



City of Harrisonburg

City Hall
409 South Main Street
Harrisonburg, VA 22801

Meeting Minutes Planning Commission

Wednesday, May 12, 2021

6:00 PM

Virtual

1. Call To Order

The Harrisonburg Planning Commission held its regular meeting on Wednesday, May 12, 2021 at 6:00 p.m.

Chair Finnegan called the meeting to order and said that there was a quorum with six members present. This meeting will be held as an electronic meeting due to the emergency and disaster represented by the spread of COVID-19. This meeting will be conducted by the following electronic communication means: electronically through GoToMeeting and Granicus. The public had the opportunity to provide comments in advance via email and will have the opportunity to provide comments by phone at designated times during this meeting. Because calls are taken in the order that they are received, we ask that the public not call the comment line until the item you are interested in is being presented or discussed.

2. Roll Call/Determination of Quorum

Members present by electronic, video communication: Isaac Hull; Kathy Whitten; Richard Baugh; Laura Dent; Adriel Byrd, Vice Chair; and Brent Finnegan, Chair. Jim Orndoff joined the meeting at 8:25 pm.

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

Present 7 - Brent Finnegan, Jim Orndoff, Adriel Byrd, Kathy Whitten, Isaac Hull, Richard Baugh, and Laura Dent

3. Approval of Minutes

Chair Finnegan asked if there were any corrections, comments or a motion regarding the April 14, 2021 Planning Commission minutes.

Commissioner Baugh noted a correction on page 7 of the minutes. The statement currently reads "I affirmatively state that I will not vote or in any manner act on behalf of City Council in this matter." Change "City Council" to "Planning Commission."

Commissioner Whitten moved to approve the minutes, with the requested correction.

Commissioner Byrd seconded the motion.

All members voted in favor of approving the April 14, 2021, Planning Commission minutes (6-0), as amended.

Mr. Russ clarified that Planning Commissioners are not required to abstain from voting on the minutes if they were absent for the documented meeting.

A motion was made by Whitten, seconded by Byrd, that this be approved. The motion carried by a voice vote.

3.a.

4. New Business - Public Hearings

4.a. Consider a request from Ahmed Abdullah for a special use permit to allow a junk yard at 1207 North Liberty Street

Presented By: Adam Fletcher, Director of Community Development

Chair Finnegan read the request and asked staff to review.

Ms. Dang said that the Comprehensive Plan designates this site as Industrial. These areas are composed of land and structures used for light and general manufacturing, wholesaling, warehousing, high-technology, research and development, and related activities. They include the major existing and future employment areas of the City.

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

<u>Site:</u>	Vehicle sales and illegal vehicle salvaging/junk yard, zoned M-1
<u>North:</u>	Vacant lands, zoned M-1
<u>East:</u>	Rockingham County Public Schools Bus Facility, zoned M-1
<u>South:</u>	Vehicle repair and parts fabricator, and towing service, zoned M-1
<u>West:</u>	Self-storage, zoned M-1

A junk yard is defined in the Zoning Ordinance as “[a]ny space or area or portion of lots used for the storage, sale, keeping or abandonment of junk or waste materials, including used building material, or for the dismantling, demolition, sale or abandonment of automobiles and other vehicles, machinery or parts thereof” and is currently only allowed in the M-1 district by special use permit.

On August 26, 2014, City Council approved a request from Gerdau, a producer and supplier of steel, who requested to amend the Zoning Ordinance to allow junk yards by special use permit within the M-1 General Industrial District. Gerdau was interested in locating a scrap metal recycling yard in Harrisonburg. Prior to 2014, junk yards were prohibited in all zoning districts. Staff supported the text changes for amendments stating that “[s]taff believes that junk yards may be acceptable in some areas of the Industrial District under certain circumstances and with the

ability to set conditions as warranted.” After the Zoning Ordinance amendment was approved, Gerda did not pursue plans to locate a scrap metal recycling yard in Harrisonburg and no special use permit application for a junk yard has been applied for in the City until the request presented herein.

Within this staff report, the terms “junk,” “inoperable vehicle,” and “salvage vehicle” are used interchangeably. The term “junk” is used in Title 6, Chapter 2 - Solid Waste Collection and Disposal and is defined in that chapter as “[s]crap, or discarded material, or ferrous or nonferrous metals including, but not limited to, dismantled, wrecked or inoperable vehicles or farm machinery, or parts of any of the foregoing, or furniture, inoperable appliances or fixtures, where such furniture, appliances or fixtures are normally found inside a residence or building, or parts of any of the foregoing.” The term “inoperable vehicle” is used in the Zoning Ordinance and is defined as “[a]ny vehicle not capable of being used on public streets or roads and/or on which a state inspection and/or license is not displayed or has expired for more than thirty (30) days.” Know that the ZO allows vehicle sales uses to include the storage of inoperable vehicles for a period not to exceed 90 days. The term “salvage vehicle” is used by the Virginia Department of Motor Vehicles and is defined in State Code Section 46.2-1600 as “(i) any late model vehicle that has been (a) acquired by an insurance company as a part of the claims process other than a stolen vehicle or (b) damaged as a result of collision, fire, flood, accident, trespass, or any other occurrence to such an extent that its estimated cost of repair, excluding charges for towing, storage, and temporary replacement/rental vehicle or payment for diminished value compensation, would exceed its actual cash value less its current salvage value; (ii) any recovered stolen vehicle acquired by an insurance company as a part of the claims process, whose estimated cost of repair exceeds 75 percent of its actual cash value; or (iii) any other vehicle that is determined to be a salvage vehicle by its owner or an insurance company by applying for a salvage certificate for the vehicle, provided that such vehicle is not a nonrepairable vehicle.” Furthermore, “[s]alvage certificate’ means a document of ownership issued by the Department [of Motor Vehicles] for any salvage vehicle upon surrender or cancellation of the vehicle's title and registration.”

The applicant is requesting a special use permit (SUP) per Section 10-3-97 (14) of the Zoning Ordinance (ZO) to allow a junk yard in the M-1, General Industrial District. The property is located along North Liberty Street approximately 225 feet from the intersection of Mt. Clinton Pike. If approved, the applicant describes that “[t]he land will be used for mechanical and dealership purposes.” The applicant states in their letter that they “buy damaged cars from salvage auctions to repair them for reselling or sending them overseas.” The applicant has also described that they plan only to store the salvage vehicles behind the principal building in an area that would be screened with fencing. The area between the principal building and North Liberty Street is planned to be used to display operable vehicles for sale and is not planned to be fenced. It should be understood that vehicle sales, repair, storage, and vehicle body shops, which among other things includes over the road tractors, their trailers, and heavy equipment, are permitted by right in the M-1, General Industrial District.

In February 2019, the property was issued a notice of violation of City Code Section 6-2-6, for

having junk in the form of wrecked and inoperable vehicles not located within a structure to hide it from view. In November 2020, it became known to the Zoning Administrator that in addition to repairing and selling vehicles, which are permitted uses, the owner of the property was storing and dismantling inoperable or salvaged vehicles. The property owner was informed at that time that storage of inoperable and salvaged vehicles outside is not an allowed use and would require approval of a junk yard SUP. The property remains in violation of City Code Section 6-2-6 and in violation of the Zoning Ordinance's use regulations within the M-1 district. The City continues to work through the court system regarding this matter.

In addition to compliance with City Codes, approval of the SUP is necessary for the applicant to obtain a Salvage Dealer License from the Virginia Department of Motor Vehicles (DMV) to operate at this location because the locality must certify for the DMV that the application and business location complies with local zoning requirements and/or ordinances.

The applicant has informed staff that they desire to apply for the following Salvage Dealer License types with the DMV as defined by State Code (full definitions can be reviewed in State Code Section 46.2-1600):

- *Rebuilder* - to acquire and repair, for use on public highways two or more salvage vehicles in a 12-month period;
- *Salvage Dealer* - to acquire any vehicle for the purpose of reselling any parts thereof; and
- *Salvage Pool* - to provide storage service for salvage vehicles or non-repairable vehicles who either displays the vehicles for resale or solicits bids for the sale of salvage vehicles or non-repairable vehicles.

In general, staff is concerned about the impact of outside storage of salvaged and inoperable vehicles along and near two heavily traveled corridors, North Liberty Street and Mt. Clinton Pike and the impact to surrounding properties. As noted in 2014 when the SUP for junk yards was created, “[s]taff believes that junk yards may be acceptable in some areas of the Industrial District under certain circumstances and with the ability to set conditions as warranted.” We continue to believe this today and do not believe this location is appropriate for a junk yard given its high visibility along and near the heavily traveled corridors as well as the precedent it might set from a location perspective of where such uses are appropriate. Staff acknowledges that there is a fine line between the different types of vehicular sales, repair, storage, and salvage uses, the latter which is not a use permitted by right in any zoning district. For example, there are vehicle sales, repair, and towing businesses that as part of their business operations store inoperable, wrecked, or salvage vehicles for a period of time. However, the storage of these vehicles appears to be more accessory to their sales, repair, or towing business operations and generally includes fewer inoperable, wrecked, and salvage vehicles and which appear to be stored on a shorter-term basis. The proposed use herein would be a principal use of the site.

