member Jones and Council Member Hirschmann

**No:** 0

**Absent:** 1 - Vice-Mayor Romero

- 6.c.** Consider a request from Bismarck LLC for a special use permit to allow manufacturing, processing and assembly operations at 325, 335, 357, and 394 North Liberty Street.

Adam Fletcher, director of Planning and Community Development, presented a

special use permit request for property located on 325 North Liberty Street from B-1C to B-1 for a cidery. He stated as required by the special use permit there can be no more than 15 employees on one shift, and all storage and activities associated with the manufacturing use must be conducted within a building. He reviewed the subject site, surrounding properties, and noted the long-term land use guide for the area is planned for mixed use. He stated the subject site does carry proffers associated with parking, and even though the applicant is hoping to have outdoor communal space for tastings in the front and back, and if the required parking spaces take the space for the front outdoor area, the applicant is aware the parking takes precedence.

He stated staff recommended approval and the Planning Commission recommended approval (6-0)

A discussion took place regarding the required parking and confirming the parking requirements with this rezoning request.

At 7:21 pm Mayor Reed closed the regular session and called the third public hearing to order. A notice appeared in the Daily News-Record on Monday June 24, 2019 and Monday July 1, 2019.

Zachary Carlson, owner representative, 19 Shenandoah Ave, stated they will comply with the parking requirements and although they would love to have outdoor space in the front they understand that may not be possible and will work with staff.

Council Member Jones thanked Mr. Carlson for helping to revitalize the area.

At 7:22 pm Mayor Reed closed the public hearing and the regular session reconvened.

Council Member Baugh stated this is the type of thing we want in the B-1 area.

Council Member Jones stated there have been workshops with the Harrisonburg Downtown Renaissance to revitalize the area. Mayor Reed stated this is needed in this area.

**A motion was made by Council Member Baugh, seconded by Council Member Hirschmann, to approve the rezoning request as presented. The motion carried with a recorded roll call vote taken as follows:**

**Yes:** 4 - Mayor Reed, Council Member Baugh, Council Member Jones and Council Member Hirschmann

**No:** 0

**Absent:** 1 - Vice-Mayor Romero

- 6.d.** Consider Zoning Ordinance Amendments to Modify Civil Penalties (Section 10-3-13) and Remove Registration Requirements for Short-Term Rentals (Section 10-3-204).

Adam Fletcher, director of Planning and Community Development, presented a zoning ordinance amendment in regard to Short Term Rentals (STR) to modify civil penalties in Section 10-3-13 and remove all requirements for STR operators that require annual registration as per Section 10-3-204. He stated the amendments are to clean up the ordinance removing requirements that are no longer applicable.

He stated staff recommended approval and the Planning Commission recommended approval (6-0).

At 7:27 pm Mayor Reed closed the regular session and called the fourth public hearing to order. A notice appeared in the Daily News-Record on Monday June 24, 2019 and Monday July 1, 2019.

There being no one desiring to be heard, Mayor Reed closed the public hearing at 7:27 p.m., and the regular session reconvened.

**A motion was made by Council Member Baugh, seconded by Council Member Hirschmann, to approve the ordinance amendments as presented. The motion carried with a recorded roll call vote taken as follows:**

**Yes:** 4 - Mayor Reed, Council Member Baugh, Council Member Jones and Council Member Hirschmann

**No:** 0

**Absent:** 1 - Vice-Mayor Romero

- 6.e.** Consider a request from Michael White and Susan Crosby for a special use permit per Section 10-3-48.4 (2) to allow for a short-term rental on a 19,500 +/- square feet parcel at 1220 Ivy Lane and identified as tax map parcel 50-B-17.

Adam Fletcher, director of Planning and Community Development, reviewed the common conditions that will be recommended on all the special use permit request for short-term rentals on the agenda and are as follows:

- Must be within the principal structure;
- A Short-Term Rental Pre-Operation Form must be completed;
- Minimum off-street parking spaces do not need to be delineated or can be accommodated utilizing the driveway or other areas on the property OR the STR has no minimum off-street parking requirements;
- If the STR becomes a nuisance in the opinion of Planning Commission or City Council, the special use permit can be recalled for further review and possible additional conditions, restrictions or full revocation of permit

He presented the request for property located at 1220 Ivy Lane. He reviewed the long-term planning for the area, the surrounding properties and their zoning districts. He stated the plan is for three accommodation spaces for a total of up to five guests, the property is the applicant's primary residence and they plan to be present during

any lodging period.

He stated staff recommended approval and the Planning Commission recommended approval (6-0) with following conditions:

- The site shall be the operators primary residence;
- There shall be no more than three accommodation spaces;
- There shall be no more than five guests at one time

Mayor Reed asked if there were several STR's in the area. Mr. Fletcher stated not in this area.

At 7:34 pm Mayor Reed closed the regular session and called the fifth public hearing to order. A notice appeared in the Daily News-Record on Monday June 24, 2019 and Monday July 1, 2019.

There being no one desiring to be heard, Mayor Reed closed the public hearing at 7:34 p.m., and the regular session reconvened.

