



CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

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August 11, 2023

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

SUBJECT:

Consider a request from Sunchase Harrisonburg LLC to rezone two parcels at 1900, 1901, 1904, 1908, 1909, 1913, 1914, 1916, 1921, 1924, 1929, 1932, 1933, 1940, 1941, 1948 Sunchase Drive and 720, 723, 728, 736, 744 Chase Court

Consider a request from Sunchase Apartments LLC for a special use permit to allow more than 12 multi-family dwellings per building at 1900, 1901, 1904, 1908, 1909, 1913, 1914, 1916, 1921, 1924, 1929, 1932, 1933, 1940, 1941, 1948 Sunchase Drive and 720, 723, 728, 736, 744 Chase Court

**EXTRACT FROM MINUTES OF HARRISONBURG PLANNING COMMISSION
MEETING HELD ON: July 20, 2023**

Chair Finnegan read the request and asked staff to review.

Ms. Rupkey said the applicant, Sunchase Harrisonburg LLC, is requesting to rezone a +/- 19.5-acre property from R-3, Multiple Dwelling Residential District to R-5C, High Density Residential District Conditional and is simultaneously requesting a Special Use Permit (SUP) per Section 10-3-55.4 (1) of the Zoning Ordinance (ZO) to allow multiple-family dwellings of more than twelve (12) units per building in the R-5, High Density Residential District. The +/- 19.5-acre property has multiple addresses including: 1900, 1901, 1904, 1908, 1909, 1913, 1914, 1916, 1921, 1924, 1929, 1932, 1933, 1940, 1941, and 1948 Sunchase Drive and 720, 723, 728, 736, and 744 Chase Court. The sites are identified as tax map parcels 84-A-14 and 15. If the requests are approved, the applicant intends to add 20, four-bedroom dwelling units to the property. The applicant describes that they have 10 buildings on the property that have basement and storage spaces that can be converted into apartment units.

Proffers

The applicant has offered the following proffers (written verbatim):

- The maximum number of dwelling units proposed for Lot 1 TMP 084-A-14 is 208 Units.
- The maximum number of dwelling units proposed for Lot 2 TMP 084-A-15 is 28 Units.

The applicant is proffering the maximum total number of new dwelling units that can be built on the properties is 20. There are currently 216 multiple-family dwelling units on the property consisting of two parcels. A rezoning to the R-5 district without proffers for either of the two parcels could have up to 471 dwelling units. With the submitted proffers, the maximum number of dwelling units is 236.

Land Use

The Comprehensive Plan designates the site as High Density Residential and states:

These areas have been developed or are planned for development that have the highest residential density ranges outside of the downtown area and properties designated Mixed Use by the Land Use Guide. Density is planned to allow up to 24 dwelling units per acre. While a number of existing multifamily developments and areas adjacent to such developments are identified as High Density Residential, residential land use could include small-lot single-family detached and single-family attached neighborhoods. In special circumstances, non-residential uses may be appropriate.

Staff believes the rezoning and approving the SUP is in line with Comprehensive Plan. With the submitted proffers, the maximum density is 12.1 units per acre, which is well within the planned density.

Regarding off-street parking, if the rezoning and SUP are approved, no additional parking is needed to be in compliance with the ZO. Sunchase currently has 114 more parking spaces than the ZO requires. Presently, the site contains a total of 870 parking spaces. The ZO, however, requires 756 spaces because they have 216 dwelling units and the ZO requirement is 3.5 spaces for each dwelling unit with four or more bedrooms. If they create 20 new four-bedroom dwelling units, these units would require 70 parking spaces for a grand total of 826 required parking spaces. If no additional parking is constructed, the site would still have 44 more parking spaces than what the ZO requires.

Transportation and Traffic

A traffic impact analysis (TIA) was not required for the rezoning and SUP requests.

Public Water and Sanitary Sewer

Staff has no concerns regarding water and sanitary sewer service availability for the proposed development.

Housing Study

The City's Comprehensive Housing Assessment and Market Study (Housing Study) places the subject site within Market Type A. Among other things, this Market Type is characterized by high population growth. The study notes that Market Type A has "above median overall access to amenities such as public transit within walking distance, full-service grocery stores, and multiple parks and recreation facilities." The study also notes that "policies that are appropriate to Market type A areas include an emphasis on increasing density through zoning changes, infill development and housing rehabilitation to maintain the quality of housing."

