



# City of Harrisonburg

City Hall  
409 South Main Street  
Harrisonburg, VA 22801

## Meeting Minutes Planning Commission

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Wednesday, October 9, 2019

7:00 PM

Council Chambers

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### 1. Call To Order

The Harrisonburg Planning Commission held its regular meeting on Wednesday, October 9, 2019 at 7:00 p.m. in the City Council Chambers, 409 South Main Street.

**Present** 6 - Gil Colman, Brent Finnegan, Mark Finks, Henry Way, Zanetta Ford-Byrd, and Sal Romero

**Absent** 1 - Kathy Whitten

### 2. Roll Call/Determination of Quorum

Chair Way said there was a quorum with six of seven members in attendance.

Members present: Gil Colman; Brent Finnegan; Mark Finks; Sal Romero; Zanetta Ford-Byrd; and Henry Way, Chair. Members absent: Kathy Whitten.

Also present: Adam Fletcher, Director of Community Development; Wesley Russ, Assistant City Attorney; Thanh Dang, Assistant Director of Community Development; Alison Banks, Senior Planner; and Nyrma Soffel, Administrative Assistant.

### 3. Approval of Minutes

Chair Way asked if there were any corrections, comments or a motion regarding the September 11, 2019 Planning Commission Minutes.

Commissioner Finnegan moved to approve the minutes with the correction of David Frazier's last name throughout the document.

Commissioner Finks seconded the motion.

All members voted in favor of approving the September 11, 2019 Planning Commission minutes as corrected (5-0), with Commissioner Ford-Byrd abstaining.

**A motion was made by Finnegan, seconded by Finks, that this be approved. The motion carried by a voice vote.**

#### 3.a. Minutes from the September 11, 2019 Planning Commission Meeting.

**Attachments:** [Minutes](#)

#### 4. New Business - Public Hearings

- 4.a. Consider a request from Claudia M. McClean for a special use permit to allow for a short-term rental at 907 Ridgewood Road.

**Attachments:** [Memorandum](#)

[Planning Commission extract](#)

[Site Maps](#)

[Application, applicant's letter and supporting documentation](#)

[Public Comment Received as of Nov 4, 2019](#)

[Public Hearing Notice](#)

[Surrounding Property Owners Notice](#)

[PowerPoint presentation](#)

[PC Memorandum](#)

[PC Site Maps](#)

[PC Application, applicant's letter and supporting documentation](#)

[PC Public Comment Received as of Oct 3, 2019](#)

Chair Way read the request and asked staff to review.

Ms. Banks said that the Comprehensive Plan designates this site as Low Density Residential. These areas consist of single-family detached dwellings in and around well-established neighborhoods with a target density of around 4 dwelling units per acre. The low-density residential areas are designed to maintain the character of existing neighborhoods. It should be understood that established neighborhoods in this designation could already be above 4 dwelling units per acre.

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

Site: Detached single-family dwelling, zoned R-1  
North: Detached single-family dwellings, zoned R-1  
East: Detached single-family dwellings, zoned R-1  
South: Detached single-family dwellings, zoned R-1  
West: Detached single-family dwellings, zoned R-1

The applicant is requesting approval of a short-term rental (STR) operation at 907 Ridgewood Road, which is situated within the Forest Hills Neighborhood. The applicant desires to rent for STR two accommodation spaces located on the second floor of the dwelling. ("Accommodation space" means any room offered for sleeping. This would not include living spaces or rooms where guests would not be sleeping.) Each accommodation space can accommodate two guests, for a total of up to four guests during a lodging period. The applicant describes the property as their primary residence and explained that they only share the home with guests when they are at home.

Section 10-3-25(28) of the Zoning Ordinance (ZO) requires STRs to “provide one parking space for each guest room or accommodation space, or as may be more or less restrictive as conditioned by a special use permit.” With a request to rent two STR accommodation spaces, the property should provide two off-street parking spaces. In addition to the off-street parking spaces required for the STR, the ZO requires one off-street parking space for the non-transient dwelling unit. The property has a large driveway and a two-car garage. The applicant has explained that lodgers will park their vehicles in the driveway. Staff believes the applicant should be provided the flexibility to meet the off-street parking requirements by allowing customers to park on the existing driveway or other area of the property without delineating parking spaces.

If the request is approved, staff recommends the following conditions be placed on the SUP:

1. The site shall be an operator’s primary residence.
2. If an operator is not the property owner, then an operator shall be present during the lodging period.
3. All STR accommodations shall be within the principal structure.
4. There shall be no more than two STR guest rooms or accommodation spaces.
5. The number of STR guests at one time shall be limited to four people.
6. Prior to operation, the operator shall submit to City staff a completed Short-Term Rental Pre-Operation Form. Furthermore, the operator shall maintain compliance with the Pre-Operation Form when short-term rental guests are present.
7. Minimum off-street parking spaces do not need to be delineated and can be accommodated utilizing the driveway or other areas on the property.
8. If in the opinion of Planning Commission or City Council, the short-term rental becomes a nuisance, the special use permit can be recalled for further review, which could lead to the need for additional conditions, restrictions, or the revocation of the permit.

Condition #1 helps to prevent the City’s housing stock from being purchased by investors and then being reallocated from homeownership and long-term rentals to STRs. Condition #2 helps to protect neighbors from nuisances arising from absentee operators. Along with condition #1, for property owners operating the STR for whom this property is their primary residence (and to be consistent with Planning Commission’s recommended conditions on other applications), they are not required to be present during the lodging period. However, long-term tenants operating a STR would be required to be present during the lodging period. Condition #3 prevents the ability for the STR operator to convert or construct an accessory building into space for STR that was not previously vetted for impacts to the surrounding properties. If the applicant later wishes to create living spaces within an accessory building for STR, they must return to Planning Commission (PC) and City Council (CC) with a new SUP request. Condition #4 limits the total number of guest rooms and accommodation spaces on the entire property to two. Condition #5 limits the total number of STR guests to not more than four. Condition #6 requires that prior to beginning operations that the operator shall submit to City staff a completed Short-Term Rental Pre-Operation Form and shall maintain compliance with the form when STR guests are present.

The form includes a checklist to guide STR operators through a self-inspection of guest rooms and accommodation spaces and means of egress. Condition #7 provides flexibility for the property owner to maintain the residential appearance of their property by not requiring them to create and delineate additional off-street parking spaces. Condition #8 allows PC and CC to recall the SUP for further review if the STR becomes a nuisance.

It should be acknowledged that while the applicant has explained the plans for using this property, the SUP is not restricted to the applicant or operator and transfers to future property owners. If the applicant sold the property, future property owners could operate a STR so long as they meet the conditions for the SUP as approved. How the property could be used by any future property owner should be considered when deciding on SUP conditions.

The City has approved multiple STR SUP applications with comparable operating situations in similar locations throughout the City. Considering those approvals and the suggested conditions, staff recommends approval of the special use permit request with the suggested conditions.