**A motion was made by Council Member Baugh, seconded by Council Member Hirschmann, to approve the special use request as presented. The motion carried with a recorded roll call vote taken as follows:**

**Yes:** 4 - Mayor Reed, Council Member Baugh, Council Member Jones and Council Member Hirschmann

**No:** 0

**Absent:** 1 - Vice-Mayor Romero

- 6.f.** Consider a request from Craig Goeller, Jr. for a special use permit per Section 10-3-34 (7) to allow for a short-term rental at the 12,000 +/- square feet property addressed as 150 East Fairview Avenue and identified as tax map parcel 18-N-2.

Adam Fletcher, director of Planning and Community Development, presented the request for property located at 150 East Fairview. He reviewed the long-term planning for the area, the surrounding properties and their zoning districts. He stated the plan is for three accommodation spaces for a total of up to six guests, the property is the applicant's primary residence and they plan to be present during any lodging period. He noted the property can accommodate off-street parking.

He stated staff recommended approval and the Planning Commission recommended approval (6-0) with following conditions:

- The site shall be the operator's primary residence;
- An operator shall be present during the lodging period;
- There shall be no more than three accommodation spaces;
- There shall be no more than six guests at one time

Council Member Jones asked if the parking is sufficient. Mr. Fletcher stated it is one parking space per accommodation space, this one is required to have three spaces, the site has plenty of space to accommodate and, if in a parking permit zone, a permit can be obtained by the property owner.

At 7:37 pm Mayor Reed closed the regular session and called the sixth public hearing to order. A notice appeared in the Daily News-Record on Monday June 24, 2019 and Monday July 1, 2019.

Craig Goeller, Jr., applicant, stated he would be happy to answer any questions.

At 7:14 pm Mayor Reed closed the public hearing and the regular session reconvened.

**A motion was made by Council Member Jones, seconded by Council Member Baugh, to approve the Special Use Permit request with the stated conditions. The motion carried with a recorded roll call vote taken as follows:**

**Yes:** 4 - Mayor Reed, Council Member Baugh, Council Member Jones and Council Member Hirschmann

**No:** 0

**Absent:** 1 - Vice-Mayor Romero

- 6.g.** Consider a request from Nicholas and Abigail Einstein for a special use permit per Section 10-3-40(8) for a short-term rental on the 3,920 +/- square feet property at 58 Easthampton Court and identified as tax map parcel 10-M-2A

Adam Fletcher, director of Planning and Community Development, presented the request for property located at 85 Easthampton Court. He reviewed the long-term planning for the area and the surrounding properties and their zoning districts. He stated the subject property is one half of a duplex unit, the plan is for an open basement accommodation space for a total of up to four guests, the property is the applicant's primary residence and they plan to be present during any lodging period.

He stated staff did not see this as being specifically special under the guise for special use permit operations, it is one of those areas staff saw that is wholly within a residential neighborhood where property owners or renters are choosing to decide to reside or buy property in the area with an indication or assurance that they are well within an established neighborhood, not on the fringes, and not meant for business operations or transient lodging.

He stated staff recommended denial of the request and the Planning Commission disagreed and recommended approval (5-1) with following conditions:

- The site shall be the operator's primary residence;
- An operator shall be present during the lodging period;
- There shall be no more than one accommodation space;
- There shall be no more than four guests at one time

Mayor Reed asked why staff recommended denial. Mr. Fletcher stated when staff looks at the city where there are division marks for specific land use there is a clear delineation. This is one of those sites that is wholly within a neighborhood, many public streets would have to be traversed, and introducing a business operation can cause disruption in a community.

At 7:43 pm Mayor Reed closed the regular session and called the seventh public hearing to order. A notice appeared in the Daily News-Record on Monday June 24, 2019 and Monday July 1, 2019.

Nicholas and Abigail Einstein, applicant, thanked council for the opportunity to speak. Ms. Einstein stated the location of their property is only 3/8th's of a mile from a major road and the complex behind their home is Grand Duke area, which has a lot of turn-over, so the neighborhood is used to that type of traffic. Mr. Einstein stated they have regular open communications with their direct neighbors and they are aware of the request. He also stated they are requesting the condition that operator shall be present during the lodging period be removed. He stated it is their primary residence and since they are there most of the time, he feels it is redundant. He stated the property has its own exterior entrance.

Pamayotis "Poti" Giannakaouros stated he is in favor of applicant's request; a he used to live in the neighborhood. He stated the Planning Commission strongly rejected the logic of having strangers in the neighborhood, and asked council to approve as the applicant has requested.

At 7:46 pm Mayor Reed closed the public hearing and the regular session reconvened.

Council Member Jones stated a relative visiting can do whatever they want when visiting - they can use a lot of parking, stay for an undetermined amount of time, and asked what the difference is if a person uses their biggest asset as a form of capital to bring in more revenue to sustain themselves. He stated guests at a STR are guaranteed to leave; a relative may not. He stated if STRs become a problem the owner can be held responsible and the special use permit can be revoked. He stated this is a big investment for people; they want to protect their investment and want to have the ability to make some money off of empty space. He stated special use permits for STR's must have City Council's permission, whereas visitors to a family or friend do not.