Staff recommends denial of the special use permit request.

If, however, there is a desire by Planning Commission or City Council to approve the request, staff believes the following conditions should be attached to the request:

- 1) The SUP is limited only to the type of rebuilder, salvage dealer, and salvage pool operations proposed in this application.
- 2) The junk yard shall be restricted the storage area illustrated in the attached Exhibit A.
- 3) Screening of the junk yard must include a fence or wall and shall not consist solely of plant materials as otherwise allowed by the Zoning Ordinance for screening purposes. Screening materials shall not consist of tarps or other similar material.
- 4) If in the opinion of Planning Commission or City Council, the use 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 is intended to limit the uses to those proposed by the applicant and to prohibit operations such as demolishers, recycling facilities, scrap yards, and other operations typically considered junk yards. Condition #2 will limit outside storage and repair of inoperable and salvage vehicles to the area behind the existing principal building. If a second building is constructed closer to North Liberty Street, the area behind that new building could not be used for storage and repair of inoperable and salvage vehicles. Condition #3 adds additional requirements related to screening. Know that the ZO already requires junk yards to be screened by fences, decorative walls, or other physical or structure enclosures that are opaque to obstruct the view of storage materials that shall be at least six feet in height with a maximum of eight feet in height. It also allows plant materials to be used for screening purposes if they are three- to four-feet in height at the time of planting and meet the same intent to obstruct view of storage materials; however, staff is suggesting that in this case, plant materials alone cannot be used to meet the screening requirement as staff believes an immediate screen would be needed. Finally, condition #4 allows PC and CC to recall the SUP for further review if the use becomes a nuisance.

Chair Finnegan asked if there any questions for staff.

Commissioner Whitten said that there are residences that are not too far away from this location. Are there safety concerns with children or teenagers, minors, who would be attracted to something like this? Is fencing enough if this use exists and is in proximity to a residence? I am also concerned about the fluids, the gasoline, the oil, the anti-freeze, the stuff that is in cars, when they come to a junkyard and the proximity to the stream. We have gotten involved in the Northend Greenway. It is a wonderful place to ride bicycles, walk, push strollers. The stream has been cleaned up to a large degree. I remember when there were no fish in it. Now there are fish in it and the aquatic life is doing much better. Those two things concern me, the attractive nuisance and the water. If we allow it, is a fence that blocks it visually all that they would legally have to do?

Ms. Dang said that any operation, this operation or others, the potential for trespassing and

people hurting themselves on the property exists. It is the property owner's responsibility to try to keep people out, but if people enter the property, it is trespassing.

Mr. Fletcher said that staff did not seek out comment from the Police Department regarding the issues that you are talking about. We can, if that is something you want us to investigate. This is a SUP, so if you see particular conditions that you believe are warranted, you have the authority to recommend those conditions to City Council to help curtail some of those issues.

Commissioner Whitten said that she is satisfied that her statements are now on the record. Staff's arguments are very sound.

Councilmember Dent said that she seconds Commissioner Whitten's concerns about the environment and the safety. When I went to the site, it looked like the corner lot that appears on the map to be a grassy, open area, has been taken up by a gravel lot with trucks on it. Has that been sold? It seems that they are spilling over into the adjacent lot.

Mr. Fletcher said that we have multiple things going on in this area of the City. The City Engineer has been working with the property owners on the adjacent lots to understand what is going on. I believe that they had moved some dirt and created entrances without permits. The violations were brought to staff's attention. We have begun the rectification process with the City Engineer and others to get that site into compliance. There is an active investigation and active issues that we are working through on those adjacent properties.

Councilmember Dent asked if it was a different owner.

Mr. Fletcher said that it is a different owner, if you are referring to the two adjoining parcels. I have not been to the site to see where the trucks are in relation to where the property lines might be. What you are describing sounds very familiar to the information that was shared with me by the City Engineer.

Councilmember Dent asked if we move ahead with the recommendation to deny and City Council votes to deny the permit. What happens then?

Ms. Dang said that the owner would have to remove the vehicles from the property. They cannot operate. They would still have the violation for having inoperable vehicles stored outside, as well as operating as a salvage dealer.

Mr. Fletcher said that the automotive repair and salvage dealer and storage is a fine line. There are different avenues for them to rectify it. They cannot have them outside and storing them. We would continue through the court system that we have already begun. Large buildings, certain types of salvage vehicles can be located inside of buildings. It is the yard, the junk yard, that is the issue. If a larger building was built, or if they were to be able to store the vehicles inside of the building, those uses are storage. The breaking down of the metal would be inside the buildings.

What we are talking about is outside.

Councilmember Dent said that they would be able to rectify the situation just by putting another building there. That is not a just do it, as it would be expensive. When I saw it, I agree that the flimsy tarps on the chain link fence were not doing it for me.

Chair Finnegan said that if you go further south on North Liberty Street, there is in that area some sort of scrap yard or metal recycling facility. Is that metal recycling scrap yard in M-1? How far is that from the site?

Ms. Dang said that the property has a non-conforming use on it from when it was annexed into the City.

Ms. Banks said that it started as French's and then became F&S. It is non-conforming. It came into the City in 1983.

Commissioner Hull said that comparing this proposed permit with businesses such as the Auto Auction and autobody repair shops, how does the City view that differently? Is it because those vehicles are going to be on the site for a longer period of time? Or is it the fact that they are being stored outside?

Ms. Dang said that there is the ability for auto repair shops to operate by-right in the B-2 and M-1 districts. Additionally, with vehicle repair we do allow for inoperable vehicles to be on the site but it is limited to 90 days. It is a more short-term thing as opposed to a longer term that the applicant proposed would be one of the principal uses of the property. I understand that there are salvage vehicles that the Auto Auction auctions off there, as well. As I understand it, that property was also annexed into the City in 1983 and that type of salvage use is potentially non-conforming. I have not dug into the full history of all of the operations at the auto auction and what is legal or non-conforming.

Mr. Fletcher said that he would say it differently. Not what is legal, but what is non-conforming, what is accessory, what is the principal operation, what is the turnover, what is happening out there. The key is that it was annexed in 1983 and has been operating ever since. Even if it was a junk yard or recycling scrap metal like we have in other places, if it is non-conforming, they have the legal ability to remain. If there is confusion about automotive repair, autobody shops, junkyard operations, that is ok. It is confusing. There is a fine line between them. We will do our best to clarify whatever questions you have.

Chair Finnegan said that another way to look at it is that if this operation had been happening since 1983, we would not be having this discussion right now. We are having this discussion because this is a more recent development.

Chair Finnegan asked if there were any more questions for staff. Hearing none, he opened the

public hearing and invited the applicant or applicant's representative to speak to their request.

Ahmed Abdullah, 1207 North Liberty Street, spoke in support of his request. I am working from 1998 in the City of Harrisonburg, starting at Cargill. I decided to start the business. I started this garage to work on the cars, fix them up and resell them. I am not doing the salvage dealer. I buy a damage car, fix it and resell it. I do not do any demolition and parking. *(Other statements were made, but they were unintelligible.)*

Chair Finnegan said that he is having trouble with the audio. To clarify, you are saying that you do not do what you consider demolition of the cars onsite.

Mr. Abdullah said that he has a dealership. I have a dealership license. I am a rebuilder. I buy the damaged car from the auction. I fix it and resell it. If I do not have the storage to place the cars, park the damaged cars, I cannot get any damaged car and resell it. That is the only reason that I am asking for that special permit to keep the damaged car on the fenced area until I fix it. When I fix it, I am trying to resell it. If do not have this license, I cannot get any damaged car or any kind of car to be repaired. If you will give me the permit, you can write down for me whatever I have to do. That would be okay for me. I am not doing this for a salvage yard or reselling parts. All I want is to get the damaged car, fix it, rebuild it, and resell it. If I do not get this permit, I cannot get anything approved from the Department of Motor Vehicles or from the dealer board. That way I wasted money for building that 7,000 square foot building.

Chair Finnegan asked if there were any questions for the applicant's representative. Hearing none, he asked for the next caller. As there were no more callers, he closed the public hearing and opened the matter for discussion.

Chair Finnegan said that it sounds like a lot of this is about definitions. It sounds like Mr. Abdullah has one set of definitions. He does not consider this a junk yard. The City does. From his comments, there is no demolition. It is not what he considers salvage. One thing to keep in mind is that whether we call it a junk yard, whether we call it salvage, whether we call it cars sitting on the lot for a while, the issue is the number of cars, the volume of cars sitting on the lot. We can argue about definitions, but when you drive by that site, we all know what we are talking about.