Chair Way asked if there were any questions for staff. Hearing none, he opened the public hearing and invited the applicant or applicant's representative to speak to the request.

Claudia McClean, 907 Ridgewood Road, came forward to speak in support of the request. I have lived at that location for fifteen years. I love the City. I am here to answer any questions you or my neighbors may have. I would point out that prior to the notification that I needed a SUP, I operated my STR for approximately ten months and my neighbors have not objected.

Commissioner Colman asked Ms. McClean if she has talked with her neighbors or if they have approached her about the application.

Ms. McClean responded that they have not. We are very private up there, at the top of our hill.

Chair Way asked if there was anyone else wishing to speak to the request.

Eugene Leffel, 1107 Ridgewood Road, came forward in opposition to the request. I absolutely oppose the request. The neighborhood we live in is one of the oldest single-family residential neighborhoods in the City. If we do not protect, if we do not provide a shield for that, what neighborhood would we protect? I do not fathom how we could do this. We all have single-family homes. We have been there for years. The neighborhood was established back in the 1800s. How can we do this and allow temporary rentals? I do not understand that. I do not want to act like I am anything other than a happy homeowner who has lived there for years. I think this will be a travesty if we allow this to happen and we do not protect single-family home neighborhoods. If we do not do that, where do we go to protect them? Do we just allow them all to go off the side? I do not understand it. I would strongly request a no vote.

Carissa Henriques, 911 Ridgewood Road, came forward in opposition to the request. I

appreciate you taking the time to consider the voices of the neighborhood. As a mother of three young children who often play in the neighborhood, via bike, scooter and walks around the block, I am constantly concerned for the safety of my children. You may not be aware, but there are no sidewalks in our neighborhood. It is a very old neighborhood. My children bike up and down the street, especially around the bend where my property abuts 907 Ridgewood Road. They ride up and down the street. There is limited vehicular traffic around that bend and I have a moderate level of concern when they ride up and down the street. Were the home to be rented out to upwards of four different people, maybe with four different vehicles, that would greatly increase the traffic, potentially going around the bend at high speeds, putting not just my children in danger, but also the children of the other homeowners in our neighborhood. In the past five to seven years, there has been almost 80 percent turnover in homeownership in our neighborhood. Many of the new homeowners have small children under the age of ten. Children bike to and from each other's houses in the neighborhood. I imagine that the increased traffic and potential "stranger danger" of people coming and going poses a hazard to our families. I was completely unaware that the house was used as an Airbnb for ten months. Had I known that, I would have voiced my dissent before this SUP was brought before you, today. By no means do I support this. I know that many of my neighbors also oppose this. I believe fourteen, or so, letters were posted on your website from the neighbors who oppose this. As you are aware, SUPs transfer from one property owner to the next. Were someone to purchase this home, they could re-appropriate it and keep that permitting, so that also causes a major concern for the future homeowners as well as everyone else in the neighborhood. Improper management could lead to many problems including noise disturbances and disruptions in the neighborhood. The street adjacent to our neighborhood, Greenbriar Drive, is an unfortunate example about how the loss of single-family homes has degraded the appearance, safety and character of that neighborhood. If you want to look for a precedent, look one street over. I believe the Planning Commission helps the City thrive through an appropriate mix of single-family residential and mixed-use zoning. I also think this mix is important to keep some of the neighborhoods strictly as single-family homes. Repurposing homes for STR that might otherwise be for long-term residential housing can strain an already supply-short residential housing market. As a faculty member at JMU, I listen to my colleagues constantly comment about the shortage of homes that they can find within a mile or two commute to the university. It is in the interest of safety for my family and the overwhelming voices in our neighborhood that I strongly oppose the permit.

Abe Shearer, 802 Oakhill Drive, came forward in opposition to the request. It was noted that there was precedent in the City for other Airbnbs being approved like this and that being used as the logic for staff's favorable recommendation. I hope that is not what this body is looking at when they are making these decisions. As was noted, each neighborhood is uniquely different and comes with a different set of considerations. I do not think that the precedent should be a reason to say that it should be done here. There are a lot of new families living in this old neighborhood. A lot of people have moved out and young families have moved in. I would venture to say that it is precisely why those people bought in this neighborhood, including single-lane streets and less traffic. They paid a premium for their homes and they desired this location for those characteristics that they bought into. By changing the use from R-1 single-family to a much more intensive use,

you are bringing in not a single-family, but potentially multiple families on a night by night basis with new cars travelling through our neighborhood on a night by night basis. Our streets are narrow. There are weird turns, including a “Y” that merges. If an unfamiliar car does not recognize that one needs to stop they will get hit, there will be accidents. There is so much uniqueness and subjectivity that needs to go into a decision like this, so I hope that you have not just looked at it on paper, but have been up to the neighborhood and visited the neighborhood to see how it is very unique. There are about 30 homes in the neighborhood. You got about fifteen letters in opposition. I spoke with several that did not write letters that could not be here tonight that are elderly. There is an overwhelming opposition to this. I hope that is a part of this consideration for all of you. That is why there is a SUP process, to get the support or not the support of the neighbors. The neighbors have overwhelmingly said that we do not want to have this in our neighborhood. If we are not going to listen to the view of neighbors, then why even have a public forum for us to voice our opposition? I hope you take into account the overwhelming opposition to this request.

Chair Way asked if there was anyone else wishing to speak to the request. Hearing none, he closed the public hearing and opened the matter for discussion.

Commissioner Colman said that he is conflicted on this request because of what has been approved in the past. Neighborhoods are unique. Each neighborhood has its own character. This one is very interesting with its narrow streets, beautiful and secluded lots. People who do not know the neighborhood could run a stop sign. On the other hand, if the Airbnb has been operating for ten months and no issues have been found, that makes me question some of the concerns. I am not saying that they are not valid, however, someone said that they did not know it was in operation.

Commissioner Finks said that we have to look at each case and each neighborhood separately. The fact that they are asking for two rooms, four people, I would be very surprised if we were talking about four individuals and cramming them into two rooms. I assume it would be two couples. When I think about that, I think about by right abilities which you can already do in an R-1 neighborhood. Is the SUP more than what you can already do, by right, in any of those houses? We are simply saying that they can rent for less than 30 days. In an R-1, they can have two unrelated people. Are we really asking for more than that entire neighborhood could start doing tomorrow without coming before this body or City Council? If it was four, five or six rooms, then a lot of those concerns would really speak to me and seem like a real problem in that neighborhood. It is practically what you could do by right in an R-1 neighborhood. We could vote this down tonight and next week someone could decide to start renting out their two rooms. Those concerns could happen regardless of whatever decision we make here.

Commissioner Colman clarified that it would be long-term rentals.

Commissioner Finks said that I see it in terms of fairness to the neighborhood, but fairness to the applicant, as well.

Commissioner Finnegan said that he agrees with Mr. Shearer on one point; why have these SUP hearings if we are not going to listen to the neighbors? I do not think that we should be having these hearings at all; because I think we are regulating this the wrong way. This has come up several times. No other city, that I am aware of, in Virginia does it this way. We are looking at changing how we regulate this.