Mayor Reed stated she wants council to be consistent and careful with the language we are using. She stated she feels like the special use permit process protects and holds people accountable and that should be all that is needed. Council Member Jones stated we allow home businesses such as daycares in neighborhoods and just wants council to be aware of the “not in my backyard” mentality. Council Member Hirschmann stated it can always be a touchy decision: we always have the option to pull the permit if there is a problem, but we are also taking a chance at creating a problem. Council Member Baugh stated we make judgement calls all the time, he doesn't have an issue with saying yes and no, this is still a work in progress, it has been interesting to see what level of public participation we are getting, and they are getting an opportunity to speak their views. He feels this particular site is probably an ok spot to allow the STR. Mayor Reed stated just because one request is approved, another one on the same street or neighborhood may not be. Council Member Jones stated he will not vote in favor of all the permit requests for STR's. Council Member Baugh stated this is a community that historically could not have taken a more restrictive view toward commercial activities in residential areas. He stated we can watch as this process develops and let the community and developments let us know what they think of these on a case by case basis.

**A motion was made by Council Member Jones, seconded by Council Member Baugh, to approve the Special Use Permit request with the stated conditions. The motion carried with a recorded roll call vote taken as follows:**

**Yes:** 4 - Mayor Reed, Council Member Baugh, Council Member Jones and Council Member Hirschmann

**No:** 0

**Absent:** 1 - Vice-Mayor Romero

- 6.h.** Consider a request from Becky Bartells for a special use permit per Section 10-3-40 (8) to allow for a short-term rental on the 4,740 +/- property located at 406 Collicello Street and identified as tax map parcel 34-C-6.

Adam Fletcher, director of Planning and Community Development, stated he hopes that the staff reports are not being mischaracterized or misinterpreted. He stated it is not about which neighborhoods, it's always a site specific, where it is in the neighborhood and in relation to the streets. Council Member Baugh stated council is working this out in real time, he doesn't think it is anything to have angst about. Council Member Jones stated when staff looks at the depth of the neighborhood it is about the ability to get to mixed use and other business amenities.

Mr. Fletcher presented the request for property located at 406 Collicello Street. He reviewed the long-term planning for the area, the surrounding properties and their zoning districts. He stated the applicant is requesting to have one short term rental throughout the entire year with one accommodation space for up to two people, and

then for one week in the month of May every year rent out the entire single-family dwelling for the week with three accommodation spaces for up to five persons. He stated there would be no minimum off-street parking requirements.

He stated staff and the Planning Commission disagreed and recommended approval (6-0) with following conditions:

- The site shall be the operators primary residence;
- If the operator is not the property owner, then the operator shall be present during the lodging period.
- There shall be no more than one accommodation space except for one week in May when the operator may rent the entire home with up to three accommodation spaces;
- There shall be no more than two guests at one time except during one week in May when the operator may rent the entire house to a family of up to five persons.

Council Member Jones stated this is the best place for a STR and asked what the sentiment was from Planning Commission regarding the week in May. Mr. Fletcher stated he doesn't recall the specific conversation but doesn't recall any major concerns and staff recommended in favor. He stated it is all about site specific, the location and the minimal impact for one week.

At 8:10 pm Mayor Reed closed the regular session and called the eighth public hearing to order. A notice appeared in the Daily News-Record on Monday June 24, 2019 and Monday July 1, 2019.

Becky Bartells, applicant, stated this is her primary residence and she is able to answer any questions council may have.

Randall Reichenbach, 482 Collicello St., stated this request seems reasonable but he is concerned about traffic and parking, especially for the week of May where a lot of traffic and newcomers are in town.

At 8:11 pm Mayor Reed closed the public hearing and the regular session reconvened.

**A motion was made by Council Member Jones, seconded by Council Member Hirschmann, to approve the Special Use Permit request with the stated conditions. The motion carried with a recorded roll call vote taken as follows:**

**Yes:** 4 - Mayor Reed, Council Member Baugh, Council Member Jones and Council Member Hirschmann

**No:** 0

**Absent:** 1 - Vice-Mayor Romero

- 6.i. Consider a request from David P. Miller for a special use permit per Section 10-3-40 (8) to allow for a short-term rental on the 25,850 +/- square feet property located at 957 Summit Avenue and identified as tax map parcel 49-B-8.

Adam Fletcher, director of Planning and Community Development, presented the request for property located at 957 Summit Avenue. He stated the applicant is currently in building permit review for taking the structure and converting it into a duplex and the applicant would reside in the converted garage. He reviewed the long-term planning for the area, the surrounding properties and their zoning districts. He stated the applicant is requesting to have seven accommodation spaces for a single group of up to twelve guests, the property is the applicant's primary residence and they plan to be present during any lodging period. He stated the driveway can accommodate for all off-street parking requirements and will not need to be delineated.