Commissioner Whitten said that there are a large number of cars. I cannot imagine what is sitting there being repaired in the foreseeable future. I do not know if we have any timeline on how long the ones that are there have been sitting there. It would seem to me that it has been quite a while.

Commissioner Byrd said, when we are discussing structure, is it because there is not an actual, a real fence, that encompasses the storage area and brings it in current violation of the Zoning Ordinance?

Ms. Dang said that this property would be in compliance if the inoperable vehicles were stored inside the building, not viewed from the outside.

Chair Finnegan said that it would be inside a building, if all of those cars in the back were in a warehouse of some sort. This issue would not be before us right now. Is that fair to say?

Ms. Dang said that is my understanding. That is the violation. He had inoperable vehicles stored outside for a long period of time.

Commissioner Byrd said that if there had existed a fence that made this so that nothing would be viewed, that still would not count as a structure in relation to the City Code Section 6-2-6. Correct?

Ms. Dang said that is correct. The fence does not count as the structure or inside a building.

Chair Finnegan said that it would have to be a metal barn or warehouse or some other four walled structure with a roof. This is an industrial area, but I agree that this would not be before us if this use and this land was in compliance with what was allowed in M-1. I am currently not in favor of this request. If he could find a way to put a structure around it. I understand that it is potentially cost prohibitive or storing them off-site somewhere. I do not see a way forward here and I am not in favor of granting this request.

Commissioner Byrd said that he lives around there and drives those roads. When I was going by, it is hard to tell where that property begins and ends relative to the businesses that exist beside it. There are so many cars there. As you continue down that road, there are other gravel lots where people are parked. It is a very unclear place. I cannot find a reason to support this request. It sounds like he is trying to retroactively cover bases. If there already existed a fence that surrounded the storage area, I might have been more moved by the arguments. This sounds like a person parking cars on their property because they have the property, not considering what that means to anyone around them or what the current laws are. I am aware of the bike trail near that property. I ride a bike on it. Earlier others mentioned about people in the community, the residents near it. I am not a big fan of things being viewed as nuisances, but I can see where they would get that argument. I would not be in favor of this application.

Commissioner Whitten moved to recommend denial of the request.

Commissioner Baugh seconded the motion.

Chair Finnegan called for a roll call vote.

Commissioner Baugh	Aye
Commissioner Byrd	Aye
Councilmember Dent	Aye
Commissioner Hull	Aye
Commissioner Whitten	Aye

Chair Finnegan Aye

The motion to recommend denial of the SUP request passed (6-0). The recommendation will move forward to City Council on June 8, 2021.

This PH-Special Use Permit was recommended for denial to City Council due back on 6/8/2021

Yes: 6 - Finnegan, Byrd, Whitten, Hull, Baugh and Dent

No: 0

Absent: 1 - Orndoff

4.b. Consider a request from WGG LLC for a special use permit to allow a short-term rental at 150 Crescent Drive

Chair Finnegan read the request and asked staff to review.

Ms. Banks said that 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: Detached single-family dwelling, zoned R-2
- North: Detached single-family dwellings, zoned R-2
- East: Detached single-family dwellings, zoned R-2
- South: Detached single-family dwellings, zoned R-2
- West: Detached single-family dwellings, zoned R-2

The applicant is requesting approval of a short-term rental (STR) operation at 150 Crescent Drive. Crescent Drive is located between East Market Street, Franklin Street-extended, and Reservoir Street. The applicant desires to rent for STR three accommodation spaces within the home that could accommodate a total of six individuals. (“Accommodation spaces” means any room offered for sleeping. This would not include living spaces or rooms where guests would not be sleeping.) The accommodation spaces are located within the basement, which has separate entrances from the main level of the home. The applicant describes that the property is their primary residence.

The applicant states that currently they are operating as a homestay; however, homestay uses are limited to four guests during a lodging period and are limited to operating for only 90 nights per calendar year. The applicant desires to increase the rental to six guests during a lodging period and for more than 90 nights per calendar year.

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 for STR three accommodation spaces, the property should provide three 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. Therefore, if approved, a total of four off-street parking spaces would be required. Currently, there is a driveway that can accommodate two vehicles. The applicant explains that during lodging periods guests could park on the street in front of the property. However, this section of Crescent Drive is along a curve, where the subject property is located on the inside of the curve. Due to sight distance issues that occur when vehicles are parked along the interior curve, staff has concern with promoting and allowing additional on street parking unrelated to non-transient individuals, directly in front of the property and along the other sections of this side of the street.

If the request is approved, staff recommends the following conditions:

1. All STR accommodations shall be within the principal structure.
2. There shall be no more than three STR guest rooms or accommodation spaces.
3. The number of STR guests at one time shall be limited to six.
4. 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 items identified in the Pre-Operation Form when short-term rental guests are present.
5. Minimum off-street parking spaces shall be provided but do not need to be delineated and can be accommodated utilizing the driveway, enlarging the driveway, or by using other areas on the property.
6. 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 prevents the ability for the STR operator to convert or construct an accessory building into space for a 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 a STR, they must return to Planning Commission (PC) and City Council (CC) with a new SUP request. Condition #2 limits the total number of guest rooms and accommodation spaces on the entire property to three. Condition #3 limits the total number of STR guests to not more than six. Condition #4 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 items identified in the form when STR guests are present. Condition #5 requires the applicant to provide off-street parking spaces due to issues with sight distance concerns that can occur with vehicles parking on the inside curve of this section of the public street while also providing flexibility for the property owner to maintain the residential appearance of their property by not requiring them to create delineated parking spaces. Condition #6 allows PC and CC to recall the SUP for further review if the STR becomes a nuisance.

It should be acknowledged that while the applicants have explained their plans for using this property, the SUP is not restricted to the applicants or operator, and transfers to future property owners. If the applicants were to sell the property, then 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.

Because the City has approved multiple STR SUP applications in similar locations throughout the City and with comparable operating situations, staff recommends approval of the request with the suggested conditions. Staff believes that the proposed use is consistent with good zoning practice and will have no more adverse effect on the health, safety or comfort of persons living or working in the area and will be no more injurious, economically or otherwise, to property or improvements in the surrounding area than would any use generally permitted within the district.

Chair Finnegan asked if there any questions for staff.

Councilmember Dent said that when I saw the map, I thought they had plenty of space for parking. When I went to see the site, there is a rapid drop off next to the sidewalk. In saying that they have to provide off-street parking, we are saying that it is up to the applicant to figure out how to do that, whether to expand the driveway or the sidewalk or building something else on the level part of the street. It is going to be an expense for them and that is what they are going to have to do to meet the requirements. Is that right?

Ms. Banks said that the applicant is prepared to address this. The spaces can be within the grassed area. Am I correct on that or does it have to be gravel?

Mr. Fletcher said that his interpretation would be that, technically, they could park in the grassed area. If there is concern about what that might do to sightliness, muddying up areas and so forth, Planning Commission can make a condition for it to be gravel or some type of hard multi or hard weather surface. This is one of those scenarios where if a family or tenants resided here and they had multiple vehicles and they want to park them in the grass, they could do so. What we are doing here is promoting a non-residential use to use this space in that manner. In my mind, the best case scenario would be to make appropriate site accommodations. It is a relatively steep grade, but things can be designed, and earth be moved, and they can park in that lower area. There are definitely some steep driveways in the City of Harrisonburg. They can enlarge the driveway. There can even be parallel spaces for graveled areas and concrete spaces. While I do not like to see neighborhood spaces like that converted to more parking, in our view, the sight distance concern trumped it in this particular case. This is one of the first short term rentals where we have said that you have to provide all the parking on site. It is the first where they could not already do that with a large enough driveway. This is one of the first scenarios we have had in this particular case. In many of our other locations where we required all of the parking to be on site, the site already had an accommodation for all of the vehicles to be able to be there or was a relatively flat site.

Commissioner Whitten said that we need to bear in mind that this is a business. It is a legitimate business expense to ask for parking to be provided. We should not shy away from that, nor feel badly for asking. These cars do not belong on the street. That is not our problem.

Commissioner Byrd said that when the City is saying parking, you are recognizing that there are two spaces on the existing driveway. You are saying that they need two more spaces?

Ms. Banks said correct.

Chair Finnegan said that we went through a lot of trouble to separate homestays from the SUPs and now someone that is doing the homestay wants a SUP. I think that it is within reason and within our purview to require off street parking. The way Condition #5 is currently worded, it does not specify whether they can park on the grass. Do we have to get more specific if we want some gravel or pavement?

Ms. Banks said yes. I would like to share the applicant's drawing. They have done some measuring as far as parking and some spaces. I will share the screen for them while they speak.