Public Schools

The student generation attributed to the proposed 20 residential units is estimated to be two students. Based on the School Board's current adopted attendance boundaries, Stone Spring Elementary School, Skyline Middle School, and Harrisonburg High School would serve the students residing in this development. Harrisonburg City Public Schools (HCPS) staff noted that schools are over capacity in many of the schools.

Recommendation

Staff recommends approval of both the rezoning and special use permit.

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

Trey Steigman, owner's representative for Sunchase Harrisonburg LLC, came forward to speak to the request. He said I want to thank the staff for putting together the staff report. I think it comprehensively explains what is just a simple project. We simply have some basement spaces in our buildings that were constructed many years ago. In fact, the first phase was 23 years ago. The second phase was something like seven or eight years ago. The only reason the spaces were not developed when we originally did the buildings was because the ordinance at the time restricted, for some reason, arbitrarily in my opinion, each building to have only 12 units. Well, at some point in the last five or six years you all have planned and come around to modernize the zoning ordinance to at least express the fact certainly buildings can contain more than 12 units. In our case, we have the physical ability to potentially add two additional units in each of the buildings, as Meg showed you, in the basement spaces. It is going to require some work on our part from architecturally, engineering so on and so forth. We believe that we can put together an appropriate construction document and scope of work for a future submission to the building department to allow for basically a renovation of the basement space converted to actual dwelling units and be synergistic with the existing apartment buildings. As Meg said, we literally are not doing anything to the site that requires anything other than what I am describing to you as basement renovations of existing space. Again, a simple project, but unfortunately because of the nature of the ordinance we have to come before you and request a full rezoning and a full special use permit and frankly a lot of rigamarole for what amounts to a basement renovation. I would be happy to answer any questions. I appreciate your time and we ask you to support this proposal.

Chair Finnegan said just one second, does anyone have any questions for the applicant at this time?

Commissioner Alsindi said thank you for the presentation. I understand that definitely would be more cost effective and also good to have more accommodations within the building. The last time when we went for the tour, a question came to my mind and that is throughout those 23 years, has it happened that some people or residents might have needed space to put some stuff. We care about the welfare, generally, of the livelihood inside the building rather than just accommodate people, which again I do understand, and it is good for the City eventually, but from other utilities and functionality points of view, could there be any other use within the basement? Just to turn the whole building into just an accommodation.

Mr. Steigman said that is a great question and thank you for asking it. In fact, when I was involved in the project in the very early stages 23 years ago, we actually did one building where we put storage units. Basically, we chain linked fenced off a bunch of the basement space thinking that a lot of people would need extra storage. Well, it turns out our target market is undergraduate students at JMU. They do not have a lot of baggage. In fact, our apartments are fully furnished. So, when they walk through the door they literally can live there with a suitcase and a backpack. While we thought similarly to you that we could use the space for storage and that there would be a demand for it, it turns out all we are using it for now is our own management storage where we bring in pieces of furniture and shift out and repair things and kind of use it as an overflow. We provide an extensive amenity package for our residents. We have a really state of the art clubhouse, pool facilities, exercise facilities you name it we have got it to my knowledge. Again, it is an extensive knowledge. We have never had any additional use for the resident profile of the basement spaces. So, the answer I would tell you is no. This is the highest and best use of the existing space. If it were not for the ordinance restricting to 12 units per building, we would not even be having this conversation. We would have already put those units in those buildings when we built the project 23 years ago.

Chair Finnegan asked if there were any more questions for the applicant. Hearing none, he asked if there was anyone in the room or on the phone wishing to speak to the request.

Jamison Arimoto, a resident at 2100 Scarlet Oak Court, came forward regarding this request. He said I was just wondering why would this project require something as extreme as rezoning the entire property all the way from R-3 to R-5C? Once Sunchase or whoever may succeed in that property has it in their pocket, would there be effective limit on what they could do with that property. Tear the whole thing down and build a giant apartment complex sometime in the future. I mean there would be no limitations or restrictions. Is there another way that is short of rezoning that this situation could work it by?