So, if we deny this request, and then we change the regulation, folks could come back and perhaps operate STRs by right. That is a possibility. We have approved a lot more rooms in other neighborhoods. More than two accommodation spaces in similar neighborhoods. We have seen people show up and speak out against an application, like we have seen tonight, and then, the next month in the same neighborhood, another one was requested, and no one showed up to speak against it.

Commissioner Colman said that in terms of the number of guests we have made a mistake in allowing large numbers in certain areas. We should consider the zoning in each area to see how appropriate it is. If we are going through the SUP and we are going to evaluate the requests, zoning and land use should be considered. We should do the same thing here. In terms of land use, what is the occupancy and how does it relate to the zoning here? In the ones where we did not consider that, I believe we made a mistake.

Chair Way said that there are many interesting, thoughtful and well-reasoned comments here. My inclination is to vote in opposition to this request. One of the reasons is the particular neighborhood's conditions. This is the neighborhood where recently we had the request on Greenbriar Drive. Part of our rationale in opposing that request was because of what it was doing to this neighborhood. This neighborhood is somewhat isolated. It is somewhat of an island. It has development coming in from all sides. Given our stated desire to protect single-family neighborhoods, this is one that we should particularly keep our eyes on. I am also convinced by arguments that pose a slight distinction from the by right situation. The assumption is that they would be long-term rentals rather than the transient aspect of the STR. The concerns in the letters from the neighbors was regarding the transience, the movement of people through there, different people coming and going. I completely see the point of what is allowed at the moment in an R-1 neighborhood.

Regarding the purpose of having a public forum, it is our job to weigh the planning regulations and ordinances with the people who know their neighborhoods the best. I do not make any claims to know this neighborhood. Here we are getting at least half, perhaps a preponderance of that neighborhood, saying that they have serious concerns about this. They are well reasoned, nothing inflammatory, reflecting on the roads, the state of the infrastructure, the state and the culture of the neighborhood. This clearly seems to cause concern. In my judgment there is nothing here that seems unreasonable. I do not think that we have to agree with everything, but clearly there is a strong neighborhood sentiment here, and I want to be respectful of that.

I think everyone is right that this comes back to some problems that we have with the SUP process for STR. We have talked about the crudeness of having a blanket kind of operation across all different zoning districts. This is an example where we do want to have a different approach potentially to a single-family neighborhood.

There is also the concern with the transferability of the SUP. I am sure that the neighbors would agree that the current owner is doing a good job. Over the past ten months it has been successful. What about down the road? What happens next? What could happen with someone who is less careful? That is my concern. I have stated these before and other people have, as well.

Commissioner Ford-Byrd said I do appreciate the sentiment of the community being expressed. I also appreciate the opportunity to write down what I think are facts. Several have been presented. I want to ask staff, we have the report and you recommended approval, had you heard from the community prior to recommending approval? What led you to recommend approval?

Ms. Banks said that the decision on the recommendation was made prior to the letters coming in.

Mr. Fletcher said that staff does not take into consideration community input in our land use decisions. We base them solely on land use and other issues that we have dealt with previously, such as other SUP, other circumstances, submissions, comparisons, etc. We could be flooded with letters, but that makes no change in how we look at items.

Commissioner Finks said that as Planning Commissioners I do want to raise caution that it is important to have these hearings and to hear the support or opposition of the community, but we have to be careful. Opposition to something in the past in a neighborhood was used in rather heinous ways. I am not making that connection here, but it is something that we have to be aware of. We cannot simply respond to the neighborhood, saying that the majority rules, because that has been used as a tool, not necessarily in Harrisonburg, but in a variety of areas. We have to be careful. We have to weigh the facts, what we are looking at in the neighborhood, and the input of the neighborhood. It cannot just be one of those considerations in our decisions.

Commissioner Finnegan said one other thing that I would like entered into the public record and I have checked on this before, and that is these notices for these public hearings get sent out to property owners, not to tenants or renters. We also have a situation, in addition to what Commissioner Finks was saying, we have a system that naturally favors property owners in getting the word out about these hearings. We have some neighborhoods that have high homeownership and other neighborhoods that have low homeownership and are predominantly renters. That should be taken into consideration.

Commissioner Finks moved to recommend approval of the SUP with conditions, as presented.

Commissioner Finnegan seconded the motion.



Commissioner Colman said that his concerns were about how we protect the neighborhoods. How do we handle these things? Our record on SUPs has been all over the place. I think it is because we are conflicted in how we handle these requests. I would rather not have anything to do with this and have this be something that is regulated in a different way or by right. As our vote goes to City Council, I will be voting in the affirmative, with the caution that I would like for City Council to consider the request in terms of what we are looking for long-term.

Commissioner Romero said that this is a very challenging spot to be in. We have talked about this before. It makes it harder on City Council, as well. At the end of the day, we have to consider the deliberations that take place here, but also keeping in mind staff’s recommendation and public opinion as well. I would like for us to move forward with a date where we can have a joint meeting with City Council and the Planning Commission. I would hate to come back every month and go through this over and over again. Many of us are not feeling very good about the decisions that we are making because of the impact that it is having on people. I always have a second opportunity. I know you do not. What I tend to do, in the meantime, is to get more information. If I vote no tonight, it means that I need more time to recognize what is missing for me to have a more sound decision. I wish to leave tonight with a better idea, potentially a timeline, of when we can meet for a joint meeting.

Chair Way said that we will discuss that and a work session during Other Matters.

Commissioner Finnegan said that he hears the concerns about safety. I have those same concerns in my neighborhood. I approved one of these in my neighborhood, just a few houses down from me. That is one of many things that attracts traffic to my neighborhood, but it is not the primary one. I would also add that part of the reason that I intend to vote in the affirmative is that we saw last month no opposition in the same neighborhood to a SUP for a STR that the month before there was a lot of opposition in that exact same neighborhood.

Chair Way called for a roll call vote.

Commissioner Colman:	Aye
Commissioner Finks:	Aye
Commissioner Finnegan:	Aye
Commissioner Ford Byrd:	No
Commissioner Romero:	No
Chair Way:	No

The roll-call vote resulted in a tie (3-3). The matter will move forward to City Council without a recommendation on November 12, 2019.

**A motion was made by Finks, seconded by Finnegan, that this PH-Special Use Permit be recommended to full council to the City Council, due back on 11/12/2019. The motion failed with a recorded roll call vote taken as follows:**

**Yes:** 3 - Colman, Finnegan and Finks

**No:** 3 - Way, Ford-Byrd and Romero

**Absent:** 1 - Whitten

## 5. New Business - Other Items

- 5.a.** Consider a request from Virginia Valley Homes, Inc. to preliminarily subdivide a +/- 5.89 acre parcel into 39-townhome parcels, two common area parcels and a +/- 2.42-acre parcel for the existing condominium development at a site located on West Mosby Road and Millwood Loop.

