



# City of Harrisonburg, Virginia

## Department of Planning & Community Development

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Building Inspections  
Engineering  
Planning & Zoning

To: Eric Campbell, City Manager  
From: Adam Fletcher, Director – Department of Planning and Community Development; and Harrisonburg Planning Commission  
Date: May 28, 2019  
Re: Rezoning (B-2 to R-5C) and Three Special Use Permits to Allow Multi-Family Dwellings of More Than Twelve Units Per Building, Multi-family Buildings Greater than Four Stories and/or 52 Feet in Height, and to Allow Retail Stores, Convenience Shops, Personal Service Establishments, Restaurants (Excluding Drive-Through Facilities), and Business and Professional Offices at the site, which is located along Peach Grove Avenue.

### **Summary:**

Public hearings to consider four requests from Skylar & Talli, LLC to construct a mixed-use development containing non-residential and residential uses. The requests are:

- To rezone one parcel from B-2, General Business District to R-5C, High Density Residential District Conditional.
- For a special use permit to allow multi-family dwellings of more than 12 units per building per Section 10-3-55.4(1) of the Zoning Ordinance.
- For a special use permit to allow multi-family buildings to be greater than four stories and/or fifty-two (52) feet in height per Section 10-3-55.4(2) of the Zoning Ordinance.
- For a special use permit to allow retail stores, convenience shops, personal service establishments, restaurants (excluding drive-through facilities), and business and professional offices per Section 10-3-55.4(4) of the Zoning Ordinance.

The +/- 5.44-acre property is addressed as 1051 Peach Grove Avenue and is identified as tax map 92-F-10. The parcel is currently undeveloped, has approximately 430 feet of Peach Grove Avenue linear street frontage, and is adjacent to the Port Crossing Shopping Center.

Staff recommended denial of the rezoning and Planning Commission also recommended denial with a 4-3 vote. However, if the rezoning is approved, staff and Planning Commission (7-0) recommended approval of all three special use permit requests.

### **Background:**

The Comprehensive Plan designates this area as Mixed Use. The Mixed Use designation includes both existing and proposed areas for mixed use. Mixed Use areas shown on the Land Use Guide map are intended to combine residential and non-residential uses in neighborhoods, where the different uses are finely mixed instead of separated. Mixed Use can take the form of a single building, a single parcel, a city block, or entire neighborhoods. Quality architectural design features and strategic placement of green spaces for large scale developments will ensure development compatibility of a mixed use neighborhood with the surrounding area. These areas are prime candidates for “live-work” and

traditional neighborhood developments (TND). Live-work developments combine residential and commercial uses allowing people to both live and work in the same area. The scale and massing of buildings is an important consideration when developing in Mixed Use areas. Commercial uses would be expected to have an intensity equivalent to a Floor Area Ratio of at least 0.4, although the City does not measure commercial intensity in that way. Downtown is an existing area that exhibits and is planned to continue to contain a mix of land uses. The downtown Mixed Use area often has no maximum residential density, however, development should take into consideration the services and resources that are available (such as off-street parking) and plan accordingly. Residential density in Mixed Use areas outside of downtown should be around 24 dwelling units per acre, and all types of residential units are permitted: single-family detached, single-family attached (duplexes and townhomes), and multi-family buildings. Large scale developments, which include multi-family buildings are encouraged to include single-family detached and/or attached dwellings.

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

Site: Undeveloped property, zoned B-2

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

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

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

West: Undeveloped property, zoned B-2

**Key Issues:**

The applicant has submitted four separate applications. The first is to rezone a +/- 5.44-acre site from B-2, General Business District to R-5C, High Density Residential District Conditional. Because the applicant would like to construct a building with more than 12 multi-family units per building, the second request is for a special use permit (SUP) per Section 10-3-55.4(1) of the Zoning Ordinance (ZO) to allow multi-family dwellings of more than 12 units per building. (Note: Constructing multi-family dwellings of not more than 12 units per building is a by right ability in the R-5 district.) The third request is a SUP request per Section 10-3-55.4(2) of the ZO to allow multi-family buildings to be greater than four stories and/or fifty-two (52) feet in height, and the fourth and final application is a SUP request per section 10-3-55.4(4) of the ZO to allow retail stores, convenience shops, personal service establishments, restaurants (excluding drive-through facilities), and business and professional offices. If approved, this SUP allows the above noted non-residential uses either within a stand-alone building not exceeding a floorplate of 7,500 square feet or within the entire first floor of any building of any size that is considered a mixed-use building (having residential and non-residential uses).