Chad Trevitte, a resident at 739 Woodland Drive, came forward regarding this request. He said my property is adjoined...the backyard where I live there is a boundary fence and then right behind the boundary fence is Sunchase apartments. I want to first thank the zoning committee for taking the time to look at this issue. I have been here on a previous occasion regarding another rezoning issue on the other side of our neighborhood you may recall it a large building project. A very large apartment complex building is going to be built on the other side of the neighborhood. When I came to the previous commission hearing on that case, I was very impressed by how carefully you were looking at all of the cases that came before you in terms of the possible consequences of the changes that were being proposed in the other cases as well as ours. Even just having an extra parking place for a single residence, the amount of attention that you gave to that in terms of the consequences it might have in terms of quality of life for the neighbors, You gave the same attention to our case, and I am still thankful for the attention that you gave to that case. It was a good example of City government in action, local government at work. Following a process of smart growth that still respects the [unintelligible] and the quality of life for residents who could be affected. However, in light of how the previous case went, a unanimous verdict on your part, as I recall, that project should not be approved that rezoning should not be approved to allow that large apartment complex on the other side of the neighborhood. We live in a watershed; the issue of runoff water was brought up repeatedly. The flooding problems that we already have in our

neighborhood was brought up repeatedly. I think all of you gave careful thought to that. In light of our concerns, you unanimously decided not to approve that zoning decision. Unfortunately, the City Council committee that then reviewed your recommendation overturned it completely. As if all of the work you did in your deliberations just went up in smoke. To me, looking back on that, it was deeply disappointing to see that, it was upsetting. Frankly, I am worried that coming here again and spending my time to make a case for yet another rezoning situation. This time on the other side of our neighborhood with property that is right behind my backyard. I am worried that maybe the same thing is going to happen. That even if you see a reason to reject this decision, that your own verdict may just be overruled by the City Council that reviews it. I hope that if you do end up believing that our concerns are legitimate and that you think that we have a good case for being worried about this in our neighborhood that you will not only vote to reject this proposal but that you will do everything you can to compel and convince your colleagues in City government to respect your decision and to respect your judgement and to not just treat it as Kabuki Theatre because that is how it felt. I say this in respect to you because I am deeply thankful for what you did. I do not think that well about how your colleagues handled it. I want to stress this too because I am...maybe I should give you background. The residents where I live, before I lived there, I have been living there maybe about five years or so, the fence that is in my backyard separates the Sunchase parking lot adjoins that fence. I still get some noise from that location. It is not as bad certainly as what was reported to me by my neighbors before that fence existed. Not only did that fence not exist back then, but there was also a property lot between myself and my neighbor and there was an access road where students could drive into Sunchase through our neighborhood. That became a serious problem in our neighborhood before I moved there. My neighbors have told me many stories about students parking in our neighborhood, the traffic that was coming through our neighborhood to get to Sunchase, the amount of noise and congestion that created, the litter of beer bottles and beer cans that people were finding in their backyards in the residence where I live in particular. It was a serious problem in that neighborhood before I moved there. My neighbors would say to me "you should be so thankful that you moved here after they solved that problem." They got rid of that access road. They built that fence. It was an understanding between our neighborhood and Sunchase and local City leadership, and I believe the Fire Department and maybe Law Enforcement may have been involved too that an arrangement and an agreement that was made that Sunchase would maintain that fence and keep that fence there to at least have more privacy. Since then, I think it has increased the quality of life in our neighborhood. Now, with this decision, my concern is with a heavier population density in that area of Sunchase adjoining my property, there are a number of things I am worried about. I am worried about increasing levels of noise and disturbance, of having to call the police and have them deal with noise complaints. I am worried about all of the other associated problems that can come from a higher population density in an adjoining property to your own. Higher levels of traffic that is going to be coming through. Reservoir Street is already fairly congested at certain parts of the day, not all parts of the day, but there are days where Reservoir Street is clogged. I am worried about more traffic congestion near the entrance of our neighborhood. I am ultimately worried that over the long term about the law of unintended consequences. A higher population density in an adjoining apartment complex, I am worried that over time that will create a situation where it is just more convenient to remove that fence and its more convenient to put that access road back there to handle the traffic congestion to have another route into the complex to handle the increased amount of traffic that is going to create. There is no legal obligation that Sunchase has to maintain that fence, it is just a friendly understanding. We have to rely on their goodwill to maintain that fence. I can tell you when it

comes to good will and maintaining that fence, I would like you to take a look at that fence I would like you to take a look at how they have not maintained it, how warped it is. There are missing planks in that fence that I have been waiting for months for the property manager at Sunchase apartments to do something about that fence. He called me at least three months ago saying “we are going to look into it. Would you give us permission to have someone in your yard that can repair the fence.” I said yes certainly.