**Attachments:** [Memorandum](#)

[Planning Commission extract](#)

[Site Maps](#)

[Application, applicant's letter and supporting documentation](#)

[PP Millwood Townhomes](#)

[2018 Rezoning Exhibit](#)

[PowerPoint presentation](#)

[PC Memorandum](#)

[PC Site Maps](#)

[PC Application, applicant's letter and other supporting documentation](#)

[PC 2018 Rezoning Exhibit](#)

Chair Way read the request and asked staff to review.

Ms. Banks said that before getting into the details of the current request, previous development plans involving the subject property should be understood. In 2004, +/- 4.6 acres of the +/- 5.89-acre parcel was rezoned from R-2, Residential District to R-3C, Multiple Dwelling Residential District Conditional. At that time, the applicant proffered (written verbatim):

1. If rezoned to R-3 conditional, the subject property will be developed in substantial conformity to the existing property under development by contract purchaser lying directly east to the subject property along West Mosby Road for condominium units.
2. Applicant and purchaser further proffer that 4.6 acre +/- subject property will be developed for condominium units in no greater density than that shown in the "Preliminary Master Plan of Millwood Condominium, Harrisonburg, Virginia", dated August 18, 2004, and submitted by the contract purchaser in connection with the application.

In March 2006, the City approved an engineered comprehensive site plan (ECSP) for a project called "Millwood Condominiums, Phase II." At that time, the property owner intended to construct eight buildings consisting of a total of 86-apartment-style condominiums on the site. A Land Disturbing Permit was issued for the project and the applicant completed the construction of

water, sanitary sewer, and stormwater facilities, along with the private drive for the development. As well, 44 of the condominium units were constructed.

In July 2018, Planning Commission reviewed and recommended approval of a rezoning request to remove existing, regulating proffers that controlled development on the vacant area of the property and submitted new proffers for the +/- 3.47 acre site so that townhomes could be constructed; the 2004 proffers had stated that the units would be condominiums. City Council approved the rezoning request for R-3C, Medium Density Residential District Conditional, with the submitted proffer (written verbatim):

1. If rezoned to R-3, Medium Density Residential District, the 3.47 acre portion of the subject property will be developed in no greater density than 39 units, as shown on the "Rezoning Exhibit" dated June 29, 2018 and submitted in connection with the application.

A copy of the 2018 rezoning exhibit is attached herein.

The Comprehensive Plan designates this site as Medium Density Residential. These areas have been developed or are planned for development of a variety of housing types such as single-family detached, single-family attached (duplexes and townhomes), and in special circumstances, multi-family dwellings (apartments). Depending on the specific site characteristics, densities in these areas should be around 15 dwelling units per acre. Non-residential uses may also be appropriate.

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

- Site: Vacant land, zoned R-3C  
North: Across West Mosby Road, undeveloped land, zoned B-2C  
East: Portion of subject parcel containing multiple-family dwelling units, zoned R-3C and R-3  
South: Multiple-family dwelling units, zoned R-3  
West: Undeveloped land, zoned R-2 and R-3C

The applicant is requesting to preliminarily subdivide a +/- 5.89 acre parcel into 39-townhome parcels, a +/- 2.42-acre parcel for the existing condominium development, and two common area parcels; one of the common area parcels will serve as the stormwater BMP area for the development. Townhome development is permitted by-right within the R-3, Medium Density Residential district, but the applicant is requesting a variance to Section 10-2-42(c) of the Subdivision Ordinance as the 39-townhome lots would not have public street frontage, thus the variance must be approved to allow for the development to be subdivided and constructed as townhomes. Since the development would be served by a private street, the City will not provide street maintenance, snow removal, or trash pick-up.

The proposed preliminary plat layout shows that the private street, parking areas, and location of buildings are relatively similar to the condominium layout shown on the "Millwood Condominiums,

Phase II” ECSP approved in 2006, except that the townhomes will now replace four of the previously proposed condominium buildings. Water and sanitary sewer service is available to each of the townhome lots. The layout shows 98 parking spaces provided along the private streets, meeting the minimum off-street parking requirements per the Zoning Ordinance for the townhome development. The boundary area for the stormwater BMP is also shown on the preliminary plat.

The applicant is aware that the City’s Subdivision Ordinance and Design & Construction Standards Manual requires them to construct all necessary street improvements along the frontage of West Mosby Road, for both the existing Millwood Condominiums, Phase II and the proposed Millwood Townhomes. As indicated on the preliminary plat, additional right-of-way will be required to be dedicated along West Mosby Road in which to construct the remaining curb-and-gutter, grass strip, and sidewalk. The exact amount of right-of-way necessary will be determined prior to final platting.

Aside from the variance that is requested to allow the 39-townhome lots to not have public street frontage, the development meets all other requirements of the Subdivision and Zoning Ordinances. As townhome development is a by-right use within the R-3, Medium Density Residential district and the preliminary plat meets the proffer of the June 2018 rezoning of no more than 39-units, staff recommends approval of the preliminary plat and variance as requested.

Chair Way asked if there were any questions for staff. Hearing none, he noted that there would be no public hearing, however, he invited the applicant or applicant’s representative to speak to the request.

Carl Snyder, Valley Engineering, came forward to answer any questions the Planning Commission may have. There were no questions.

Commissioner Finnegan said that the addition of the sidewalk is a good addition. He moved to recommend approval, as presented.

Commissioner Finks seconded the motion.

Commissioner Colman said that this project is a good thing to see in terms of affordable housing. We have been looking for this. It is located in an area that will most likely not be students. It appears to be affordable housing. It is what I expect to see there.

Commissioner Finks said that it is a good location for something like this.

All members voted in favor of recommending approval (6-0). The recommendation will move forward to City Council on November 12, 2019.

**A motion was made by Finnegan, seconded by Finks, that this Action Item be recommended to full council to the City Council, due back by 11/12/2019. The motion carried by a voice vote.**

- 5.b. Consider a request from Harrisonburg City Public Schools for approval of the minimum off-street parking spaces to be provided for the additional high school located adjacent to I-81 adjacent to I-81 and between Boxwood Court and East Kaylor Drive.

**Attachments:** [Staff Report PC Parking Review \(Additional High School\)](#)

[Site maps](#)

[Applicant's letter](#)

[Conceptual layout of off-street parking spaces](#)

Chair Way read the request and asked staff to review.

Ms. Dang said that the Comprehensive Plan designates this area 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 parcels, zoned B-2

North: Self-storage units, zoned M-1

East: Across Interstate 81, Ramblewood Park, zoned R-1; and a manufacturing facility, zoned M-1

South: East Kaylor Park Drive and undeveloped parcels, zoned B-2

West: Undeveloped parcels, automobile dealership, offices, and commercial uses, zoned B-2

During Summer 2018, City Council and the School Board jointly announced the purchase of +/- 60 acres of land for an additional high school. The land is adjacent to I-81 between Boxwood Court and East Kaylor Park Drive. In June 2019, Planning Commission reviewed the high school site per City Code Section 10-1-6 and determined that the public facility is in substantial accord

with the Comprehensive Plan as provided by the Code of Virginia Section 15.2-2232. In July 2019, City Council rezoned the site from R-5C, High Density Residential District Conditional to B-2, General Business District.