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

Becca Graham, 150 Crescent Drive, spoke on behalf of her request. My husband and I own the property and are the applicants. In the illustration provided, we did some measuring. We have enough space for three cars, as long as it is not a large pickup truck in the driveway. We have additional space on either side of the driveway that is grass but could easily fit a vehicle. That is our plan if it is permissible to have a grass spot be one of the available spots. We have been running this as a homestay for a few months now. I do not think that we have ever had more than one car. I think it would be rare to have three cars, even if there were six people staying in the accommodation spaces. I would be surprised if there were ever three cars. I do recognize that we still need to have that as an option. I do not think that the fourth grass space would really be used. If it were the case that the guests brought the three cars, we could always move our car to elsewhere, giving the guests all three driveway spaces. We are hoping that we would not have to install gravel anywhere, especially if it were not going to be used. We do not anticipate that we would need an additional space off of the driveway, at least not very often. We are hoping to do it without installing gravel, but we are open to your suggestions and recommendations and appreciate you helping us work through this.

Chair Finnegan asked if there were any questions for the applicant. Hearing none, he asked for the next caller.

Commissioner Byrd asked the applicant if the furniture in the driveway may have led the City to evaluate the driveway as having two potential parking spaces.

Ms. Graham said that is very likely and a very easy solution.

Commissioner Byrd asked if it provided for the homestay.

Ms. Graham said no. That is for personal use. The entrance into the upper floor is off of the carport area. The homestay is a separate entrance on the lower level. The furniture that is in the carport is not part of the homestay.

Commissioner Whitten referenced the letter that was included in the packet. Your neighbor across the street has concerns about the parking. Have you had any conversation with your neighbors? Have you had any complaints with the homestay accommodations?

Ms. Graham said that we have talked with several neighbors. I do not know what letter you are referring to. We talked to both neighbors directly across the street that share the corner opposite us. They are both very excited and enthusiastic and want to rent it out for when their families come to town and did not express any concerns. The neighbors up the hill, next door to us, are on board as well. We talked to the three in closest proximity who share the street and nobody has expressed concerns.

Commissioner Finnegan said that there is a letter from Joyce Foltz. She had concerns about parking, which we have addressed. She is concerned about cars and children riding bikes, general safety.

Commissioner Whitten said that she also alluded to quiet. It is a quiet neighborhood and she mentioned that.

Ms. Graham said thank you for clarifying. We have spoken with her, but not directly about this. I know that the previous owners of the house were doing a homestay as well. I do not know if she has experienced the issues that she has concerns about or maybe she thinks that this is a new development. We can certainly address those concerns with her.

Chair Finnegan said that there were no more callers. He closed the public hearing and opened the matter for discussion.

Mr. Fletcher said that what the applicant was showing was 15 feet in length for each vehicle. What staff would typically look at for design for traditional spaces is 9 feet by 18 feet. The compact space is 8 feet by 17 feet. We did not consider the length in that area. I do not know that I could say that I agree and that we were talking equivalently about the terms of what the parking spaces were. We would not look at that depth and say that is three parking spaces. With three 18 foot parking spaces you are looking at 54 feet, verses three 15 foot spaces at 45 feet, it is a nine foot difference in depth. It is hard to compare the two and be in agreement.

Chair Finnegan said that he used to live in this neighborhood on Long Avenue. There is a section of Long Avenue where there are no houses, behind the Friendly City Inn, which backs all the way up to Long Avenue. Because there are no houses there, there is a potential for on-street parking. I would assume that would have to be the owners of the house parking there and walking. I do not know where the owners of the house would go other than parking on the street on Crescent Drive. We have approved similar STRs in other neighborhoods. I do agree with staff about the curve of this road being of special concern. I do think that Condition #5 is very important. We need to make sure that we get that right on this request.

Commissioner Byrd said that we have to address something with Condition #5 if we are considering approval. If you look at the property, there is a lot of curve or contour to the grass. I am not seeing where that fourth space would go, viewing from the applicant's perspective, or the third space, viewing it from the staff's perspective. I do not know the exact lines or how level it is. It did not look level enough that I would take my car and put it there. In practicality, if we approve this, unless we say some detail about Condition #5, we are recognizing that people are going to park on the street. I, personally, do not have an issue with it. I can look at that area and see where they would park. That curve would fit the other two cars. Around the bend, where the rest of the residents are, those people who live there have tons of cars on the street. I do not know how to be more specific, if we were to move to approve it.

Chair Finnegan said that Condition #5 currently reads:

Minimum off-street parking spaces shall be provided but do not need to be delineated and can be accommodated utilizing the driveway, enlarging the driveway, or by using other areas on the property.

Chair Finnegan continued saying, we can amend that language. We can strike "using other areas on the property." We can say "enlarging the driveway."

Commissioner Whitten asked could we not ask for a parking plan to be submitted to the City prior to the final approval.

Mr. Fletcher said that he does not see why the Planning Commission could not. I would like to clarify staff's recommendation that parking spaces do not need to be delineated. That terminology may not mean a lot to the public, but it means a lot to us. When we are talking about delineating parking spaces, typically that means that you are lining them off so that they can be counted, there are curb stops, there is a railroad tie or something. What we try to do in these scenarios is create enough flexibility for the STRs to have parking spaces, but they do not have to look like parking spaces, to keep that neighborhood feel. Staff is not a big proponent of wanting to have more parking. That is not what we are trying to do. This is about a safety issue. Our condition was a recommendation that they do not need to delineate them or look like parking spaces, but we are acknowledging that if they do parallel spaces right off of the curb, they might be gravel, pavers, concrete, or pavement. There are other options. They could do a driveway down the hill and park

in the back. That was our intent and has been our intent with that condition on many others.

Commissioner Whitten said that it is not unreasonable to ask that we see, or that you see as staff, what the plan is for this. Would the section of the curb be painted yellow, so that there would not be parking allowed there? Otherwise, how are you going to keep people from parking on the curb and causing the very problem that you know you are creating.

Ms. Banks said that we cannot get the curb painted yellow because the neighbors can still park there. It is a public street open to the neighbors. The neighbors still have the ability to park along the street.

Chair Finnegan said that the on street parking in front of that house does not technically belong to that house.

Commissioner Whitten said I understand that, but if we are creating a safety problem by allowing cars to park there, it does not really matter whose cars it would be.

Mr. Fletcher said that we did not speak about it in those particular terms, but we did talk about it. We talked about the fact that if you have a home where it is a single-family or extended family and there are six vehicles. That is the single-family residence or the dwelling space of the family and that is where they are parking. This scenario is different. We are acknowledging that there is a business operating there. It is a non-residential use and we would in fact be promoting for the tenants, the customers, to park on the street. We do not think that is the proper approach, given the circumstances. There is a level of risk when it is your single-family home or your living space about where you are parking at home. Otherwise, we would be promoting more parking on the inside of that curve.

Chair Finnegan said that the way to address these concerns is to focus on #5, amending or removing some of that language on #5. "Minimum off-street parking spaces shall be provided but do not need to be delineated and can be accommodated ~~utilizing the driveway~~, by enlarging the driveway, or by using other areas on the property."

Councilmember Dent said that she is looking at the sidewalk going from the street to the stairway down to the rental property. Could that sidewalk be widened to make another parking space? That gets you one parking space. I agree. We need a more detailed parking plan from the applicant or make more specific conditions ourselves. That is one idea of how it could be accommodated, at least one more, maybe two.

Chair Finnegan said that if we were to require a parking plan, how do we word that in these conditions? Does staff have any suggestions as to how to condition that?

Councilmember Dent asked if it would have to come back to staff and to Planning Commission to approve the parking plan as part of it? I cannot imagine voting for it on City Council wondering

whether the parking plan meets requirements.

Ms. Banks said that since they have to turn in their pre-operation form, that would be an opportunity that we have to collect and go out, measure and verify that the parking is in place. Unfortunately, that will not resolve what Councilmember Dent just brought up.

Mr. Fletcher said that you can table the request if that is where you are headed until you are more comfortable with what you are seeing. That is within your authority. You can ask for a parking layout that works for the applicant, present it to staff, then present it to Planning Commission next month, and then you can make a decision that way.

Commissioner Whitten said that rather than tabling it, the condition can include that they need to have a parking plan to accommodate those spaces off-street. That can be presented at City Council and they can decide. Between staff and City Council, I do not see any reason that it should need to come back to Planning Commission.

Ms. Dang asked if the Commissioners feel that the parking plan that the applicant provided is not sufficient. The applicant has provided a plan. What are the criteria that you are looking for that would make you feel comfortable?

Commissioner Hull said that parking plan is not inviting. What is going to happen is that they are just going to park on the street anyway. Stacking cars in is not a convenient thing for most. If somebody has to go somewhere, they have to bother one of the other owners of the cars to move. Parking in a front yard, whether there is gravel or not, is not necessarily a first choice for most. I think that it will not get used and people will park in the street.