If all the requests are approved, Skylar & Talli, LLC plans to construct one, six-story mixed-use building containing non-residential and multi-family residential units. The applicant's letter describes plans for the building to contain approximately 16,000 sq. ft. of retail (i.e. non-residential) space that may include uses such as restaurants, coffee shops, bookstores, clothing retailers, and convenience stores. The applicant also plans to include the following on the first floor of the building: interior dumpster facilities, a loading dock to serve both retail and residents, and residential amenities such as a lobby, exercise room, computer room, laundry facilities, and space for bike storage. The second through sixth floors of the building are planned to contain apartments with 1, 2, 3, and 4-bedroom

configurations. The applicant's letter describes plans for a total of 120 multi-family dwelling (apartment) units.

At this time, the applicant does not know how tall the planned building will be as architectural drawings are not planned to be completed until the next phase of the project. For comparison, the building at 865 Port Republic Road, a mixed use building similar to the proposed project, is six-stories tall at a height of 69-ft.

With regard to the rezoning request, the applicant has submitted the following proffers (written verbatim):

1. The site shall contain residential and non-residential uses.
  - a.) There shall not be any residential dwellings located on the first floor of any building. However, the first floor of buildings may contain residential lobby area and other residential amenities for use by residential tenants, such as recreational facilities, computer room, and laundry, etc. These amenities shall not be counted as non-residential.
  - b.) A minimum of 15,000 square feet of non-residential uses as permitted by Section 10-3-55.4(4) (i.e. retail stores, convenience shops, personal service establishments, restaurants (excluding those with drive-through facilities), and business and professional offices shall be contained on the first floor of buildings. The proffer does not preclude the property from adding non-residential uses up to the entire first floor of any building.
2. The site shall contain no more than 400 bedrooms.
3. No more than two rows of parking and associated drive aisles can be located between any building and Peach Grove Avenue and between any building and the existing private access road on the property.
4. A sidewalk shall be provided along the southwestern side of the private access road from Peach Grove Avenue to tax map parcel 92-F-11 as generally depicted on the submitted layout titled "The Shoppes at Peach Grove" dated February 23, 2019.
5. A right-turn taper shall be provided for the proposed driveway. The taper shall have a minimum taper length of 125 feet.

Note that the submitted conceptual site layout is not proffered.

Proffer #1 ensures the property includes non-residential uses and does not develop into a residential only site. The conceptual site layout illustrates a building with a floorplate of 32,300 sq. ft. The applicant's letter describes plans for the building to contain approximately 16,000 sq. ft. of non-residential uses. To provide flexibility in building design, the applicant has proffered a minimum of 15,000 sq. ft. of non-residential uses on the site. Proffer #1 also prohibits residential dwellings from being located on the first floor of any building, but would allow residential amenities such as recreational facilities to be located on the first floor.

With regard to proffer #2, the applicant's letter and conceptual site layout shows plans for a total of 120 multi-family dwelling (apartment) units with a combination of 20 one-bedroom units, 20 two-bedroom units, 30 three-bedroom units, and 50 four-bedroom units, which is a total of 350 bedrooms. Proffer #2

would allow the site to contain up to 400 bedrooms. The completed traffic impact analysis (TIA), dated February 18, 2019, evaluated trip generation for 340 bedrooms plus 16,000 sq. ft. of non-residential uses. During review of the project, staff was uncomfortable with the proffered increased number of possible bedrooms from 340 to 400 without further analysis of traffic impact. The applicant's traffic engineer provided a letter dated April 1, 2019 (included within this packet) stating that with the increase from 340 to 400 bedrooms "the overall results of the TIA are unchanged." After review of the revised analysis, staff accepted the revised TIA on April 2, 2019.