In order to continue with site design, review and approval by Planning Commission of the proposed number of minimum off-street parking spaces is required per Section 10-3-25 (12) of the Zoning Ordinance (ZO). Section 10-3-23 (12) requires the following:

Elementary schools, junior or senior high schools, or equivalent facilities:  
Proposed off-street parking spaces shall be programmed by the applicable school authorities as necessary to meet state standards for use and consideration of site locations, then submitted to the planning commission for comprehensive site plan review.

This process includes for HCPS to determine the amount of parking they believe is adequate for their site based on division and state agency recommendations. Within the attached layout titled "New Harrisonburg High School, Parking Calculations," HCPS has indicated that they have used the document titled "Guidelines for School Facilities in Virginia's Public Schools" prepared by the Virginia Department of Education (DOE) to determine Virginia DOE's suggested number of parking spaces. The Virginia DOE document states that:

Adequate parking for staff and an additional 10 percent to 20 percent parking space for visitors should be provided. Student parking to accommodate one-third of the student enrollment should also be provided.

HCPS states that there will be approximately 200 staff members who will be employed at the school, however, not all would be in the building at the same time. HCPS also estimates that there will be 1,200 students at the high school. Therefore, the total number of parking spaces suggested by the Virginia DOE is 565 parking spaces. The school is proposing to provide 646 parking spaces on the school property, 610 of which are located adjacent to the school in lots described on the layout as student lot, west teacher lot, and east teacher lot. Another 36 parking spaces will be provided further from the school building and closer to the athletic fields.

An additional 50 on-street parking spaces will be constructed as part of the new public street that is proposed to run along the western boundary of the school property to generally connect East Kaylor Park Drive on the southern end of the property to the Boxwood Court public street right-of-way on the northern end of the property. However, the 50 on-street parking spaces are not to be counted as part of meeting the school's off-street parking requirements.

Staff has no concerns with the proposed number of minimum off-street parking spaces and recommends approval of 646 as the minimum number of required off-street parking spaces for the additional high school.

HCPS understands parking lot landscaping requirements, among other details, would be reviewed

during the engineered comprehensive site plan phase of development to ensure that regulations are met.

Chair Way asked if there were any questions for staff.

Commissioner Finks said that there are 23 ADA spaces provided. If my reading is correct, there would not be any ADA spaces for the baseball/softball parking. Is that the van accessible lot that is being included as an ADA lot?

Ms. Dang said that there is a representative from the City schools present who might know. The layouts provided in the packets appear to show handicap accessible spaces near the athletic fields.

Chair Way noted that there would not be a public hearing, however, he invited the applicant or applicant's representative to speak to the request.

Carl Snyder, Valley Engineering, and Craig Mackail, Harrisonburg City Public Schools, came forward in support of the request.

Mr. Snyder said that there are ADA spaces in the two parking lots away from the school. One is at the football stadium and there is a small lot close to the softball field. Both contain ADA spaces that meet the minimum requirements for the total number of parking spaces. I believe they exceed those minimum requirements because we wanted to make sure that we had enough ADA parking as a matter of practicality. It was strategically placed.

Mr. Mackail said that the lots are very small around the athletic fields. They will probably be used only as ADA parking. People who are not handicapped will park at the school and we will reserve the entire lot for ADA and others who would have difficulty walking from the school.

Mr. Fletcher said that he is questioning the recommendation of the minimum parking requirements. The minimum in the Zoning Ordinance says that it should be the minimum as regulated by the applicable school authority. The applicable school authority says that the total number of parking spaces suggested by Virginia Department of Education is 565 parking spaces. They are providing 646 parking spaces. They are going over the minimum.

Ms. Dang said that the recommendation would then be the 565 parking spaces.

Mr. Snyder said that based on the "Guidelines for School Facilities in Virginia's Public Schools," the breakdown on the slide did recommend 565 parking spaces. That is what we saw as the minimum requirement. Between the different parking lots and the strategic use of those parking lots, we will end up with 646 parking spaces, but we do see the minimum requirement as 565 parking spaces. I would hate to see 646 as the minimum that we are held to going forward from tonight because if something were to come up during the comprehensive site plan review process

where we lost one parking space then it would require for us to come back.

Chair Way said that the number that you are proposing here of 646 is a guideline or rough estimate, but you are adhering to the 565 minimum.

Ms. Dang said that she is comfortable with the logic of 565 parking spaces, but that is not what we have done in the past. In the past, it has been the number that was presented to us. With the existing Harrisonburg High School, for example, they programmed 600 and that is what we enforced.

Mr. Fletcher asked if we had the referenced document at the time of the existing Harrisonburg High School?

Ms. Dang said that she did not see that in the file.

Mr. Fletcher said that in the past we may have gone on the word of what the City of Harrisonburg Public Schools was presenting as the appropriate school authority.

Mr. Mackail said that the guidelines is a Virginia Department of Education publication. They give guidelines for every part of the building, including parking lots. I think that we did reference that, as a guideline, but did not footnote it in the report to state that is was a DOE guideline. They are guidelines. We are not held to a standard.

Mr. Fletcher said that our process has evolved. When we did Bluestone Elementary School we had this document. It was readily available to us.

Ms. Dang said that staff is comfortable with changing the number and making the recommendation for approval of 565 as the minimum number of off-street parking spaces. HCPS can certainly do more.

Commissioner Colman said that if staff can make those decisions, why does it come before the Planning Commission? I state that as a matter of fact. What are we here for? What are we reviewing? What are we looking at? The recommendation comes from staff to us. Is it an ordinance that it has to be a Planning Commission decision with staff recommendation or could it be a decision made by staff? I do not see why staff could not make the decision themselves. It is a formality at this point.

That said, I think that as a Planning Commissioner and as a user, I agree with the recommendation with regard to the number of parking spaces.

Commissioner Finnegan said that we have asked that same question regarding public utility hookups into the County.



Commissioner Colman said that we need to look at the big picture. As we approved the location of the school before, we considered whether it is adequate and in conformance with the Comprehensive Plan, here we are looking at whether this parking is adequate. Is this parking plan so limiting that students might park somewhere else? Those are the things we need to be thinking about, otherwise it is just a formality.

Mr. Fletcher said that when you take the overall comprehensive approach, if the school decides that they do not want to provide 646 because they want to reduce their pavement, or they want to reduce the scale, they have that opportunity. If they built less, and ten years down the road realize that they need the extra spaces, they will have the flexibility to do that.

Commissioner Finnegan asked if there is any estimate regarding the cost per parking space.

Mr. Mackail said that he does not know the cost per parking space. We do not have a price for the building, yet. By the first week of November, we will have a guaranteed maximum price for the building. I can find that out, if you are interested.