Mr. Fletcher said that another approach would be to condition the number of accommodation spaces, thereby reducing the parking. It would not give the applicant exactly what they are requesting. They want three accommodation spaces. But if they wanted two accommodation spaces instead, then they would need only two parking spaces. However, many accommodation spaces they are approved for is the number of parking spaces that is required.

Commissioner Whitten said that is reasonable.

Chair Finnegan said that currently they are operating a homestay where they can have up to four guests, correct?

Ms. Banks said that is correct. Four guests.

Chair Finnegan said that they are trying to take it from four to six.

Ms. Banks said correct.

Chair Finnegan asked how that would be worded in the conditions to say that if they would like to do six, they would have to have another off-street parking spot that is paved?

Mr. Fletcher said that if you disagree with the regulations and you do not think that they need to provide four parking spaces, you can condition it to less parking spaces than is required. I am saying four, one for the dwelling and three for the accommodation spaces. If you do not think that they need to provide four, you can override that regulation and not require them to provide all four parking spaces.

Mr. Russ said that is different from your initial suggestion that they could approve a lower number of accommodation spaces so that they would need to provide fewer parking spots.

Ms. Dang said that would be an amendment to Condition #2. What Mr. Fletcher initially said, and Mr. Russ brought up is that Condition #2 could be amended from three to two or one. That would in turn reduce the required number of parking spaces, if the regulations require one parking space per accommodation space unless conditioned otherwise by Council. It is worded something like that.

Councilmember Dent said that could be a question for the applicant. Would you prefer to have two accommodation spaces or add one or two paved parking spaces? Paved, I think is important.

Commissioner Byrd said that if we want to approve this, we could let them keep their two accommodations and change two and three to reflect those numbers accordingly. At the end of the day, #5 says minimum off-street parking spaces. The spot that says the total number of parking spaces never refers to that as minimum. For #5, are we assuming what the number of parking spaces are is in that particular line?

Commissioner Whitten said that it says in the report four off-street. It does not say it in the conditions, but it is clear. Somewhere in the Zoning Ordinance, it talks about spaces so that you do not have to move vehicles to accommodate parking. Am I right about that?

Ms. Banks said yes, but that does not include single-family homes and duplexes. This is still considered a single-family dwelling.

Commissioner Whitten said that we could condition it so that the parking would have to accommodate vehicles not having to be moved. I agree with Commissioner Hull. If you have to jockey cars in and out of a space, it is just not going to happen. People are on vacation. They are running out to dinner. They are going out to the football game. They are not going to inconvenience themselves by having to ask someone to move their car. I would be in favor of saying, this looks like a situation where two accommodation spaces makes a lot more sense than three and forget about the worry about the parking.

Chair Finnegan asked staff, if we change Condition #2 to read “no more than two” guest rooms, do we also need to change condition #3 to say “limited to four”?

Ms. Dang said that they could have three people or any combination of people in the bedroom. There is no requirement that it is only two people per accommodation space. That is generally how we think that people might rent them out.

Chair Finnegan asked what does that get them? It has to do with number of nights. It would be the same number of guests that they already have. We are increasing the number of nights that they can rent them out, right?

Ms. Dang asked if Commissioner Finnegan is suggesting that he is also going to amend #3 from six to four. You do not have to. You can, but it is not tied to the bedrooms.

Chair Finnegan said that we are talking about three accommodation spaces, two accommodation spaces. I have been in situations, myself, where you have one car per person. We could be talking about six cars. If friends from all over are meeting up in Harrisonburg for a reunion, you have potentially six cars. We are making certain assumptions. I would be amenable to changing #2 to no more than two guest rooms and leaving the rest.

Ms. Graham asked if she could ask a question.

Chair Finnegan allowed the question.

Ms. Graham asked if it would affect anything if we were to require a maximum number of cars for the guests that book the space. We can do that. We can say only parking for two cars and limit the guests for how many cars they bring.

Chair Finnegan said that is something that the City does not regulate directly. That is a condition of VRBO or Airbnb. That has to do with those third party sites.

Ms. Dang said we have not considered this, but is it possible to create a condition that limits the number of vehicles? Enforcement is always a concern, but can we condition no more than two guest vehicles could be associated with the STR at a time?

Mr. Russ said that in Alexandria, a lot of their conditions are related to their (the applicants) website or their advertising, where they need to mention the nearest Metro stop, to try to encourage people to use transit. I think that we could condition that in the third party advertising you include the number of parking spots.

Mr. Fletcher said that the other option is that we were comfortable moving forward with the conditions that we recommended because if the applicants do not want to meet the criteria of providing all of the off-street parking, they are self-regulating the number of accommodation

spaces and the number of people. If they do not want to put in an additional parking space, they have in effect self-regulated.

Chair Finnegan said that knowing that neighborhood, if the owners are on-site when the guests are there, they are going to have to park down the block on Long Avenue, leaving those spaces in the driveway open. I think that leaving the conditions, as written, and adding a seventh condition that there shall be no more than two guest vehicles at a time. How would we word that?

Ms. Dang suggested amending #5. If you keep #5 you are still requiring the three spaces associated with the STR plus the one for the dwelling space. You need to work on number five.

Commissioner Byrd asked why it does not say a minimum of four or a minimum of three? It only says minimum off-street parking spaces.

Ms. Dang said that it is tied to the number of accommodation spaces. It allows flexibility.

Mr. Fletcher said that if I am understanding where the conversation is going, you are approving their request to have six individuals and to have unlimited nights of the year. They are going to have three accommodation spaces. You are saying that they have to provide two off-street parking spaces and limiting the guest vehicles to two at any one night.

Chair Finnegan said yes.

Mr. Fletcher said that you are not wanting them to change the aesthetic of the place because you want to keep it residential. You are trying to be sensitive to not having too many vehicles coming to this site. I think that might cover it.

Ms. Dang clarified that the regulations regarding parking for the dwelling cannot be amended, but the parking requirement for the STR can be adjusted.

Ms. Banks said that you are focusing on the three stacked spaces. There is also the ability to have one in the carport. The driveway itself is 12 feet wide. The addition of six feet on the side would allow two cars side by side. Three feet of pavers or gravel on either side of the driveway would provide the additional space.

Chair Finnegan asked whether #5 would need to be amended.

Councilmember Dent stated that she would like it to be clear that guests must be parked in the off-street parking.

Ms. Dang said that it has not been made a condition with other STR, but it can be considered.

Chair Finnegan said that it does not matter to him whose car is parked on the street. It is a car

parked on the street.

Commissioner Whitten agreed and said that would be unenforceable. Does this street have permit parking?

Ms. Banks said that it does not.

Planning Commission and staff discussed proposed language to limit the number of vehicles during any given rental period. The proposal is to eliminate Condition #5 and add the following two conditions.

There shall be no more than two guest vehicles during a rental period.

Only two off-street parking spaces are required; the spaces do not have to be delineated and can be accommodated utilizing the driveway, by enlarging the driveway, or by using other areas of the property.

Commissioner Byrd made a motion to recommend approval of the STR request, with conditions, as amended.

Councilmember Dent seconded the motion.

Commissioner Baugh said that we found about the closest we are going to find to a spot that we can all live with. I think that our eyes ought to be open on this. I am not suggesting that we take another step down the path. There is value in stating this like this. Most people, if they are told the rules, will adhere to the rules. I do not know how we would enforce this. We go back to Commissioner Hull’s point, if you have someone there with more, they are going to park on the street. I hope we have hit a decent balance between encouraging the right stuff. I cannot imagine what that complaint is going to look like by the time someone sorts it out to figure out that extra car that has ended up on the street. I think that is what is going to happen.

Chair Finnegan called for a roll call vote.

Commissioner Whitten Aye
 Commissioner Byrd Aye
 Commissioner Hull Aye
 Councilmember Dent Aye
 Commissioner Baugh Aye
 Chair Finnegan Aye

The motion to recommend approval of the STR request passed (6-0). The recommendation will move forward to City Council on June 8, 2021.

A motion was made by Byrd, seconded by Dent, that this PH-Special Use Permit be

recommended to full council to the City Council, due back on 6/8/2021. The motion carried with a recorded roll call vote taken as follows:

Yes: 6 - Finnegan, Byrd, Whitten, Hull, Baugh and Dent

No: 0

Absent: 1 - Orndoff

4.c. Consider a request from Salatin and Cloud LC for a special use permit to allow for a restaurant at 256 Charles Street

Chair Finnegan read the request and asked staff to review.

Ms. Banks said that the Comprehensive Plan designates this site as Commercial. Commercial uses include retail, office, professional service functions, restaurants, and lodging uses. Commercial areas should offer connecting streets, biking and walking facilities, and public transit services. Interparcel access and connections are essential to maintaining traffic safety and flow along arterials. Parking should be located to the sides or rear of buildings.