Chair Finnegan interrupted and said to Mr. Trevitte, I am sorry but there may be other people that want to speak to this so could you get...is this what you are presenting? These photographs? [Chair Finnegan was referring to printed photographs submitted by others as public comment.]

Mr. Trevitte said those photographs are not a part of my case, they might be a part of their case.

Chair Finnegan said please wrap up your point.

Mr. Trevitte said I know that this is not part of the intention, but with a higher population density I am afraid of essentially some of those things happening in the future due to the pressures of a higher population. I am hoping that you will look at this case with the same spirit that you looked at the previous case. If you do see merit in our concerns that you will maybe be an advocate for our community and for the residents in that community, who are already going to be suffering from the consequences of the previous decision. Thank you.

Jana Ruxton, a resident of 724 Woodland Drive, came forward on this request. She said I have some questions first before comments. My first question would be, what is the projected occupancy for the 2023-2024 school year at Sunchase that warrants this expansion? My understanding is that none of the off-campus housing are full. What warrants that? My other question is, you are currently using that space for storage, where is that going to go? Are there outbuildings being put up? What exactly are you going to do about that? The other thing is, I personally walked the property, especially noting those buildings that had current access to the basement with steps and a proper entrance. There are buildings that face the ditch, which is the difference between Sunchase's line and Woodland's line. Some of the buildings are in very poor condition. The foundations are crumbling. There is no walkway, so, obviously how are these people going to access these basements in some of these? Obviously, some sort of infrastructure will have to come in for that in a very tight, which it will be in some of the pictures that will be put up later, very little space, much erosion and the grounds crew has basically taken anything that they have clipped away and piled it up along the ditch on their side. That brings up another issue of not maintaining the ditch on our side, which they own, that we have gone to the City about. So, the question that needs to be answered is, do they have full occupancy that warrants this expansion? I doubt it. What will they do with the stuff that they are currently storing for their property needs? The condition of some of the buildings with basement accessing has no infrastructure currently there. Our request would be, if you allow this to take place you remove those basements that have no formal entrance to them but dirt and where the foundation is crumbling. I swear there is no more space from this end of the desk to this end of the desk and it is a ditch. Now, to speak to the traffic. I will say, I travel that route frequently from Reservoir down to Neff. There is huge uptick, which I am sure could be substantiated by the police, of accidents coming in and out of Sunchase and the units across the street. So let us add more. Really? I echo the gentleman before me his sentiment of how

our numbers are not the same as they were when we went through the last zoning meeting because it was clear that the City really was not listening or caring about the people who call Harrisonburg their full-time home. I just hope you give consideration for the points we have tried to make and will make. Thank you.