He stated staff recommended denial of the request due to the location of the site as it is deep into a residential area, it is not close to any main arteries, it is not an area that should be promoting business operations and people are expecting it to be a standard residential neighborhood. He stated as these decisions are made precedence is being set, new policies are being established and new expectations are made about what these neighborhoods are and what the city is desiring for these communities and neighborhoods, so as Council makes these decisions, staff looks at the big picture to see what council is expecting and wanting.

He stated Planning Commission disagreed and recommended approval (5-1) with following conditions:

- The site shall be the operator's primary residence;
- If the operator is not the property owner, then the operator shall be present during the lodging period within any dwelling unit.
- There shall be no more than seven accommodation spaces.
- The number of guests at one time shall be limited to a single-group of up to twelve people.

At 8:16 pm Mayor Reed closed the regular session and called the ninth public hearing to order. A notice appeared in the Daily News-Record on Monday June 24, 2019 and Monday July 1, 2019.

David Miller, applicant, stated the construction is complete and the Certificate of Occupancy has been obtained. He stated due to unexpected illness the only way he will be able to keep his home is if he can do this business. He stated he will be present at all times and spoke to all neighbors.

Pamayotis "Poti" Giannakaouros stated he was present at the Planning Commission

meeting and the argument about distance to amenities is new, it was not brought up during the meeting and when people are looking for a STR they know what they are getting and may be looking for something not close to shopping, etc.

At 8:19 pm Mayor Reed closed the public hearing and the regular session reconvened.

Council Member Jones stated this is actually what he was talking about earlier about people using their asset to help themselves. He stated it is being proven that the area is being defined and people like the views in that section of town, and it makes sense.

Council Member Baugh stated as someone who has stayed in AirBnBs you don't always know what you are getting until you get there and in terms of the big picture, the accessibility to other things is worth a discussion.

**A motion was made by Council Member Jones, seconded by Council Member Hirschmann, to approve the Special Use Permit request with the stated conditions. The motion carried with a recorded roll call vote taken as follows:**

**Yes:** 4 - Mayor Reed, Council Member Baugh, Council Member Jones and Council Member Hirschmann

**No:** 0

**Absent:** 1 - Vice-Mayor Romero

- 6.j.** Consider a request from Katrina and Ernest Didot for a special use permit per Section 10-3-40 (8) to allow for a short-term rental on the 19,595 +/- square feet property at 845 College Avenue and identified as tax map parcel 125-A-16 and 17.

Adam Fletcher, director of Planning and Community Development, presented the request for property located at 845 College Avenue. He reviewed the long-term planning for the area, the surrounding properties and their zoning districts. He stated there are two single family detached dwellings, one of which is above the garage and non-conforming, the applicant's plan is to have two accommodation spaces for up to 4 individuals, it is the applicant's primary residence and they will be present during the lodging period.

He stated staff recommended denial of the request due to the location of the site as it is deep into a residential area, it is not close to any main arteries, it is not an area that should be promoting business operations and people are expecting it to be a standard residential neighborhood. He stated staff feels this does impact the affordable housing concerns as this unit could be an affordable rental and converting to a STR would remove the inventory from the market.

He stated Planning Commission disagreed and recommended approval (6-0) with following conditions:

- STR accommodations shall be within either the principal dwelling or the non-conforming dwelling unit above the detached garage;
- The site shall be the operator's primary residence;
- If the operator is not the property owner, then the operator shall be present during the lodging period;
- There shall be no more than two accommodation spaces;
- There shall be no more than four guests at one time.

At 8:25 p.m., Mayor Reed closed the regular session and called the eleventh public hearing to order. A notice appeared in the Daily News-Record on Monday, June 3, 2019 and Monday, June 10, 2019.

Katrina Didot, applicant, stated she appreciates the recognition that the home is one of the most important assets. She stated they have been renting the space out for 16 years, situations have changed, and they now feel they could use the extra income. She noted the property has sufficient parking onsite and feels with the STR the parking and traffic in the area will be less.

At 8:28 pm Mayor Reed closed the public hearing and the regular session reconvened.

Council Member Jones stated he feels good that some of the points he made are coming up.

**A motion was made by Council Member Jones, seconded by Council Member Baugh, to approve the Special Use Permit request with the stated conditions. The motion carried with a recorded roll call vote taken as follows:**

**Yes:** 4 - Mayor Reed, Council Member Baugh, Council Member Jones and Council Member Hirschmann

**No:** 0

**Absent:** 1 - Vice-Mayor Romero

- 6.k.** Consider a request from David Kraybill and Mary Hershberger for a special use permit per Section 10-3-40 (8) to allow for a short-term rental on the 42,500 +/- square feet property at 973 Smith Avenue and identified as tax map parcel 48-I-12.

Adam Fletcher, director of Planning and Community Development, Mr. Fletcher presented the request for property located at 973 Smith Avenue. He reviewed the long-term planning for the area, the surrounding properties and their zoning districts. He stated the applicants plan is to have six accommodation spaces, the STR shall be limited to a single-group of up to thirteen people, it is not the applicant's primary residence however there is a long-term tenant residing in the home who will be present during the lodging period as the operator. He stated there is ample off-street parking on the site.