It should be acknowledged that while the applicant has not proffered the number of multi-family units, the R-5 district limits the total number of multi-family dwelling units on the +/- 5.44-acre property to 128, which is 23 units per acre.

Proffer #3 is intended to prevent any future buildings from being separated from Peach Grove Avenue and the private access road by more than two rows of parking and associated drive aisles, thus controlling the location of the building in relation to the overall site.

Regarding proffer #4, because the private access road is not a public street, City regulations and standards would not have required construction of the sidewalk along the private access road with the development of the site. The applicant has proffered that they would construct a sidewalk and that it would be located on the southwestern side of the private access road as generally depicted in the conceptual site layout.

The final proffer, proffer #5, addresses the construction of a right-turn taper, with a minimum taper length of 125 feet, to be provided for the proposed new entrance. Changes were made to the conceptual site layout after the TIA was completed. Although the TIA did not recommend a right-turn taper with the original site layout, the applicant's engineer and Public Works Department staff agreed that a right-turn taper would be warranted with redistributed trip assignments with the new current layout.

With regard to minimum off-street parking, requirements are calculated based on uses and are provided in Article G of the ZO. In the conceptual site layout, the applicant has shown a scenario in how they might organize off-street parking spaces. The applicant is aware the ZO presently requires parking spaces for the planned residential amenities (recreation facilities, computer room, etc.) at a rate of one parking space for each 250 square feet of gross floor area and that their conceptual site layout has not accounted for this requirement. Staff is working on a ZO amendment that would allow community buildings and spaces associated with housing developments to have reduced off-street parking requirements, however, this proposal has yet to be presented to Planning Commission or City Council and it is unknown whether that amendment would be approved. Staff anticipates bringing this amendment to a public hearing soon.

The applicant has indicated that to meet the City's off-street parking requirements for the planned number of dwelling units and bedrooms, they intend to use the ability granted by Section 10-3-25(1) of the ZO to have up to 25 percent of the total parking provided be designated as compact parking spaces. The conceptual site layout illustrates the locations where compact parking spaces are planned. The applicant understands that each parking space will require a vertical sign with the wording "Compact Cars Only."

During a meeting with the applicant during the review period, the applicant alluded to the City's ZO requiring too many parking spaces. Although it was not discussed with them at the time, if the applicant is interested in reducing the number of required parking spaces, which in turn should reduce construction costs, the applicant could request a SUP for reduced parking per Section 10-3-55.4(6) of

the Zoning Ordinance. If such a SUP were approved, it would provide open space for residents and visitors on the property because the space that would have been used for parking must be reserved for open space.

The applicant understands that parking requirements, among other details, would be reviewed during the engineered comprehensive site plan phase of development to ensure that all regulations are met. This is important to understand because, among other things, it appears that the conceptual site layout would not meet the ZO's parking lot landscaping requirements.

During review of the applications, staff encouraged the applicant to design the site so that the building is located closer to the front property line (Peach Grove Avenue) and the private access road, and to not have parking spaces or drive aisles between the building and the streets. The applicant noted that such a design is not desirable for them because retailers want parking in front of the building to serve customers and said that moving the building closer to Peach Grove Avenue would impact the availability of parking spaces within the development.

While staff is appreciative of the applicant's willingness to proffer a limit on the number of parking and associated drive aisles that can be located between any building and Peach Grove Avenue and the private access road, staff believes that continuing to develop in a car-centric fashion on pockets of property that are designated as Mixed Use is not in the best interest of the community. The Comprehensive Plan specifically notes that Mixed Use areas can take different forms, where such spaces could take the form of a single building, single parcel, an entire block, or an entire neighborhood.