Victoria Harris, a resident at 720 Woodland Drive, came forward for this request. She said I wanted to show that first map of the Woodland area. [Referencing pictures that she provided.] Woodland Drive is the only road that the residents have to go in and out of our neighborhood. We have 53 homes. We have three streets, Woodland Drive which is a cul-de-sac, Scarlet Oak Circle which is a cul-de-sac, and White Oak Circle. When our road floods, we cannot get to or from our homes, and it has been flooded. The Fire Department closed our road one time. It has been an issue of flooding. What I propose...I do not have any problem with Sunchase adding more apartments, I am okay with that, but the three apartments that border the drainage ditch, if they are going to add sediment there by putting in a sidewalk or some kind of patio or anything to access those doors. There is a drop off right behind that, that is what Jana was speaking about. There is no space there. The sediment is going to go right into the ditch. Our neighborhood got approved for the drainage improvement plan because of the flooding. We were accepted by the City to have improvements done to the drainage ditch. You have a drawing there from the Drainage Improvement Plan the one with the yellow mark on it. [Referencing pictures that she provided.] The yellow area is the drainage ditch. Woodland Drive is the spillway for that whole area of the City. We have trunk lines coming in from all the streets around us. My house is the lowest property. The water has already come up my driveway in the past. What I am trying to show here on this picture [pointing to the picture] this is the drainage ditch that the City promised that they would work on this area and try to help us, so that is why we were approved for the grant. They had a study done by the Timmons Group, and it is on the website, and you can access that. It is on the Public Works website, and it shows Woodland Drive and the study that they did in 2021 and the recommendations that they made...this is all before any future development. Now on Lucy Drive there is a new development going in there, I asked Dan Rublee, I said "Does trunk line H bring the water from that new development to this ditch?" he said "yes". That development has not been built yet. The property that Chad was talking about on the corner of Woodland Drive and Reservoir Street it is going to put in a parking lot for 375 cars and a high rise building with businesses on the bottom and student housing on the top. That was not even considered in this study, and they have already shown on the maps that in the two-year flood zone, the road is flooded. Without those two new developments that have already been approved. I know that does not have a lot to do with this, but what I am asking for is the three buildings on Chase Court if you would please reject anything being done to those three buildings. I do not care if you put apartments in all of the other ones. The other ones have stairs that go to the parking lots but the three on Chase Court, if you look on that map, anything that is done to the soil there is going to cause disruption to this drainage. I am just asking for those three buildings, 720 Chase Court, 736...let me get my map. I have this old map that the Police Department gave us when we use to have trouble with noise. Since we got the blue zone parking it has been much better. We had the Police Department help us, Kurt Boshart helped us get the blue zone parking. We got all of this from the Police Department back in 2002 when we met with the Police, Sunchase, JMU and we came up with a plan and Sunchase put the fence up, the City closed off those areas where people from the City were parking and going to the parties over there. That was a main problem because when they left the parties, they were the ones that were the worst, they were not always the residents. Anyway, these three 720 Chase Court...well

there is three out of four in Chase Court that do not exit to a parking lot, they exit to the drainage ditch. The front is the parking now, but the back door exits to the drainage ditch. The fourth building has a parking lot there that it exits to. That is what I am asking for, is to please not allow those three to have basement apartments and no disturbance of the land. Okay?

Chair Finnegan continued [to Mr. Steigman] before I close the public hearing, if you would like to respond to anything, any concerns that were raised, you are welcome to. Anything that we cannot answer, or staff cannot answer. There were concerns about noise, traffic, and flooding. You are not required to speak to that.

Mr. Steigman said just very briefly, I only became of these comments earlier today. We were aware of some issues with the drainage area that had been worked on with the Stormwater and Utility Department of the City of Harrisonburg for probably three or four years now. Including the Timmons study, we participated in that to get them on the property to get whatever they needed to do for engineering. We are certainly willing to continue our corporative efforts with the City department in that regard. The woman who spoke last, I understand the concern about perhaps bringing a sidewalk around the building in a very narrow area. I am not an engineer; we engage engineers, and they are able to do things and design things that are appropriate for the buildings. It is our intent not to do any of the buildings that require any sidewalk or access in the interim stages. We are looking at doing the buildings that are already built for this, that are already ready to go for basement conversions. Somebody said something about the occupancy, I will say that Sunchase apartments in Harrisonburg is one of the strongest occupied properties that we have in our entire portfolio. Every year roughly, springtime is 100% already leased for the next year, so we have a very strong demand for these departments, otherwise I would not be here. Thank you.

Ms. Ruxton said I just want to make sure that you all have copies of the photos we submitted, and you can turn to the one specifically that has the blue door. You can see the condition of the foundation. You can see that there are infrastructure issues which only heightens the reason why the units we requested not be converted. It is more than putting in a sidewalk is my point. That will disrupt all the way to your already eroding land.

Ms. Harris said these photos I did not give to you because they are in the Timmons Study on the Public Works website, but this is how they show our street (referring to the map) that brown is our street. That is the flooding in our street and the buildings that would be affected, the homes. So, that is why I am upset. It is already starting before these other two developments are going in. Anything else that happens in this area, this brown is the flood water and that is our street. We are scared.

Chair Finnegan closed the public hearing and opened the matter for discussion.

Chair Finnegan said I have a question. I do not know if staff can speak to the flood mitigation. That is really more of a stormwater utility question. There was a grant.

Mr. Fletcher said are you talking about the listed public drainage improvement program that is listed on the Public Works website. Unfortunately, staff that is here this evening...unless Thank or Meg has...I have nothing else to offer. It is not a project that we coordinate on our own.

Commissioner Baugh said Public Works does that with the Stormwater Advisory Committee.

Ms. Dang said what is the question exactly? I am not sure what you mean.