He stated staff recommended denial of the request due to the location of the site as it is deep into a residential area, it is not close to any main arteries, it is not an area that should be promoting business operations and people are expecting it to be a standard residential neighborhood.

He stated Planning Commission disagreed and recommended approval (5-1) with following conditions:

- The site shall be the operator's primary residence;
- If the operator is not the property owner, then the operator shall be present during the lodging period;
- There shall be no more than six accommodation spaces.
- The number of STR guests at one time shall be limited to a family or a group of not more than 13 individuals.

At 8:33 p.m., Mayor Reed closed the regular session and called the twelfth public hearing to order. A notice appeared in the Daily News-Record on Monday, June 3, 2019 and Monday, June 10, 2019.

Mary Hershberger, applicant/owner, stated this property is their second house they built in Harrisonburg and expected to retire there. However, situations have changed and they have a long-term renter on the property that will be present during any STR.

At 8:35 pm Mayor Reed closed the public hearing and the regular session reconvened.

**A motion was made by Council Member Baugh, seconded by Council Member Hirschmann, to approve the Special Use Permit request with the stated conditions. The motion carried with a recorded roll call vote taken as follows:**

**Yes:** 4 - Mayor Reed, Council Member Baugh, Council Member Jones and Council Member Hirschmann

**No:** 0

**Absent:** 1 - Vice-Mayor Romero

- 6.I.** Consider a request from Sherwyn and Deirdre Smeltzer for a special use permit per Section 10-3-180 (6) to allow for a short-term rental on the 7,700 +/- square feet property at 294 Franklin Street and identified as tax map parcel 26-I-12.

Adam Fletcher, director of Planning and Community Development, presented the request for property located at 294 Franklin Street. He reviewed the long-term planning for the area, the surrounding properties and their zoning districts. He stated the applicants plan is to have one accommodation space for up to two people, it is not the applicant's primary residence however there is a long-term tenant residing in

the home who will be present during the lodging period as the operator. He stated there is a shared space for a driveway which will be available for the STR and this area does have permit parking.

He stated staff recommended approval and the Planning Commission recommended approval (5-1) with following conditions:

- The site shall be the operator's primary residence;
- An operator shall be present during the lodging period;
- There shall be no more than one accommodation space;
- The number of STR guests at one time shall be limited to two individuals.

At 8:39 p.m., Mayor Reed closed the regular session and called the thirteenth public hearing to order. A notice appeared in the Daily News-Record on Monday, June 3, 2019 and Monday, June 10, 2019.

Sherwyn and Deirdra Smeltzer, applicant/owner, stated they have lived in this property for 11 years, and would love to continue to live here and utilize the additional space in the attic for a STR. Ms. Smeltzer stated she feels this STR would be an asset to the downtown area. She stated they have had conversations with the neighbors and some of the concerns is that the special use permit stays with the property and not the owner, therefore, they are requesting a 10-year limit on the special use permit in order to address some of the concerns of the neighbors.

At 8:41 pm Mayor Reed closed the public hearing and the regular session reconvened.

**A motion was made by Council Member Jones, seconded by Council Member Baugh, to approve the Special Use Permit request with the stated conditions and amended to add the 10-year limit proffer. The motion carried with a recorded roll call vote taken as follows:**

**Yes:** 4 - Mayor Reed, Council Member Baugh, Council Member Jones and Council Member Hirschmann

**No:** 0

**Absent:** 1 - Vice-Mayor Romero

- 6.m.** Consider a request from David Lee for a special use permit per Section 10-3-34 (7) to allow for a short-term rental on the 19,000 +/- square feet property at 1159 Nelson Drive and identified as tax map parcel 84-E-16.

Vice Mayor Baugh stated the Virginia State and Local Conflict of Interest Act requires that he make the following disclosure to be recorded in the city records on any matter from which he is prohibited by law from participating:

The transaction involved is agenda item 6(m), a request for a special use permit for allowing short term rentals; his personal interest in the transaction relates to the

ethical requirements to which he must adhere as a licensed member of the Virginia State Bar; he affirms he will not vote or in any manner act on behalf of city council on this matter

Adam Fletcher, director of Planning and Community Development, presented the request for property located at 1159 Nelson Drive. He reviewed the long-term planning for the area, the surrounding properties and their zoning districts. He stated the applicants plan is to rent out the entire home, a four-bedroom single-family detached dwelling with a maximum of eight guests, the property is not the applicant's primary residence and there will be no operator present during the lodging period. He stated the site has a relatively large driveway to meet the off-street parking requirements and will not need to be delineated. He stated there are additional conditions that the applicant has imposed upon himself:

He stated staff recommended denial with the same reasoning as in previous requests, it is an entire home rental with no operator, and feels it is not in the city's best interest to approve and the Planning Commission recommended denial (6-0), however should council decide to approve they request it would be with following conditions:

- The site shall be the operator's primary residence;
- An operator shall be present during the lodging period;
- There shall be no more than four accommodation spaces;
- The number of STR guests at one time shall be limited to a family of not more than eight or not more than two unrelated persons.