Commissioner Finnegan said that he is interested in that information.

Commissioner Colman stated he is also concerned with the amount of pavement relative to green spaces, runoff and pollutant loads. The assessment of how much you really need is important.

Mr. Mackail said that the parking is based on a building with the effective capacity of 1,200 students. We will not open that building at 1,200. We will open with significantly less than that. We expect to have more growth in the City that will fill that building. My experience is that we have added at our schools when we have had growth in enrollment. Keister Elementary School is a perfect example of how people park on the street because we do not have enough parking on campus. There are a lot of schools like that now. That is based on the new high school being at its effective capacity. It will, hopefully, be a number of years before we reach that.

Commissioner Colman asked, for you to move forward, can we recommend that the minimum is much less than that and you can grow to whatever you need to grow, if you have the space for it. I am afraid that our recommendation forces you to build all those parking spaces.

Mr. Mackail said that you build towards what will be in that building: student load, faculty load, athletic events. You have to also build with the idea that, if you have a major event at the building, you can accommodate those spaces. You have to build some room in there. If you do not build as much as you need, it can be expensive to come back and do it. You build to the capacity of the building and add some more. Unfortunately, you can never have too much parking.

Commissioner Finnegan said that he disagreed with the statement that you can never have too much parking, however, it is better to add parking spaces than it is to add trailers to the parking lot.

Mr. Mackail said that if you look at the current high school, with the mobile units on it, we have lost over 100 parking spaces.

Commissioner Finks said that if you look at this area, the surrounding area, there already is a lot of parking lots. A lot of them have cars for sale on them, but we are talking about a section of town where a good portion of it is already paved. Considering that there will be expansions for events, I would hope that there could be an arrangement that could be made with the hotels or the other existing paved lots.

Mr. Mackail said that we do that with some events now. If we have a big event at the high school, we will park people at Thomas Harrison Middle School and run a shuttle bus. Now we can park at Bluestone Elementary School and run a shuttle bus. The additions we have done at some of our buildings are six, seven, or eight spaces; not large parking lots.

Commissioner Finnegan noted that this does not go to City Council, so our decision would lock them into 565 spaces. We are trying to give you some wiggle room.

Mr. Snyder said that the 565 spaces does. The 646 did not.

Chair Way asked if there were any more questions for the applicant. Hearing none, he opened the matter for discussion.

Chair Way said that the question about parking maximums as opposed to parking minimums would get to the bigger point. I think that it is good that the City is held to some standards in the same way as private businesses coming in. It makes sense to review this.

Commissioner Colman moved to approve the request for the minimum off-street parking for the proposed new high school, as amended to reflect the change to a minimum of 565 parking spaces.

Commissioner Finks seconded the motion.

All members voted to approve the request, as amended (6-0).

**A motion was made by Colman, seconded by Finks, that this Action Item be approved as amended. The motion carried by a voice vote.**

- 5.c.** Consider a request from Orange Sky Investments LLC for a special use permit to allow for a short-term rental at 165 New York Avenue

**Attachments:** [Memorandum](#)  
[Planning Commission extract from October 9, 2019](#)  
[Site maps](#)  
[Application, applicant letter and supporting documents](#)  
[Applicant's updated email dated August 28, 2019](#)  
[Written public comments received between Oct 4 thru Nov 4, 2019](#)  
[PowerPoint presentation](#)  
[PC Staff Report](#)  
[PC Minutes Extract](#)  
[Public Hearing Notice](#)  
[PC Staff report for August 14, 2019](#)  
[CC Memorandum for September 10, 2019](#)  
[Surrounding Property Owners Notice](#)  
[Written public comments received as of October 3, 2019](#)

Chair Way read the request and asked staff to review.

Ms. Dang said that the Comprehensive Plan designates this site as Neighborhood Residential. These areas are typically older residential neighborhoods, which contain a mixture of densities and a mixture of housing types, but should have more single-family detached homes than other types of housing. This type of land use highlights those neighborhoods in which existing conditions dictate the need for careful consideration of the types and densities of future residential development. Infill development and redevelopment must be designed so as to be compatible with the desired character of the neighborhood.

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

Site: Single-family detached dwelling, zoned R-2  
North: Single-family detached dwellings and duplexes, zoned R-2  
East: Single-family detached dwellings, zoned R-2  
South: Single-family detached dwellings, zoned R-2  
West: Single-family detached dwellings, zoned R-2

A request from the applicants to operate a short-term rental (STR) in a seven-bedroom, single-family detached dwelling located at 165 New York Avenue to a maximum of 14 STR guests during the lodging period was received by Planning Commission on August 14, 2019. Staff had recommended that the special use permit request be denied. The property was not the applicants' primary residence and there would be no STR operator present during the lodging period. Planning Commission also recommended denial (6-0) of the special use permit request. The meeting minutes extract is attached.

On August 28, 2019, the applicants submitted an email explaining that since the August 14, 2019 Planning Commission meeting, one of the applicants/property owners would be moving to 165

New York Avenue and will make it his primary residence. The applicant does not intend to be present during the lodging period. The applicant had also reduced the requested number of STR guests at any one time from 14 to 12. The applicant's email is included as an attachment.

Staff presented the updated request to City Council on September 10, 2019. Given that the circumstances of the request had changed and made it similar to previously approved requests, staff's recommendation also changed. Because the City has approved multiple STR SUP applications in similar locations throughout the City and with comparable operating situations, staff recommended approval of the request with the following conditions:

1. The site shall be an operator's primary residence.
2. If an operator is not the property owner, then an operator shall be present during the lodging period.
3. All STR accommodations shall be within the principal structure.
4. There shall be no more than seven STR guest rooms or accommodation spaces.
5. The number of STR guests at one time shall be limited to 12.
6. Prior to operation, the operator shall submit to City staff a completed Short-Term Rental Pre-Operation Form. Furthermore, the operator shall maintain compliance with the Pre-Operation Form when short-term rental guests are present.
7. Minimum off-street parking spaces do not need to be delineated and can be accommodated utilizing the driveway or other areas on the property.
8. If in the opinion of Planning Commission or City Council, the short-term rental becomes a nuisance, the special use permit can be recalled for further review, which could lead to the need for additional conditions, restrictions, or the revocation of the permit.

Given the changes to the application since Planning Commission's first review, City Council did not take action on this item and referred it back to Planning Commission for review and recommendation. The City Council meeting minutes extract is attached.

Chair Way asked if there were any questions for staff.

Commissioner Colman said that the property owner is Orange Sky LLC, so is the expectation that one of the partners or owners would live there.

Ms. Dang said that is correct.

Commissioner Ford-Byrd asked what would be proof of living in the home. Would this happen after there is some community feedback or opposition or is this something that you would monitor?

Ms. Dang said that it could be either.

Commissioner Colman said that there was mention of a violation. Is there any more information on

that?

Ms. Dang said that on August 27th the City sent a notice of violation to the owners because we found that they were operating their STR without an approved SUP. They have paid the \$100 penalty and, as far as we know, they have not operated.