Chair Finnegan asked what the status of that project is? Has it been implemented? Will it be implemented?

Ms. Dang said the Stormwater Improvement Plan has many projects identified throughout the City. I cannot speak to the specifics, but I know that there is a prioritization. Certain projects, as you can imagine, there is just a lot of them throughout the City. I am trying to remember what Mr. Keith Thomas told me. He is the sustainability and environmental manager at Public Works. They are aware of this project, but it is not a project that has an active request for proposal or something like that to my knowledge.

Mr. Fletcher said there are four listed areas: Charles Street to Madison Street, Country Club Road, East Rock Street and Hill Street, Newman Avenue and Woodland Drive. Woodland Drive actually has a study that has been completed and it is pending VDOT construction. I am going by memory here a little bit but that the VDOT connection is that they are making improvements in this area for credits towards the improvements being made to interstate 81, which can seem confusing. They are offsetting, essentially, construction from that project. So, we recognized the areas where we needed improvement and we identified this one, which is why it is listed the way it is listed.

Chair Finnegan said I guess part of my question is, when this goes before City Council next month, would it be possible to have or at least invite someone from Public Works to speak about those projects? Just to give them context.

Mr. Fletcher said it could. The projects respectfully are not directly connected to the subject request, but if you think it is necessary to have them, we can speak with them.

Chair Finnegan said it might add some...it seems like what I was hearing was that a heavy part of the concern was about stormwater mitigation. I do think it is relevant if that is going to be the conversation that happens at City Council.

Ms. Dang said what the applicant is proposing to do is not adding impervious surfaces, except for minor sidewalks if any. I am still not very clear about that, but it is all internal to existing buildings. They are not going to be large land disturbance that would trigger a stormwater management regulatory requirement.

Mr. Fletcher said they may not even need to go into any kind of site plan review because it is all internal, the buildings. In fact, they do not even need to add parking.

Chair Finnegan said it is renovations.

Mr. Fletcher said renovations to existing buildings. If I can, since I am speaking now, there was a comment about can they just demolish everything and rebuild something new. Well, theoretically,

yes but they are limited to the density that is proposed. They could not maximize the density of the R-5 district.

Ms. Dang said as well as what is proffered.

Mr. Fletcher said that is what I am saying. They are maxed out at the proffer density, which is just the additional 20 units being on the 216 that are already there. Is that correct?

Ms. Rupkey said yes, so 236 total.

Ms. Dang said I do not mean to make light of the drainage concerns that the neighborhood has, it is just a separate matter, in our opinion, from this land use request.

Vice Chair Byrd said I did have one question; would those be enlisted in the Capital Improvements program?

Mr. Fletcher said that is a great question. I would have to double check to see if it is, but it is a known project, in fact, from VDOT. It is pending construction for VDOT approval.

Chair Finnegan said thoughts or discussion about this. Thank you for that clarification staff.

Mr. Fletcher said I was just going to say, for anyone who is interested you can go to the Public Works website. It is the Drainage Improvement Program, and it is listed as the Woodland Drive feasibility study, which has been completed. Then it identifies that it is pending VDOT construction. There is two parts and as you are discussing here, it just says it is pending VDOT construction. I do not know exactly what that means, but we can find out answers as to funding and how that takes place. Of course, the improvements on Interstate 81 are a few years into the future. I presume it is associated that the timeline would be sort of in unison.

Chair Finnegan said I know that Vice Mayor Dent is not here, but I could anticipate City Council having some questions about the status of that project if that is a primary concern of residents.

Commissioner Baugh said I was just going to make a couple of general observations. I know one of which they are probably the five worst areas in the City for flooding. Does not make you feel better when it is right over there that certain people are working on it. The mechanics of this, rightly, wrongly, fairly, unfairly. I know this totally seems backwards to normal people, actual residents who do not get involved with this stuff, often assert "well the engineering for this should already be done." The answer unfortunately, from that perspective, is then developers are not going to pay for the engineering for a project that they do not know they can do. That is why that is not done yet. There is an overarching piece to this though. The lawn, you cannot make it worse. I am not saying they are never situations where some sort of new development does not actually make it worse once it is on the ground, but you do have opportunities to do something about that at that point. Because that is not supposed to happen. The new development does not have to fix the old problems, but it is definitely not supposed to make them worse. Again, that is part of what the property owner is paying the engineer to do.