Mr. Fletcher noted the application also supplied additional conditions as follows:

- The permit shall expire ten years after the date of issuance, if not earlier terminated;
- The property shall be a second home owned and periodically occupied by a resident of Rockingham County or the City of Harrisonburg, to ensure a personal connection to the neighborhood as well as local oversight and management of the property;
- The property shall not be tenant-occupied as a short-term rental for more than 182 days collectively in any calendar year.

At 8:47 p.m., Mayor Reed closed the regular session and called the fourteenth public hearing to order. A notice appeared in the Daily News-Record on Monday, June 3, 2019 and Monday, June 10, 2019.

David Lee, applicant/owner stated there was quite a lively discussion with Vice Mayor Romero at the Planning Commission meeting, he stated this is his second home, it contains his personal library and collection of historical items and it is a place where he and his family come to hang out in the city. He reviewed some of the discussion that took place at the Planning Commission meeting and he noted he has been

renting this house out for years through the many vacation rental sites and he has never had any problems. He stated this house was never in rental inventory, so it doesn't affect the affordable housing market, there have not been any complaints against the property, and they have maintained great ratings with the rental sites.

Council Member Jones asked the applicant what the total number of nights rented per year was. Mr. Lee stated perhaps 120 nights per year or less, but he is very particular as to who he rents the property to. He stated these STR's are a great opportunity for the city to as far as developing the tourism goal.

Council Member Jones stated he thinks the number of nights occupied should be decreased in the conditions and feels that perhaps this item should be tabled until the Vice Mayor is back to fill us in on what took place at Planning Commission and his opinions. He stated council needs to be careful so that people aren't just coming into the city, buying up property and then using them for STR's. Mr. Lee stated there may be a few others in the city that have properties such as his and it would be a great way to utilize those properties without interrupting the neighborhood. He stated council has an awful lot of control over a very good opportunity for the city. He stated he has tried to create a template for some of these properties

Tom Little, 1167 Nelson, stated neighbors are not in favor of this request, he has been receiving texts all throughout Mr. Lee's comments from the neighbors watching live stating what he is saying is in direct contradiction as to what is happening in this property. He stated when he found out about the permit request he contacted city staff and got the information needed. He stated neither he, nor any of the immediate neighbors, have seen the applicant on the property over the past two years. He shared events witnessed at the property which included 14 cars at one time, speeding in neighborhood etc. He stated what the previous permit requests all had in common was that either an owner or operator was on the property at all times, this would not be the case.

Pamayotis "Poti" Giannakaouros stated the sentiment of the Planning Commission was starting to arrive to an empirical solution to the problem, they even suggested that perhaps the special use permit process should be reviewed. He stated the planning commission worked through the IRS definition of a second home and arrived at the possibility that something like this that a person could have many second homes, and this is indeed a business model that would potentially violate the rule of not taking properties off the market. He stated he has objected to the reasoning that units will be taken off the market because of the Harrisonburg economy, he was not able to see what the draw would be that would deplete the city's housing stock. He stated the McShin Foundation shared a concept of a recovery home, and he explained what that would include and may be something to deliberate.

Lisa Hawkins, attorney for applicant, stated during the course of the consideration of the application the commission explored the idea of removing houses from the

long-term ownership and rental market and how to grant a permit for a non-owner, non-operator occupied property. She stated the applicant asked about limiting the length of the permit and was told that could not be done, but she believes it can. She stated a discussion of how one determines primary residence and how this property would be viewed differently. She stated the determination of primary residence or non-primary residence seems to make a huge difference and they have tried to address that with the additional conditions offered. She stated one of the concerns is neighborhood compatibility and putting the family-only condition addresses that; the property is easy to find and has a direct drive from Port Republic Road and it has been a short-term rental for several years with little to no complaints. She stated another concern was local oversight; the owner lives near. She stated the concern of keeping the home in the pool of home ownership and rentals, this special use permit request will have the least likely impact on the housing market long term because of the Sunset Clause (10-year limit) on the special use permit.

Mr. Fletcher stated the Sunset Clause was not a condition required by staff but was a self-imposed condition by the applicant. He stated when staff was discussing reducing the number of days allowed per year it was unclear if the city had the authority to impose the Sunset Clause. City Attorney Brown stated if the land owner offers that condition it gives the city a much stronger case. Mayor Reed asked what the main issue was that caused both staff and Planning Commission to recommend denial of this request. Mr. Fletcher stated it was because it was a whole home rental and not the owner's principal residence.

At 9:18 pm Mayor Reed closed the public hearing and the regular session reconvened.

Council Member Hirschmann stated he would like to hear what Vice Mayor Romero's thoughts are. Council Member Jones agreed. Mayor Reed stated she would rather table this item until the Vice Mayor returns because if it is denied now the applicant would have to wait an entire year to resubmit the request.

**A motion was made by Council Member Jones, seconded by Council Member Hirschmann, to table the Special Use Permit request. The motion carried with a unanimous voice vote.**

## Recess

At 9:20 p.m., Mayor Reed called the meeting into recess.