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

Site: T & E Meat processing facility, zoned M-1

North: Rockingham County Public Schools Bus Facility, zoned M-1

East: Equipment sales and service; zoned M-1

South: Across Charles Street, vacant property; zoned M-1

West: Rockingham County Public Schools Bus Facility and Illegal uses; zoned M-1

The applicant is requesting a special use permit (SUP) per Section 10-3-97 (1) of the Zoning Ordinance to allow for a restaurant within the M-1, General Industrial District at 256 Charles Street. The subject site is on the northern side of Charles Street, approximately 250 feet. from the intersection of Charles Street and North Liberty Street. Mobile food trucks/trailers are permitted by right to locate within the B-1, Central Business District and the B-2, General Business District, where restaurants are permitted by right. Restaurants, including mobile food trucks/trailers, are permitted to operate within the M-1, General Industrial District, with an approved SUP. If approved, the owner of Tacos el Zacatecano, a mobile food trailer, would operate from the subject site.

As indicated on the submitted site drawing, the food trailer will be placed in the grass area to the west of the parking lot. The food trailer would remain located at the subject site and would operate five days a week, Friday through Tuesday. The property owner has asked that the food trailer not operate on specific days that they receive deliveries for their business.

Required parking for the processing facility located on the site is calculated at one (1) parking space for each two (2) persons working on the premises on a maximum shift, plus parking space for every truck or other vehicle used in connection therewith. There are 23 employees working on the site and an associated vehicle; therefore 13 parking spaces are required. Although the lot is nonconforming and parking spaces at this facility have never been delineated, staff measured the

parking area and has calculated that the front parking lot could provide space for 25 vehicles. Placement of the mobile food trailer must not interfere with the required parking for the processing facility.

Staff has discussed with the applicant that if the SUP is approved, the mobile food trailer will need to meet all the requirements associated with Mobile Businesses and Food Trucks, which are located on the City's website at <https://www.harrisonburgva.gov/mobile-businesses>. It will be the responsibility of the mobile food trailer owner/operator to work with the Harrisonburg/Rockingham Health Department and City of Harrisonburg's Public Works, Public Utilities, Fire, Community Development, and Commissioner of Revenue Departments to ensure all requirements are met.

Wall and freestanding signs are not permitted for the mobile businesses; unless solely attached to the mobile business' truck or trailer.

As previously stated, the Land Use Guide designates this area as Commercial, and a restaurant use on this property is supported by the Commercial designation. Overall, staff believes the restaurant use should have no adverse effect on the health, safety, or comfort of those working and living in the area.

Staff recommends approval of the special use permit request with the following conditions:

1. The SUP is limited to only one mobile food truck/trailer at this location.
2. If in the opinion of Planning Commission or City Council, the mobile food truck/trailer 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.

Chair Finnegan asked if there were any questions for staff.

Commissioner Whitten said that it seems like the food truck is already there and operating. Is that correct.

Ms. Banks said that it is there and operating. Zoning did not pick this up as a violation. I checked with the Commissioner of Revenue and they did not have this as a violation. I think that the operator started the business and is coming in now to rectify what they realized is a mistake without being notified. This is not an active violation that we are working on.

Chair Finnegan said that they began operating without realizing that they needed a SUP. Now they are getting it.

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

Eliseo Alvarez, nephew of the applicant, called in representing the applicant. After hearing the

discussion regarding parking with the previous applicant, I am concerned because the parking spaces are not marked. Is there anything that we need to do to specify spots for the business? Is there enough space there that it will not be a problem?

Chair Finnegan said it was a concern with the previous applicant because it was a residential property. This is non-residential so it does not have the same concerns.

Mr. Alvarez said that it was an oversight to begin operating without the permit. The business owner was not aware of all the things they had to do. As they started going through the process, it has taken a while to get things going. They are getting things situated now. Right now, everything is up to date. They have met the health and fire department requirements.

Commissioner Whitten asked where the clientele comes from. Is it mostly generated from people working in that area? Are there people coming from outside the area because the tacos are that good? I am wondering what kind of traffic it might generate.

Ms. Alvarez said that many clients work at T&E Meats. A lot of the Hispanic community in the area do see it, drive by it and are aware of it because up the road there is a Hispanic grocery store that is quite popular.

Chair Finnegan asked if there were any questions for the applicant's representative. Hearing none, he asked for the next caller. As there were no more callers, he closed the public hearing and opened the matter for discussion.

Chair Finnegan said that he used to go to T&E Meats before it was owned by the current owners. There is quite a bit of traffic. This seems like a good thing to have there for people to have a place to eat for those working at the Rockingham County school building and that area. I would be in favor of this.

Commissioner Whitten made a motion to recommend approval of the SUP.

Commissioner Byrd seconded the motion.

Commissioner Baugh said that the original Hanks BBQ was on Charles Street back when it was just a barbecue joint. There are a lot of people who work in that immediate area. There is nothing right there. There has never been anything right there. I always thought that when they first opened and were only making barbecue, he got a lot of business out of that area. If the tacos are good, they should do well. It will be good for that part of town.

Chair Finnegan said that it is good to see that street developing and having some community spaces like restaurants and stores there.

Chair Finnegan called for a roll call vote.

Councilmember Dent Aye
 Commissioner Baugh Aye
 Commissioner Hull Aye
 Commissioner Whitten Aye
 Commissioner Byrd Aye
 Chair Finnegan Aye

The motion to recommend approval of the SUP passed (6-0). The recommendation will move forward to City Council on June 8, 2021.

Chair Finnegan noted that the next two public hearing items and the first item in New Business - Other Items, regarding 116 Pleasant Hill Road, will be considered together.

A motion was made by Whitten, seconded by Byrd, that this PH-Special Use Permit be recommended to full council to the City Council, due back on 6/8/2021. The motion carried with a recorded roll call vote taken as follows:

Yes: 6 - Finnegan, Byrd, Whitten, Hull, Baugh and Dent
No: 0
Absent: 1 - Orndoff

4.d. Consider a request from Tawakkul Investments LLC to rezone a parcel addressed as 116 Pleasant Hill Road

This item was discussed together with the special use permit and preliminary plat, both as identified and described below.

A motion was made by Whitten, seconded by Baugh, that this PH-Rezoning be recommended for approval to the City Council, due back on 6/8/2021. The motion carried with a recorded roll call vote taken as follows:

Yes: 7 - Finnegan, Orndoff, Byrd, Whitten, Hull, Baugh and Dent
No: 0

4.e. Consider a request from Tawakkul Investments LLC for a special use permit to allow townhomes at 116 Pleasant Hill Road

This item was discussed together with the rezoning and preliminary plat, both as identified and described above and below, respectively.

This PH-Special Use Permit was recommended to full council.to the City Council due back on 6/8/2021

Yes: 7 - Finnegan, Orndoff, Byrd, Whitten, Hull, Baugh and Dent
No: 0

5. New Business - Other Items

5.a. Consider a request from Tawakkul Investments LLC to preliminarily subdivide 116 Pleasant Hill Road

Chair Finnegan read the requests and asked staff to review.

Ms. Dang said that 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 property, zoned R-2

North: Single-family detached dwellings, zoned R-2

East: Single-family attached dwellings, zoned R-2

South: Across Pleasant Hill Road, single-family detached and attached dwellings, zoned R-2

West: Multi-family dwellings, zoned R-3

The applicant is requesting to rezone a +/- 0.95-acre parcel from R-2, Residential District Conditional to R-8C, Small Lot Residential District Conditional and is applying for a special use permit (SUP) per section 10-3-59.4 (1) to allow attached townhomes of not more than eight units within the R-8, Small Lot Residential District. The applicant is also requesting approval of a preliminary plat with variances to the Subdivision Ordinance to deviate from the requirements that all lots have public street frontage and for deviation from public general utility easement requirements. If the requests are approved, the applicant plans to construct 16 townhomes on the site.

Rezoning and Special Use Permit

With the subject rezoning request to R-8C, the applicant has proffered the following (written verbatim):

1. Right-of-way along Pleasant Hill Rd. measuring 25' from road centerline shall be dedicated prior to issuance of any certificate of occupancy, as depicted in the approved Final Plat.
2. Developer shall construct a 5' wide sidewalk along the entirety of the Property frontage occurring at the time of Development. Sidewalk will be placed within the dedicated right-of-way, as identified in Proffer #1, and accurately located assuming future street improvements. Additionally, the Developer will provide two (2) pedestrian connections from the townhome development to the frontage sidewalk as described above and as

- generally depicted in the Rezoning Exhibit.
3. Entrance into the proposed Development shall be limited to one (1) entrance, as generally depicted in the Rezoning Exhibit.
 4. The proposed Development shall not exceed 16 total units.
 5. Each townhome unit shall be required to have a minimum of 1.5 parking space(s)/unit, averaged throughout the entirety of the Development.

Note that the submitted conceptual site layout is not proffered.