Since it came up earlier, I thought I would try to really quickly share this sort of history of how we got here. I mean the applicant was talking about why in the world do you have this default to three stories and 12 units. That is because Harrisonburg did not have a higher density zoning category. It would have been 2006 or 2007, I am thinking somewhere in there...it was a 2004 Comprehensive Plan we sort of recognized a need for one. We called it high density because it was our high density it was not even high density in the zoning ordinance it was called medium density. We were making the transition from doing this from a big town to a small city. From a big town perspective that we got by for a long time of well how do we control density? Well, we will make sure the buildings just are not too big. We have a lot of other units that are three story buildings with 12 units and then four units to a floor because that was the maximum of what anybody could build for the longest period of time. It was only with the creation of R-5 that we had the opportunity to do anything else. Which is why, to answer your question, you need a rezoning to R-5. Because when we created R-5 one of the things that was debated there was should we reach out to property owners like you and talk about proactively rezoning to R-5 things like that. The answer was we decided not to do that. We specifically said "No, we want these things to come back on a case-by-case basis." What you have then is different from the other development on the other side of Woodland is. We designated some areas in our Land Use Guide for high density and this is one of them. That was one of the issues I think with the property on the other side is that was designated mostly mixed use and I think still had for a small part of it a lower density residential component to it. It was not in alignment with the Land Use Guide, but this is. We have said we want high density residential development here at least in our plan. That is a little bit of the background of how we got here. I guess the answer is we decided if that was the right answer in 2006, 2007. We rejected the notion of trying to proactively zone. We did not go any further than this which is the part over time we have said at least in a planning sense, we think we would be okay with it. I hope that made sense.

Chair Finnegan said I think that is very important and valuable input and background and history of that. You make a very good point. This is on the Land Use Guide. We have frequently run into these types of rezoning requests for areas that are not high density in the Land Use Guide.

Commissioner Baugh said one of the arguments then is well why not approve it and make them do it in other areas where you already said you want it.

Chair Finnegan said other thoughts on this? Thoughts or motions. I just want to acknowledge too that we hear these concerns frequently on this body. Traffic, flooding, noise, particularly where you have multifamily housing up against single family housing. I cannot think of a place in the City, on any side of the City, whether it is student housing or not where there are not conflicts between people in the single-family houses who do not want multifamily houses next to them. Whether they are uphill from it, downhill from it. In my experience there is often conflicts there. I will say that I think the flooding issues are legitimate concern, but to staff's point, this is not increasing the footprint of the buildings. I do think that would be a bigger concern if they were increasing the footprint. In terms of noise and traffic, those are concerns. We have a housing shortage in the City, and I think we need to put more housing where we can fit it. That is where I land on that.

Vice Chair Byrd said concerning the flooding mentioned, since the buildings are not changing their footprint, it is hard to figure out what we would even suggest as conditions at that point. The idea of seeing out these three units implies that we are also aware of them doing other things to the land there, which is not addressed here. They do not have to add those sidewalks. They do not have to do structural changes to the exterior of the building, they are just changing the interior. Therefore, what would we even suggest? I am mentioning that just for City Council to know that I am aware of that as a concern. From my perspective in this body, I do not know what could be even mentioned towards the applicant in that case. Besides just denying the whole place.

Chair Finnegan asked so you are saying how would you word the condition?

Vice Chair Byrd answered yes. I am trying to think of it now and I am really struggling to come up with something that they would even consider. Especially since the other concerns of noise that is related to the fence and that is determined by other people and not us. The traffic, when it comes to concerns about the traffic, I just have bad news. The City cannot expand out, which means we can only expand up. Which means traffic will always increase as long as humans increase in the City. Unless people stop driving which some people on the board would be really excited about. Minus that, I am concerned with a slight increase in density is going to have a major on traffic is not swimming against approving the rezoning. I would also like to piggyback my concerns about water management. We see more complaints about where the water is going, all the time. The people that I thought would be aware of these things never have any mention of that in their saying that they see no concerns. It would at least make me feel better if they were like “oh, we are aware of people’s complaints, but we see no concern.” That is just me and how people write their reports. I would be in favor of the rezoning and the special use permit.

Chair Finnegan said this a rezoning and a special use permit. We are going to need two separate...

Vice Chair Byrd asked special use permit is that the one with the proffers that restrict the density?