At 9:27 p.m., Mayor Reed called the meeting back into session.

## 7. Regular Items

- 7.a. Consider Planning Commission's approval of new high school site as substantially in accord with the Comprehensive Plan as provided by Virginia Code Section 15.2-2232.

Mayor Reed stated item 7a will be presented simultaneously with Item 6a. See notes

under Agenda Item 6a

**This Report was received and filed.**

## **8. Special Event Application Requests**

- 8.a.** Consider the Special Event application request for the annual Shenandoah Valley Pride Festival on Saturday, September 21, 2019.

Erin Smith, events manager for Harrisonburg Downtown Renaissance (HDR), presented a Special Event application request for the 4th Annual Shenandoah Valley Pride Festival to be held on Saturday, September 21, 2019 from 6:00 pm to 6:50 pm. She stated the event organizer, Shenandoah Valley Pride Alliance, is requesting the closure of the streets on the north, south and west sides of Court Square between the hours of noon and 6:00 pm and noted Main Street will remain open. She stated 3,000 attendees are expected and the total cost of the event is estimated to be between \$3,700 and \$4,100. She noted the event organizer is responsible any applicable payments to off-duty officers.

Council Member Jones asked if the applicant has spoken to the churches to inform them of the event. Ms. Smith stated this is a date change and is being held on a Saturday.

**A motion was made by Council Member Jones, seconded by Council Member Baugh, to approve the request as presented. The motion carried with a unanimous voice vote.**

## **9. Other Matters**

- 9.a. Comments from the public, limited to five minutes, on matters not on the regular agenda. (Name and address are required)**

Tim Brady, founder of Pale Fire Brewing Company, stated as a downtown business owner and residents of the city he is very appreciative of the recent meeting at the Local Chop House in regard to the crime in the downtown area, panhandling and homelessness. He stated it showed how important the issues are to local stakeholders and residents by the full room attendance. He stated he has seen social media and news outlet discussions of homelessness, panhandling and affordable housing, all of which are important issues, but he feels what we are dealing with is an organized group of people and the crime that goes along with it. He stated he has two requests: change the narrative to a crime context and make a request that the Harrisonburg Police Department consider increased police presence downtown by bike or foot patrol.

Lois Jones, Director of the Massanutten Regional Library, stated the library is a very welcoming place, open to everyone regardless of socioeconomic status and is there to help anyone who needs help. She stated she wanted to clarify that we are not talking about homelessness in general, there is a very specific group that is causing issues. She stated a lot of the library's clientele have been subjected to fighting on the streets, cussing and yelling both outside and inside the library, and staff has been

forced to trespass certain individuals. She reviewed some of the instances that took place and stated the more time spent on handling the actions of this particular group of people the more cost to the library. She stated it has come to the point that they will not be as welcoming after a certain point.

Mayor Reed asked if a difference has been noticed since the meeting two weeks ago at the Local Chop House. Ms. Jones stated several days after the meeting they noticed a difference once the closure of the park took place and over the last several days there has been a decrease in the traffic of those individuals up until today when the green truck was back and some of the group was in the area. Mayor Reed stated when the meeting took place this issue came up, the Police Department is fully aware of the group of individuals, more businesses are issuing trespass notices, warrants have been issued, and the Police Department has enforced the laws.

Jeff Hill, managing partner/owner of the Local Chop and Grill House and Joshua Wilton House, stated he echoes appreciation to the Mayor and the Police Chief, as the meeting was very beneficial to hear other stakeholders and taxpayers with the same frustrations and concerns. He stated so much time and money has gone into bringing business to the downtown area, however, just the perception that downtown isn't safe can ruin that.

Pamayotis "Poti" Giannakaouros, stated he agreed with Mr. Brady that we need to move from broad generalities and principals to specific contextual historical incidents. He stated the word on the street is that panhandling has tapped out for the time being, some of these things move in cycles, and we should try to ride them out and not overreact on something we can get through. He stated if we respond with a general principle and make a rule we can end up having unintended consequences that do more harm than good. He stated he really likes the tall grass and weeds ordinance as it is a pure case, we responded to three properties by changing a rule, but the effect caused was that lots of unintended people changed their behavior, and that imposed a cost on them. He stated he feels if we responded incorrectly and put a broad pressure on the low-income population of the city, which is two-thirds of us, then those are people that are going scrambling to keep up with social order requirements will not be spending money at the local businesses.

The president of the Merchant's Association stated we genuinely care about every person in the community, but with the group of five or six specific individuals, resources have been offered and they have no desire to receive help. She stated the businesses are at the end of their ropes as to where to go from here.

Tim Brady stated the downtown community is asking for assistance, not just businesses, and it is an increase in police presence that is being requested.

Mayor Reed stated it is a soft request and it was discussed and there are moving parts going on that hasn't been made public and staff is working on things.