By developing the site in the conceptual configuration, it limits the site's potential to mainly being a standalone, mixed use building because it is separated from the surrounding neighborhood. If the building were located closer to the street, it promotes walkability for nearby residents because it removes the perceived barrier that one must drive to the site to access the building. As identified by the Land Use Guide's Mixed Use description, "the scale and massing of buildings is an important consideration when developing in Mixed Use areas," which staff believes the conceptual site layout fails to successfully implement. Moving the building closer to Peach Grove Avenue and the private access road would promote a more pedestrian friendly design by creating a sense of place by framing the sidewalks next to the building and commercial activity. Concentrating people and places along streets creates an environment that is more accessible, interesting, and safer for pedestrians (it gives pedestrians access from the sidewalk to the building without crossing through a parking lot). Additionally, staff sees that there could be an opportunity to create a courtyard or space for outdoor dining for a restaurant or café between the building and the streets. While existing developments on Peach Grove Avenue have not massed their buildings closer to the public street, staff hopes that as nearby parcels develop and redevelop, which also includes other properties in this area designated as Mixed Use, that they would continue the practice discussed herein. As one suggestion, staff explained to the applicant that the floorplate of the building could be shaped differently and suggested an L-shaped building massed along both Peach Grove Avenue and the private access road as conceptually illustrated in Figure 1. Parking for vehicles could then be located behind the building and out of view from the public street.

During review of the applications, staff encouraged the applicant to relocate the entrance closer to the western property line and further away from the existing entrance. Staff's TIA Acceptance Letter dated April 2, 2019 references two memorandums from the applicant's traffic engineer dated February 25 and April 1, 2019. The February 25 letter incorrectly states in the first paragraph that "[t]he proposed driveway is located as far as possible from the existing driveway because the fire department wants direct access to the west side of the building, and the applicant is constructing a bus turnout and shelter

on Peach Grove Avenue at the west end of the property frontage.” In reality, the Fire Department would have no issues with the new entrance being moved further away from the existing entrance so long as the required turning radii was provided for fire trucks to turn in to the development and to travel through the parking lot to get to the building. The Fire Department would review these details when the engineered comprehensive site plan is submitted. Moving the proposed entrance further west would improve access management to promote safety for the traveling public. Staff believes that the entrances illustrated on the conceptual site layout, which are proposed to be less than 200 feet apart and both being within 500 feet of the intersection with Port Republic Road, would create a confusing traffic pattern for drivers traveling on Peach Grove Avenue.

Staff’s preference would be for the applicant to work with the adjacent property owner of tax map number 92-F-6 to create a shared entrance to reduce the number of entrances and conflict points on Peach Grove Avenue. Fewer driveways spaced further apart allows for more orderly merging of traffic and presents fewer challenges to drivers. If the owner of TM 96-F-6 is unwilling to allow for the creation of a shared entrance, staff would still prefer to move the subject site’s new entrance further away from the existing entrance and closer to the subject property’s western property line, where there is an existing curb cut for an entrance. Another option is to align the entrance with Eagle Carpet’s existing entrance across the street from the subject site with hopes that in the future when TM 96-F-6 is developed, a shared entrance could be considered again.

Additionally, moving the new entrance further west would allow space for the proposed bus stop and bus shelter to be located closer to the proposed building and better serve the residents and visitors to the subject property and to adjacent developed properties who could also use the bus stop. The Harrisonburg Department of Public Transportation (HDPT) has indicated that moving the proposed bus stop and bus shelter closer to the building and between the two entrances would not be an issue for their public transit drivers. Furthermore, with the proposed entrance located closer to the building as illustrated in the conceptual site layout, residents and visitors parking in the parking lot will have to walk across a drive area with a heavier volume of vehicular traffic to access the building. If the proposed entrance on Peach Grove Avenue was moved further west, then the heavier volume of vehicular traffic would be on the opposite side of the parking lot from the building and thus fewer vehicles would conflict with people walking to the building. However, the applicant has indicated that it is their preference to keep the proposed entrance where it is shown on the conceptual site layout because they desire for the entrance to be closer to the commercial uses.