Commissioner Baugh answered that is the rezoning.

Vice Chair Byrd asked the special use permit is about the parking?

Chair Finnegan said to allow more than 12 units per building.

Commissioner Washington said I like basement apartments and I like that there is renovation rather than building out. I think some of the concerns that were brought up today, especially around the structure of the building or the property in general, is more of a maintenance issue as well as being neighborly. Some of these photos are ugly in terms of what could be done by personnel who work there. That is something we cannot really police, but I would love to see high-quality, high-density spaces. The question around the quality was shown today. Hopefully, with higher density it becomes higher quality.

Vice Chair Byrd said I would like to make a motion and approve the rezoning as proffered.

Commissioner Baugh seconded the motion.

Commissioner Baugh said I will maybe chat with you [to Vice Chair Byrd], depending on how late we go after. I think I will spare a lecture on the history of stormwater management, but the short version is a lot of this predates...we use to not have to worry about it and then once we had to worry about it that ties into what I was saying. The rule is you cannot make it worse. That does not really help you a whole lot when you have some of these old areas. In fact, one of the things about the program that we have... there are not many jurisdictions that have that. In fact, I am trying to think if that is the one that when we did it, there was nobody east of the Mississippi that had a program like that. It was one of the stormwater management things we [inaudible]...

Ms. Dang said I am not sure which program you are referring to.

Commissioner Baugh said there is one that is sort of for neighborhoods and there is one that is for individual property owners. I may be getting them crossed up, but I was up on it because I got invited to do the talk about it. It was one of those things where there was like 15 minutes where I knew it forward and backward and I do not know it anymore. The fact that there is actually programs now that provide funding, that local governments can access to work on some of these things, is actually in and of itself a recent development and it is something that Harrisonburg has been fairly aggressive about being ahead on those places. It is probably the biggest thing as often as it does where local government kind of traditionally just said "hey we cannot really do anything about it" and it is exceeded as a slippery slope. Nobody is coming up with the money for how you are going to fix all of these things. You just sort of live by that. You cannot make it worse, and we just keep pushing on as best we can. Historically that type of flooding stormwater management has been highly neglected, yes.

Commissioner Alsindi said the gentleman was asking about the possibility of having an extra access. At some point the road was stopped from being developed at some point.

Mr. Fletcher said if you look at the platted neighborhood, there are two stubbed streets that were stubbed prior to the Sunchase development being constructed. Woodland is zoned R-3. It was built in the, I think, early nineties. It was platted in the nineties and in the R-3 district you can have single-family, duplex, and townhomes fronting on a public street by right. You used to be able to have apartment units by right in this single-family and duplex neighborhood, and I think there are three townhome, was built in the R-3 on a dedicated public streets with two stubs and they were stubbed into towards the Sunchase property with full intention that if someone came along and wanted to develop it similarly to Woodland, they could extend the street. When you look at the platted area, there are stubs of public right-of-way and I believe that is what the individual is referring to. That stub is causing some concern of where a street could potentially go, but then when Sunchase came in that nixed the connection to streets and cut them off essentially.

Chair Finnegan said what is the probability of reconnecting those streets?

Mr. Fletcher said I would say it is a low probability unless a private developer came in to connect them in some way. You all would see that request because they have to dedicate a public street to connect into that.

Commissioner Baugh said they are just looking at the area, you probably have to knock down a building.

Mr. Fletcher said in fact the map that was provided by one of the individuals here this evening, if you look at it where the words say Woodland Drive, you can see those two stubbed streets. It is undeveloped right-of-way essentially. Then Sunchase property extends down a certain distance.

Chair Finnegan called for a roll call vote.

Commissioner Baugh	Aye
Vice Chair Byrd	Aye
Commissioner Alsindi	Aye
Commissioner Washington	Aye
Chair Finnegan	Aye

The motion to recommend approval of the rezoning passed (5-0).

Vice Chair Byrd said I would like to make a motion to approve the special use permit.

Commissioner Baugh seconded the motion.

Chair Finnegan called for a roll call vote.

Commissioner Baugh	Aye
Vice Chair Byrd	Aye
Commissioner Alsindi	Aye
Commissioner Washington	Aye
Chair Finnegan	Aye

The motion to recommend approval of the SUP passed (5-0). The recommendations will move forward to City Council on August 22, 2023.