Proffer #1 and #2 addresses right-of-way dedication and sidewalk improvements along Pleasant Hill Road and pedestrian connections into the development. Proffer #3 would allow the site to have only one entrance onto Pleasant Hill Road to serve all uses on the site. Proffer #4 limits the development to not exceed 16 dwelling units. Finally, proffer number #5 addresses off-street parking. The conceptual site layout shows 32 off-street parking spaces, which is equivalent to providing two parking spaces per dwelling unit. While the Zoning Ordinance requires only one parking space per dwelling in the R-8 district, the applicant has proffered 1.5 parking spaces per dwelling unit, which is more than the base requirement, but less than what is conceptually shown and could allow them to provide less parking should they desire to do so as they move through the development process.

The property is surrounded by single-family detached, single-family attached, and multi-family dwelling types. As previously noted, the subject property is designated Medium Density Residential, which means such areas have been developed or are planned for development of a variety of housing types with a planned density of around 15 dwelling units per acre. Since the property is +/- 0.95-acres and they have proffered no more than 16 dwelling units, the density calculates to 16.8 dwelling units per acre.

The requested rezoning to R-8C is supported by the Comprehensive Plan and staff recommends approval.

Additionally, staff believes that the proposed townhome use is consistent with good zoning practice and will have no more adverse effect on the health, safety, or comfort of persons living and working in the area and will be no more injurious, economically, or otherwise, to property or improvements in the surrounding area, and therefore staff recommends approval of the SUP request.

Preliminary Plat

If both the rezoning to R-8C and the SUP to allow townhomes of not more than eight units are approved, then the preliminary plat can be considered. If the rezoning or SUP are denied, then the submitted preliminary plat is not relevant and could not be approved.

As required, all lots would be served by public water and public sanitary sewer. An existing public

water main and an existing public sanitary sewer main run along the Pleasant Hill Road frontage. The preliminary plat shows how existing and proposed water and sanitary sewer lines will serve each new lot.

The preliminary plat illustrates the location of easements for public water, public sanitary sewer, public general utilities, and includes a note that “easements for stormwater drainage and stormwater management facilities will be determined during site plan review and be included on the final plat prior to recordation.”

Section 10-2-42 (c) of the Subdivision Ordinance requires all parcels to have public street frontage. The applicant is requesting a variance from Section 10-2-42 (c) and describes in their letter justification for the request. This variance request has been approved several times throughout the City for many, existing townhome communities.

The second variance request is to Section 10-2-43 of the Subdivision Ordinance which requires a 10-foot wide public general utility easement along front lot lines and any lot adjacent to public right-of-way and requires at least a 10-foot wide public general utility easement centered on the sides or rear of lot lines. Public general utility easements are provided for utilities, including water, sanitary sewer, storm sewer, electric, natural gas, television cable, telephone cable, and others as deemed utility by the City. The applicant describes in their letter justification for the request. Know that the public general utility easements provided would not preclude utility companies from negotiating alternative easements with the property owner(s). More or less, the requirements as specified in Section 10-2-43 are to ensure that necessary areas are reserved for the needed utilities in traditional subdivisions. Staff does not have concern with the proposed development deviating from this section of the Subdivision Ordinance as it appears all issues typically associated with this requirement are being addressed.

Aside from the variances requested to allow the 16-townhome lots to not have public street frontage and to deviate from public general utility easement requirements, the development meets all other requirements of the Subdivision and Zoning Ordinances.

Staff recommends approval of the preliminary plat and variances as requested.

Chair Finnegan asked if there were any questions for staff.

Councilmember Dent said that she keeps hearing the same variance requests for townhome developments. I wonder if that might be feedback for the Subdivision and Zoning Ordinance revisions.

Commissioner Byrd said that the entrance is a suggested entrance. While things are being finalized, in those later stages, due to traffic issues, they would make any adjustments during that part of the phase, correct?

Ms. Dang said that there was a public comment received that brought up concerns and was asking about an evaluation of the entrance location. You are correct, if it has not already been looked at by our Engineering Division and the Public Works Department, they would certainly be looking at that during the Engineered Comprehensive Site Plan review phase.

Mr. Fletcher said that he was looking at comments regarding this request. I looked back through the comments to see if there was an acknowledgement about sight distance. We talked about a lot of different issues on this matter. There is a lot of work that goes on behind the scenes that we do not always talk about. We focus on a lot of different things and I have a lot of faith in our Engineering and Public Works staff. My only concern with the sight distance issue is that there is not an actual acknowledgement of no sight distance concern. That is not always the case. For sight distance there has to be a certain distance based on the type of street, the speed limit of the street, and the K value of the curve of the street. If there is a sight distance issue, it could end up that the design of the entrance may have to shift one way or the other. Because the site is laid out almost as dense as possible, that could alter the layouts of the lots. What I am wondering is how we might be able to offer some flexibility of design, if you end up approving their plat, so that there is not a substantial difference in the design where they are not increasing the number of lots and making sure that all the design criteria are being met. My concern is that if it shifts the design so much, when they go to final plat, they are not adhering in substantial conformance with the preliminary plat as designed and as approved by the Planning Commission.

Mr. Russ said that he is not sure how we would go about increasing flexibility beyond “in substantial conformance.” They are not wedded to the precise details of what is being shown. They can deviate from them. I do not know of any avenue for giving them additional wiggle room.

Mr. Fletcher said that staff discussed this prior to the meeting. We have definitely had changes between the preliminary plat and the final plat. It has not been so significant where it is throwing off the density, building alignment. Maybe the applicant can speak to whether they have already evaluated the sight distance at the intersection looking east and west along Pleasant Hill Road. If the applicant gets further down the line and there is a sight distance issue, it may need to come back to Planning Commission.

Chair Finnegan said thank you for that insight. We did get that email from Mr. Pippin about the visibility issues there. To my recollection, something similar to this that we approved was a rezoning on South High Street near Ace Hardware. There is a blind hill there. It was not residential, but we had similar concerns regarding visibility and cars getting in and out of the there.

Commissioner Hull asked if there was guest parking.

Ms. Dang said that if they have room to add more, they can add more. As they have offered in their proffer, they would only have to provide one and a half parking spaces per dwelling unit. If it is guest parking or parking for the dwelling, that is the minimum number of spaces they have to provide for all of the uses.

Commissioner Whitten said that this is a small number. Have they addressed affordability and ADA accessibility beyond the parking spaces?

Mr. Fletcher said that he looked back at the Virginia Building Code. When you are building townhomes and you are individually subdividing them, there are no ADA requirements based on the number of units that have to meet ADA accessibility. If all units were all on one parcel, that changes the game because they would be considered apartments. I do not think that they are required to have ADA accessibility. If they were one-story subdivided townhomes, they might have to meet some accessibility requirement. It is definitely something for us to keep in mind as we continue to look at housing, to be able to find more and accommodate more.

Commissioner Whitten said that she is aware that there is not a law that says they have to. I want it in our thought process and hopefully developers and builders will think about it and make some provisions.

Councilmember Dent said that she seconds Commissioner Whitten's comment on affordability. I see in the letter from the designer that they refer to "much needed affordable housing within the City." While I appreciate the sentiment, I wonder what they mean by affordable. There are not any affordable housing proffers. Is it that more dense housing is by nature affordable? I am concerned that "affordable housing" has become the buzzword and they know that City Council is looking for that, so it becomes lip-service without putting in the proffers to make it affordable.

Commissioner Whitten said that is why she asked the question.

Chair Finnegan said that the commissioners can ask the applicant. When it comes to market rate projects, the reasons that this denser housing goes in is because that is what they need to do to get their money back on their investment. Everyone knows that we want affordable housing. If there are no incentives, it is unlikely that they are going to offer it.

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

Jon Ernest, Monteverde Engineering and Design Studio, spoke as the applicant's representative. From the affordable housing standpoint, we have looked at a number of layouts, taken comments from staff into consideration, and looked at new urbanists concepts that we can apply, such as bringing the frontage of the homes closer to the road. As we do that, costs go up. As shown now, with the increased density as much as possible, unfortunately with the cost of labor and construction materials, the delay, and supply and demand, the housing is as affordable as it can possibly be. It is a very complex and difficult question to answer as the fluctuation of prices in lumber and construction prices is so volatile, especially in 2020 and 2021.

At this point in the meeting, Commissioner Orndoff joined the meeting.