Over the past decade, new student housing complexes have opened in Rockingham County and have placed increased pressure and traffic on city streets as more students drive longer distances to and from campus. Staff recognizes and values that the proposed development is located closer to James Madison University’s campus than some of the newer, traditional student housing complexes and it is within commercial areas for shopping and entertainment. Sidewalks and bike lanes on Port Republic Road and Neff Avenue, as well as, available public transit service would provide residents with alternative transportation options to driving.

While staff supports the location of this site for a mixed use development, staff has concerns about the proposed entrance location, does not believe that the project, as presented, supports the mixture of uses between this property and neighboring properties, and does not believe that the project provides a safe and comfortable pedestrian environment that promotes walkability for residents and visitors as described in the purpose section of the R-5 district in Section 10-3-55.2, which states:

“This district is intended for medium to high density residential development, including townhouses and multiple-family dwelling units, together with certain governmental, educational, religious, recreational and utility uses. Vehicular, pedestrian and bicycle transportation is facilitated through a connected system of roads, sidewalks and shared use paths, so as to provide many choices with regard to mode and route, *and to provide a safe and comfortable pedestrian environment that promotes walkability for residents and visitors.*” (emphasis added.)

For the reasons explained above, staff recommends denial of the rezoning request to R-5C and thus does not recommend approval of the associated SUP requests as presented by the applicant.

However, if the rezoning request is approved, staff recommends approving the three requested SUPs as requested and has no suggested conditions.

**Environmental Impact:**

N/A

**Fiscal Impact:**

N/A

**Prior Actions:**

N/A

**Alternatives:**

- (a) Approve the rezoning and three SUP requests as submitted;
- (b) Approve the rezoning and three SUP requests with conditions on the SUPs as deemed necessary;
- (c) Approve the rezoning and one or more of the SUPs with conditions as deemed necessary;
- (d) Approve the rezoning only; or
- (e) Deny the rezoning, which by default denies the three SUPs.

**Community Engagement:**

As required, the requests were published in the local newspaper twice advertising for Planning Commission’s public hearing and twice advertising for the City Council’s public hearing. The advertisements were published as shown below:

***Rezoning – 1051 Peach Grove Avenue (The Residence & Shoppes at Peach Grove) (B-2 to R-5C)***

Public hearing to consider a request from Skylar & Talli, LLC to rezone 5.44 +/- acres from B-2, General Business District to R-5C, High Density Residential District Conditional. The Zoning Ordinance states that the B-2, General Business District is intended to provide sufficient space in appropriate locations for a wide variety of retail shopping, commercial, automotive, miscellaneous recreational, and service activities. No minimum lot size restrictions exist in the B-2, General Business District. The Zoning Ordinance states that the R-5, High Density Residential District is intended for medium to high density residential development, including townhouses and multiple family dwelling units, together with certain governmental, educational, religious, recreational and utility uses. The residential density ranges for the R-5 district are multifamily, 1,800 sq. ft. minimum/unit; multifamily quadraplex, 3,000 sq. ft. minimum/unit; and townhouse, 2,000 sq. ft. minimum/unit. The Comprehensive Plan designates this area as Mixed Use. The Mixed Use designation includes both existing and proposed areas for mixed use. Mixed Use areas shown on the Land Use Guide map are intended to combine residential and non-residential uses in neighborhoods, where the different uses are

finely mixed instead of separated. Mixed Use can take the form of a single building, a single parcel, a city block, or entire neighborhoods. Quality architectural design features and strategic placement of green spaces for large scale developments will ensure development compatibility of a mixed use neighborhood with the surrounding area. These areas are prime candidates for “live-work” and traditional neighborhood developments (TND). Live-work developments combine residential and commercial uses allowing people to both live and work in the same area. The scale and massing of buildings is an important consideration when developing in Mixed Use areas. Commercial uses would be expected to have an intensity equivalent to a Floor Area Ratio of at least 0.4, although the City does not measure commercial intensity in that way. Downtown is an existing area that exhibits and is planned to continue to contain a mix of land uses. The downtown Mixed Use area often has no maximum residential density, however, development should take into consideration the services and resources that are available (such as off-street parking) and plan accordingly. Residential density in Mixed Use areas outside of downtown should be around 24 dwelling units per acre, and all types of residential units are permitted: single-family detached, single-family attached (duplexes and townhomes), and multi-family buildings. Large scale developments, which include multi-family buildings are encouraged to include single-family detached and/or attached dwellings.