Commissioner Finnegan said that the reasons he voted against the original request were that it was not owner occupied and it was the first one that I had seen that had a third-party management company. I suppose there is no legal difference between the other STRs that we have approved. If they wanted to switch to using a service like that, a third-party service, they could.

Mr. Fletcher said that they have to use it. Airbnb is a third-party service.

Mr. Russ said that he means a third party managing the STR. Someone else would be doing the advertising. They might be doing the cleaning. They are communicating with the guests. They are handling virtually everything. He is simply the person who owns the company.

Commissioner Finnegan said that it could be an outside firm with many properties all over the country.

Commissioner Finks asked if that calls into question who is the operator.

Chair Way said so you are saying that it does not matter whether it is a primary residence or not.

Commissioner Finks said that it has to be the operator's primary residence. What makes someone the operator if all of the work is being done by someone else? Are they the operator?

Commissioner Ford-Byrd asked if that is still the plan. If the operator is living in the residence, is Evolve still going to be involved?

Commissioner Colman said that we have talked about this before, about defining who an operator is. Now it has come up again.

Chair Way asked if there were any more questions for staff. Hearing none, he invited the applicant or applicant's representative to speak to the request and clarified that it was not a public hearing.

Wes Smallwood, 165 New York Avenue, came forward to speak to the request. We did have the violation after the last Planning Commission meeting. We were fined. We paid the fine before the City Council meeting. We come before you tonight to see if you would reconsider our petition. I have taken primary residence there. As my proof of residence, I have all the supporting documents. There is a monitor on site that monitors a heart condition that I have it is connected to the University of Virginia. It is in constant communication with UVA. I can answer any other questions that you may have.

Chair Way asked him to speak to the question about the operator.

Mr. Smallwood said that we are the operator. Evolve Vacation Rentals markets the property and they book it. It is not a property management company.

Commissioner Colman said that based on the City Council meeting there were some things said about the violation and your own comments about having the property rented for this month and next month, is that still the case? Are you still in violation?

Mr. Smallwood said that we spent a large part of the time going back and forth with that. We did have a booking on August 23. When we called Evolve and asked them to take everything down, they missed that booking. The people were coming from Orlando and we did not want to cancel them at the last minute. We kept that booking. We have not had a booking since then. Even then, on the 23rd, you could see our listing, but you could not book it. They had shut down the opportunity to book our property.

Commissioner Ford-Byrd said that you stated that Evolve is the platform that will advertise your property, but in your email, you also said that you are not going to be present during the lodging period. Is Evolve also who guests would call if something happens? Are they reaching out to you or to the company?

Mr. Smallwood said that all of our personal information is posted at the property. The first call should be to us. If they do call Evolve, the next call is to us.

Dionne Jones, 930 Turkey Run Road, said that for all Airbnbs, if something goes wrong, Airbnb wants you to call them first.

Commissioner Finks said that the owner will not be present during the lodging. Typically, the wording has been that the operator does not have to be present during the lodging period. You plan to not be present during any of the lodging periods. How do you plan to keep it as your primary residence? How many times a year are going to be renting this out if you are not going to be there during the lodging period?

Mr. Smallwood said that generally our bookings run from Friday to Sunday. I will be there Monday through Thursday. I am there at times during the lodging periods, meeting guests.

Commissioner Finks asked where are you going to be the other times? I assume you will have lodgers throughout the year, as much as you can. If it is going to be your primary residence and you are gone three days a week, it is difficult to see it as your primary residence.

Mr. Smallwood said that it sounds like we need a legal definition for what is a primary residence. The way I understand it, it is ok that we do this.

Commissioner Colman said that you came with one request and now, given our conditions, you have changed your situation so that you can operate it. It is difficult for us to believe that. I understand what you are trying to do. You have an investment property and you are trying to make it work. If your home is going to be occupied and you will not be there, you certainly have another home. Which one is the primary residence? We had that issue come up before. We had that discussion about what determines a primary residence. We have had those discussions and have tried to balance that. We have not reached a resolution on that. We do not know what a primary residence is.

Mr. Smallwood said that he is there every night, overnight.

Commissioner Colman said except when it is being rented.

Chair Way asked if there were any further questions for the applicant. Hearing none, he opened the matter for discussion.

Commissioner Finnegan said that it is a difficult case because it barely fits the definition of what we are looking for in a rather adaptive way. We did turn one down on Nelson Drive where it was an occasional or secondary residence. That is what this feels like to me.

Chair Way said that he has problems with the twelve people in a residential area. That is the big issue, in addition to the things you are talking about.

Commissioner Colman said that a SUP can be recalled if there are complaints or violations of the permit. There was a violation in between getting the permit; that is a concern. If we have violations before the permit is issued, then what are we to expect. They are aligned with what they are trying to do. It is different in that way. It is not a complaint as a nuisance, but as the illegal use of the property.

Commissioner Finnegan said that it may tie in, moving forward, if we decide to regulate these differently, this sheds light on an issue of taking people's word for whether it is their primary residence. We have denied other requests on the basis that the property is not the primary residence. If those people came back and said the same thing, that they are now residing at the property, would we approve them?

Chair Way said that we need to have consistent guidelines about what constitutes a primary residence.

Commissioner Finks said that many of his friends in high school went to college at JMU. At that time, their primary residence was still their parent's house even though they did not live there. They got their mail there; they were registered to vote there; their driver's license was there; and their taxes went there, but they lived on campus or in an apartment. I have a difficult time with

determining what a primary residence is. You could have everything registered at an address and step foot in it once a year, although legally they should not be doing that.

Mr. Russ said that there is a difference. It may be confusing. You can have your residence where you live, and you can have your domicile, which is where you intend to return at some point. Many college students, even though they live three quarters of the year in Harrisonburg, may have their domicile somewhere else. They can continue to claim that as their domicile as long as they genuinely intend to return there, at some point, or you have not found somewhere new where you intend to stay permanently.

Commissioner Finnegan said that the permanence that we have already approved is done. Would it make sense, in the future, to amend the language to say that the site shall be the operator's primary residence and domicile? Or does that do nothing legally?

Mr. Russ said that with primary residence you are capturing the idea that they need to physically be there at night, 180 days or so a year. Domicile is not technically a place they have to live in. A primary residence requires that you live in it for more than one half of the year.

Commissioner Colman said that could be an answer. We can state 183 or 185 days as a primary residence.

Chair Way said that we can explore these issues at the work session.

Commissioner Ford-Byrd moved to recommend denial of the request.

Commissioner Finks seconded the motion.

Mr. Fletcher asked that the commissioners explain their votes for the benefit of City Council.

Chair Way said that the confusion about what is a primary residence is a factor. I also have a problem with the twelve guests, as it seems to be a large number for a residential neighborhood.

Commissioner Finks said that he has three reasons. One, the inability to agree on what a primary residence is. I do not know if this fits. Second, I share the concern with the number of guests; twelve seems like a lot for this area. Third, while it seems that there were extenuating circumstances, and I understand the circumstances, it does concern me that there was a violation between when this was submitted and when it went before City Council.