Chief English stated the perception of downtown is just that: a perception. He stated he has never felt unsafe downtown and one must be careful when law enforcement resources are asked for, as over saturating an area with law enforcement can cause people to perceive there is a problem when there may actually not be. He stated the only resource Police has is enforcement, but something illegal must be done to enforce and when the businesses call for action but then don't want to press charges, the Police Department's hands are tied. He stated the Police Department wants to do the right thing, show compassion, and individuals will not be targeted but behavior will be.

Andrea Estep, owner of Charlie Rose boutique, stated she feels the reason there has been a noticeable change is because the park has been closed, and thinks once the park reopens the problem will arise again.

**9.b. City Council and Staff**

Council Member Hirschmann stated he has a little different view on how to change things, he agrees with the Chief English about being careful of police presence, and he realizes the problem is more organized than he thought.

Council Member Jones stated when we were talking about the ordinance regarding pedestrians in the median, those in support were silent. He stated there are three issues that are being lumped together: affordable housing, panhandling and homelessness. He stated some of the things going on in the city are symptoms of the lack of affordable housing, but not a direct cause. He stated the criminal activity, intimidation, threats and the feeling of insecurity is not a result of lack of affordable housing. He stated the issue is that there are people taking advantage of the kindness of our community in a very calculated way. He stated we have a huge ALICE population, but we have all of these community organizations and philanthropic events throughout our community. He stated to suggest for anyone that we don't care or don't want to help is just not true. He stated Council decided to spend half a million dollars in community contributions of the tax funds. He stated we need to starve the problems out, stop giving money to those individuals and put up signs to direct people to give to an organization instead. He doesn't want us to lose the compassion, but just give to the organizations that directly help those in need. He stated he regrets not passing the pedestrians in the median ordinance, that should have been approved and he feels a greater police presence should be in both downtown and at the medians.

Mayor Reed stated if we pass the ordinance the people will shift to downtown, they will not leave the city. Council Member Jones stated he thinks they will leave the city if people stop handing out money from their cars. Mayor Reed stated we need to educate our community to not give that way. She stated there is a group that is looking into creating a fund that will accept donations to give to those in need. She stated there are things going on behind the scenes that people don't know about yet. She stated if someone feels threatened then that's what the police officers are there

for.

Council Member Baugh stated it is a characteristic of this community to be so giving, we prefer to live and let live, work out our disagreements and don't want to rely on the heavy-handed form of law enforcement but as a government we are limited on what we can compel people to do, and that is what is wanted. He stated in this axis there is a fairly clear division, we don't have the power to regulate people based on what they look like or views they are expressing, or just the fact that we think it might dress up certain parts of town more than others and we shouldn't have the power to do that. He stated as Chief English pointed out if you see someone doing something there is an ordinance against and you aren't willing to tell the police that you want them to carry it through then what have you got. He stated if no one speaks up or calls the police we have no data on what is going on in a neighborhood. He stated there is no way to have it both ways.

Council Member Jones shared a story of when he called the police animal control to set traps for cats that were eating rabbits in the neighborhood and it got taken care of. He stated the point is we must be active and can't continue to feed it, businesses can start putting up signs in their own business until the city can put up any signs. Council Member Hirschmann asked if a public service announcement can be done through WHSV. Council Member Jones stated that is a good idea. Mayor Reed stated she is not sure we want to do that, but we have discussed the possibility of businesses putting up signs along with other things that can be done to be proactive. She stated the biggest thing the community did was name the three people involved and that scared them. Council Member Hirschmann asked if we can resurrect the possibility of signage on the streets, Council Member Jones agreed. Mayor Reed stated that is in discussion, but a number needs to be on it to contact to donate but we don't have anyone that wants their number there yet. Further discussion took place regarding the verbiage for the signs. Council Member Hirschmann stated the city has all kinds of jobs available, but some of these people don't want to work, and it isn't the true homeless who have no other avenue of income for food and housing. Mayor Reed stated we need to be careful to not lump everyone into a certain category. Council Member Jones stated if you look at the Community Services Board, the United Way and Salvation Army, all of these organizations are booming, they are growing, and asking for more, which means some of the people that are without or homeless are going through the proper system to move forward. He stated there are certain people that may not want that and there are also certain people who are pretending and that take advantage of us, and perhaps there is a burden on the community to make the services available more attractive and ways to convince people to get help.

Mayor Reed stated to not forget, tomorrow, July 10, 2019 is the Harrisonburg Fire Department's Free Pizza and Free Smoke Alarm event. Visit our website to learn about how you can get a free pizza while we check and fix your home's smoke alarms; if you don't like pizza, you also can check out the Community Cookout at Ralph Sampson Park. There will be free food and music tomorrow night from 4 to 8

p.m.; and the City has a few spots open on our commissions and boards. If you are interested in volunteering your time and experience to help improve our community, please visit our website to learn more and to fill out an application.

**10. Closed Session**

None

**11. Adjournment**

Adjournment:

At 10:18 p.m., there being no further business and on motion adopted, the meeting was adjourned.

\_\_\_\_\_  
DEPUTY CITY CLERK

\_\_\_\_\_  
MAYOR

**This was approved.**