Mr. Ernest continued by thanking Ms. Dang, for the project introduction and for presenting this request to the Planning Commission and to the public. The applicant is seeking a rezoning of 116 Pleasant Valley Road from its current zoning designation of R-2 to the more recently created zoning classification of R-8. The rezoning of this property, along with the SUP request to allow for townhomes in this district will enable substantially greater housing density than current zoning limitations allow. This speaks to our applicant's desire and intent to provide as much of an affordable housing product as this market allows. Most of us see the very apparent demand for housing inventory, not only locally or regionally, but nationally. Current market trends are unfortunately pricing out a large demographic of homebuyers. Our applicant has sought to reach that demand and offer a solution for that existing demand. We believe that the project's location, along with meeting the original intent of the R-8 zoning classification increasing the density where it is otherwise prohibited, makes this property an opportunity that aims to meet the existing demand while conceptualizing itself perfectly with the surrounding land uses of the immediate neighborhood being R-2, R-3 and mostly townhome and apartments throughout this neighborhood. With that, I would like to introduce one of the applicants, Jawad Ahmad.

Jawad Ahmad, Tawakkal Investment, spoke in support of the request. We purchased the property a few months back. The objective is to build affordable housing and meet the City needs. Due to the current situation worldwide, it is going to be difficult with costs going up tremendously. We will do our best to keep the costs down and make it affordable for the residents of Harrisonburg.

Chair Finnegan referred to the concerns regarding the entrance off of Pleasant Hill Road. Given the location of the property, the fact that the entrance needs to be central given the design, is there any way to mitigate those problems? Is that a concern of yours that it will create accidents coming in and out of there?

Mr. Ernest said that sight distance and any traffic related issues are typically the foundation of any development. We take those very seriously. We like to do our due diligence up front. We have spoken and reviewed this plan with Public Works. We have seen no sight distance issues at this point, without going on-site and actually taking the measurements, which would give us more accurate data than just our design programs. Out of good practice for developments, we like to centrally align proposed entrances. Out of good practice and to maximize the project's potential and speaking with Public Works through pre-application and post-application, we have come to this determination. If it is deemed that sight distance is not met, which does not seem to be a concern from Public Works or our preliminary studies, then we would take the necessary steps to address those.

Chair Finnegan asked if there were any questions for the applicant's representative. Hearing none, he asked for the next caller. As there were no more callers, he closed the public hearing and opened the matter for discussion.

Chair Finnegan said that a lot of this has already been said. We are building more housing in Harrisonburg. This is a residential area with a lot of apartments. I used to work at Merriweather Hills. I am familiar with this area. There are a lot of multi-family homes. This seems like an appropriate location for this, with the caveat of the visibility issue. I am glad to see the R-8 being put to use.

Chair Finnegan noted that Commissioner Orndoff had joined the meeting.

Commissioner Whitten made a motion to recommend approval of the rezoning request.

Commissioner Baugh seconded the motion.

Chair Finnegan called for a roll call vote.

- Commissioner Orndoff Aye
- Commissioner Hull Aye
- Commissioner Whitten Aye
- Commissioner Byrd Aye
- Councilmember Dent Aye
- Commissioner Baugh Aye
- Chair Finnegan Aye

The motion to recommend approval of the rezoning request passed (7-0). The recommendation will move forward to City Council on June 8, 2021.

Commissioner Baugh made a motion to recommend approval of the SUP request.

Commissioner Byrd seconded the motion.

Chair Finnegan called for a roll call vote.

- Commissioner Whitten Aye
- Commissioner Orndoff Aye
- Commissioner Hull Aye
- Councilmember Dent Aye
- Commissioner Byrd Aye
- Commissioner Baugh Aye
- Chair Finnegan Aye

The motion to recommend approval of the SUP request passed (7-0). The recommendation will move forward to City Council on June 8, 2021.

Commissioner Baugh made a motion to recommend approval of the preliminary subdivision

request.

Commissioner Whitten seconded the motion.

Chair Finnegan called for a roll call vote.

Commissioner Baugh	Aye
Commissioner Byrd	Aye
Councilmember Dent	Aye
Commissioner Hull	Aye
Commissioner Orndoff	Aye
Commissioner Whitten	Aye
Chair Finnegan	Aye

The motion to recommend approval of the preliminary subdivision request passed (7-0). The recommendation will move forward to City Council on June 8, 2021.

A motion was made by Baugh, seconded by Whitten, that this Action Item be recommended to full council to the City Council, due back on 6/8/2021. The motion carried with a recorded roll call vote taken as follows:

Yes: 7 - Finnegan, Orndoff, Byrd, Whitten, Hull, Baugh and Dent

No: 0

6. Unfinished Business

None.

7. Public Comment

None.

8. Report of Secretary & Committees

8.a. Proactive Code Enforcement (On Hold)

8.b. Rockingham County Planning Commission Liaison Report

Commissioner Byrd said that the Rockingham County Planning Commission had two items. The first was a rezoning of undeveloped land from R-2 to B-1. It was approved. The second item was an item mentioned in April, the Baum Investments, LLC rezoning request on Boyers Road. They had re-opened that to allow for more public comments and interaction with the public due to some technical difficulties from the previous meeting. Only four of the commissioners voted on it and they were split down the middle (2-2). They recommended to send no formal recommendation to the Board of Supervisors with a unanimous (4-0) vote.

The Planning Commissioners agreed on the following schedule for the Rockingham County Planning Commission Liaison Report:

- Commissioner Whitten June 1
- Chair Finnegan July 6
- Commissioner Hull August 3
- Commissioner Whitten September 7
- Commissioner Baugh October 5
- Commissioner Orndoff November 2
- Commissioner Hull December 7

8.c. Board of Zoning Appeals Report

There was no meeting.

8.d. City Council Report

Councilmember Dent said that City Council passed requests for three unique sites, some with several motions about them that had come through Planning Commission. The requests by Farhad Koyee and others regarding 907 North Main Street for the multi-use building with retail and offices on the first floor and apartments on the second floor were approved. The request to close the alley on Washington Street was approved. The requests regarding two lots on Vine Street were approved.

9. Other Matters

Zoning and Subdivision Ordinances Project Update

Ms. Dang said that staff has been working with the consultants on the Zoning and Subdivision Ordinance project. As the Zoning Ordinance covers so many topics, we are still working on it. We felt more comfortable postponing the public input meeting and we are now looking at the middle of June. When we have that settled, we will share the date with everybody.

Councilmember Dent asked if there is an Ordinance Advisory Committee meeting before then.

Ms. Dang said not at this time. When we have reviewed the first module, part one of three of the Ordinance, we will schedule the Ordinance Advisory Committee meeting.

Commissioner Whitten asked if staff still anticipates that the mid-June public input meeting will be a virtual meeting.

Ms. Dang said yes. We are planning a virtual meeting.

Chair Finnegan said thank you for bringing that up, Commissioner Whitten. I had a discussion with Ms. Dang when we reviewed this agenda. I want to get input from any of you about how you are feeling about the possibility of meeting in person. The Harrisonburg City School Board is meeting

in person. City Council is not yet meeting in person. We were thinking that we would follow the lead of City Council. When City Council starts meeting in person, then the Planning Commission will start meeting in person. I have mentioned this before, I think that the discussion is better. We have better quality discussions when we are in the same space and we are not having issues with microphones and hearing people. I do look forward to doing this in person, again.

Commissioner Whitten agreed. I would also say that because the Zoning and Subdivision Ordinance is such a very special effort, it really required input from the public. If we had to put off a public meeting for another month thinking that we might be able to meet in a public forum, with masks. I think that is preferable than meeting virtually. I think that it will get a lot more input and have a higher quality.

Chair Finnegan said that if there is a way to do this outside, in an open-air environment, such as the Turner Pavilion, I would hope that is something we look into so that we could have more public input. What I have seen at these virtual meetings is that the public input has dropped off.

Commissioner Whitten said that the public input is vital to the work that staff is doing. It is vital to the work that all of us are doing. If we need to err on the side of having to delay the meeting, I think that is okay. As far as our meeting, I am vaccinated. I do not know how many people are vaccinated. I am hopeful that most of you are vaccinated or in the process of being vaccinated. I think that it would benefit all of us to meet in the same room. If we do not have the public there, at least we could meet together and have a lot more clarity within our discussions and maybe bring more clarity to the whole meeting.

10. Adjournment

The meeting adjourned at 8:52 p.m.

NOTE TO THE PUBLIC

In accordance with the Emergency Ordinance to effectuate temporary changes in certain deadlines and to modify public meeting and public hearing practices and procedures to address continuity of operations associated with the pandemic disaster, readopted on February 23, 2021, the public will not be able to physically attend the Planning Commission meeting.

However, a phone line will be live where community members will be allowed to call in and speak with Planning Commission during the Public Hearings and the Public Comments portion of the night's meeting. We ask those that wish to speak during the public comment period to not call in until after all the public hearings and public comment on those items have been heard. This will avoid anyone calling on any other item from holding up the queue and then being asked to call back at a later time.

The telephone number to call in is: (540) 437-2687

Community members also may provide comment prior to the meeting by emailing: Thanh.Dang@harrisonburgva.gov.

Community members will be able to watch the meeting live on:

- The City's website, <https://harrisonburg-va.legistar.com/Calendar.aspx>
- Public Education Government Channel 3