The property is addressed at 1051 Peach Grove Avenue and is identified as tax map parcel 92-F-10.

***Special Use Permit – 1051 Peach Grove Avenue (The Residence & Shoppes at Peach Grove) (Section 10-3-55.4 (1) to Allow Multi-Family Dwellings of More Than Twelve Units Per Building)***

Public hearing to consider a request from Skylar & Talli, LLC for a special use permit per Section 10-3-55.4 (1) to allow multi-family dwellings of more than twelve (12) units per building under conditions set forth in subsection 10-3-55.6 (e) and such conditions as deemed necessary by City Council. The 5.44 +/- acre property is addressed at 1051 Peach Grove Avenue and is identified as tax map parcel 92-F-10. The special use permit is associated with the rezoning of the property at 1051 Peach Grove Avenue from B-2 to R-5C.

***Special Use Permit – 1051 Peach Grove Avenue (The Residence & Shoppes at Peach Grove) (Section 10-3-55.4 (2) to Allow Multi-Family Buildings Greater Than Four Stories and/or Fifty-Two Feet in Height)***

Public hearing to consider a request from Skylar & Talli, LLC for a special use permit per Section 10-3-55.4 (2) to allow multi-family buildings greater than four stories and/or fifty-two (52) feet in height under conditions set forth in subsection 10-3-55.6 (e) and such conditions as deemed necessary by City Council. The 5.44 +/- acre property is addressed at 1051 Peach Grove Avenue and is identified as tax map parcel 92-F-10. The special use permit is associated with the rezoning of the property at 1051 Peach Grove Avenue from B-2 to R-5C.

***Special Use Permit – 1051 Peach Grove Avenue (The Residence & Shoppes at Peach Grove) (Section 10-3-55.4 (4) to allow Retail Stores, Convenience Shops, Personal Service Establishments, Restaurants, and Business and Professional Offices)***

Public hearing to consider a request from Skylar & Talli, LLC for a special use permit per Section 10-3-55.4 (4) to allow retail stores, convenience shops, personal service establishments, restaurants (excluding drive-through facilities), and business and professional offices under conditions set forth in subsections 10-3-55.6 (f) and (g) and such other conditions as deemed necessary by City Council. The 5.44 +/- acre property is addressed at 1051 Peach Grove Avenue and is identified as tax map parcel 92-



F-10. The special use permit is associated with the rezoning of the property at 1051 Peach Grove Avenue from B-2 to R-5C.

In addition, adjoining property owners were notified of the public hearings; the property was posted with signage advertising the requests; and notices were provided on the City's website at <https://www.harrisonburgva.gov/public-hearings>.

**Recommendation:**

Staff recommended to deny the rezoning. However, if the rezoning is approved, staff recommended to approve all three SUP requests.

**Attachments:**

1. Figure 1 (1 page)
2. Extract (18 pages)
3. Site maps (2 pages)
4. Application, applicant letter, and supporting documents (32 pages)
5. Proposed site development layout (1 page)

**Review:**

- Planning Commission recommended (4-3) to deny the rezoning request from B-2, General Business District to R-5C, High Density Residential District Conditional.
- Planning Commission recommended (7-0) approval of the special use permit to allow multi-family dwellings of more than 12 units per building per Section 10-3-55.4(1) of the Zoning Ordinance.
- Planning Commission recommended (7-0) approval of the special use permit to allow multi-family buildings to be greater than four stories and/or fifty-two (52) feet in height per Section 10-3-55.4(2) of the Zoning Ordinance.
- Planning Commission recommended (7-0) approval of the special use permit to allow retail stores, convenience shops, personal service establishments, restaurants (excluding drive-through facilities), and business and professional offices per Section 10-3-55.4(4) of the Zoning Ordinance.