Commissioner Finnegan said that he will also be voting for denial. I do not want to create a loophole where people who have been previously denied can come and say that they have moved to the address. I also share the concern with the number of guests. In a different house or a different neighborhood, I might feel differently about the twelve guests.



Commissioner Colman said that his opinions are along the same lines. City Council is asking for our opinion and it is their decision. They have looked at our previous records to make the decisions. If they were to approve this, I would be very concerned about the numbers. The numbers should be more consistent with the neighborhood as to what number would be an adequate number in terms of occupancy. The operator also concerns me. We need to define it, determine what it means. The violation concerns me, as well.

Commissioner Ford-Byrd said that she agrees with all that has been said. I do not think there is any realistic way to monitor the situation with having twelve individuals in one home. I do not agree with that.

All members voted in favor of recommending denial (6-0). The recommendation will move forward to City Council on November 12, 2019.

**A motion was made by Ford-Byrd, seconded by Finks, that this Special Use Permit be recommended for disapproval to the City Council, due back by 11/12/2019. The motion carried by a voice vote.**

## 6. Unfinished Business

None.

## 7. Public Comment

None.

## 8. Report of Secretary & Committees

### 8.a. Proactive Code Enforcement

Ms. Banks said that for the month of September 2019, the proactive code enforcement program inspected the Hawkins section of the City. Violations related to junk, signage, and inoperable vehicles were found. The proactive zoning program for October 2019 will be directed toward the Forest Hills & JMU section of the City.

#### 8.a.a. September 2019 Proactive Code Enforcement Report

Attachments: [Report](#)

### 8.c. Rockingham County Planning Commission Liaison Report

Commissioner Colman said that the United Way presented on affordable housing opportunities and the ALICE report. We heard a similar report from them. It is always helpful, and we need to continue thinking in terms of how we can help. I know that affordable means different things, but I am thinking about affordable for low-income affordable housing, which is difficult to come by.

There were some items that were still tabled. The Brentwood Subdivision Master Plan was amended; there were concerns about stormwater. Capacity of the Montevideo Middle School

was discussed. There were concerns about this neighborhood increasing the number of homes and continue to overcrowd the middle school.

The rest of the items were housekeeping items. The Urban Development Area (UDA) advisory committee was also coming back on as the County was getting ready to approve that. I think Ms. Dang and myself are on that committee, so we will be there meeting with them sometime at the end of this month.

#### **8.b. Board of Zoning Appeals Report**

Commissioner Colman said that the property that came before the BZA for a variance on setbacks was one that came in for a SUP for a STR on 990 Summit Avenue. The parking area is set on retaining walls, up high. They were looking for a variance in order to build a carport. The BZA is being stricter on the interpretation of a hardship. If you have use of your property, there is no hardship. The request was denied.

#### **8.d. City Council Report**

Commissioner Romero reported for City Council. The SUP application for 511 Paul Street was tabled by the applicant when it left Planning Commission, but it came back. The application was passed (3-1). I voted no because I had mentioned that I wanted to talk with the neighbors but had not because it was tabled. When it came back, I did not have enough time. Planning Commission recommended approval for 551 Myers Avenue and it was approved (4-0). The SUPs for 231 West Grace Street and 85 West Gay Street were approved. The rezoning for 709 and 711 Foley Road was approved. The project next to Woodland, we spent a lot of time with that particular one and it had lots of public comment. One of the councilmembers was not able to be there and he wanted to be part of the discussion, so the item was tabled. We will decide on that in two weeks.

Mr. Fletcher said that the preliminary plat for the Heifer Investments Subdivision along Waterman Drive was also approved.

## **9. Other Matters**

Chair Way asked if the Planning Commission wanted to talk about planning a joint meeting and when that would happen. The work session is on October 29th.

Ms. Dang said that there are three items on the agenda for the next month's Planning Commission meeting. One had been tabled from this month. That is the rezoning request on Keezletown Road for the co-housing, also called the Juniper Hill Commons. We anticipate that they will be submitting an application for you to receive next month. The other item is a SUP for a facility on Deyerle Avenue that is requesting an eight-foot tall fence. The third is the Sign Ordinance. Our Zoning Administrator, Rachel Drescher, will be with us that evening to present the Sign Ordinance to you.

Chair Way said that the work session is scheduled for October 29th. This will be just the Planning

Commission, not City Council.

Ms. Dang said that it will be October 29th, at 2:00 p.m. We will meet in Room 237 on the second floor of City Hall. It will be a work session for the Planning Commission. In advance of the work session, I will send an updated summary spreadsheet and summary of what has occurred in terms of decisions, staff recommendations, Planning Commission recommendations and City Council's final determinations on each of the applications that have come before you. Based on the conversations that this body has had at these regular meetings, I will compile a list of questions that I will send to you in advance to help guide our discussions. You can make your recommendations regarding direction and what you would like to explore further. At the end of the meeting, I would like to discuss whether we need to have a joint meeting with City Council based on how your conversation goes. If you find that, as a group, you have a recommendation to forward to City Council you can do so. If you need input from City Council, then that may be the reason for the work session. Councilman Jones wanted to make sure that we knew what we want to ask them or what we want to talk to City Council about before we schedule that meeting.

Commissioner Romero said that he wants to make sure that the Planning Commission knows that he has the support to bring the meeting together whenever we need it.

Ms. Dang said that if we want to meet with City Council, it would not happen until November. We can coordinate a date if it is needed.

Chair Way said that it is clearly on the agenda on October 29th to talk about a potential meeting.

Ms. Dang said that the work session is planned for two hours.

Commissioner Finks asked how many commissioners would be able to attend the meeting.

Commissioner Finnegan said that he will be making every effort to be there, but that he might not be at the next Planning Commission meeting.

Ms. Dang said that the public will be notified that there will be a work session occurring.

## **10. Adjournment**

The meeting adjourned at 8:47 p.m.

## **NOTE TO THE PUBLIC**

Staff will be available at 4:30 p.m. on the Tuesday before the next Planning Commission meeting for those interested in going on a field trip to view the sites on the next agenda.

Language interpretation service in Spanish is available for City Council meetings. To ensure that interpreters are available at the meeting, interested persons must request the accommodation at least four (4) calendar days in advance of the meeting by contacting the City Clerk at (540) 432-7701 or by submitting a request online at: [www.harrisonburgva.gov/interpreter-request-form](http://www.harrisonburgva.gov/interpreter-request-form)

El servicio de intérpretes inglés-español está disponible para las reuniones públicas del consejo municipal. Para asegurar la disponibilidad de intérpretes, cualquier interesado deberá solicitar la presencia de un intérprete al menos cuatro (4) días calendarios antes de la reunión comunicándose con la Secretaría Municipal al (540) 432-7701 o por medio de la página por internet al:

<https://www.harrisonburgva.gov/interpreter-request-form>