



CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

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March 17, 2025

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

SUBJECT: *Consider a request from Janis Brown Enterprises LLC to rezone two parcels addressed as 1211 and 1231 Smithland Road*

**EXTRACT FROM THE DRAFT MINUTES OF HARRISONBURG PLANNING
COMMISSION MEETING HELD ON:** February 18, 2025

Chair Baugh read the request and asked staff to review.

Ms. Rupkey said the applicant is requesting to rezone two parcels totaling +/- 10.14-acres from R-1, Single Family Residential District to R-8C, Small Lot Residential District Conditional. The parcels are addressed as 1211 and 1231 Smithland Road and identified as tax map parcel numbers 71-A-3 and 4. The applicant intends to rezone the site to allow up to 70 single-family detached dwellings.

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

1. The overall density of the development shall not exceed 70 units.
2. Only single-family detached dwellings are permitted as principal uses.
3. No more than one public street connection to Smithland Road shall be permitted. The public street shall end in a street stub to provide connectivity to the parcel identified as tax map number 71-A-13. This public street shall meet access management standards in accordance with the Virginia Department of Transportation's (VDOT) Road Design Manual Appendix B (2) for an "avenue." No driveways will be located on this new public street. Location and alignment of the public street shall be as approved by the Department of Public Works. All other streets in the development shall be considered "local" and shall meet VDOT's Road Design Manual Appendix B (2) standards.
4. In addition to the public street stub described above, a minimum of two public street stubs shall be constructed to the southeastern boundary of the development to provide connectivity to the parcel identified as tax map number 71-A-13. Location of the street stubs shall be as approved by the Department of Public Works.

5. Upon request from the City, the Owner/Applicant will dedicate the necessary public street right-of-way along Smithland Road approaching the intersection into the development; up to twenty feet (20') in width to allow for a two-hundred-foot (200') right turn lane and a two-hundred-foot (200') right taper and to include curb and gutter and a five-foot (5') sidewalk with a two-foot (2') grass buffer. In addition, a ten foot (10') temporary construction easement shall be provided.
6. Upon request from the City, the Owner/Applicant shall dedicate land adjacent to tax map parcel 64-B-4-A for public street right-of-way as generally depicted on the Concept Plan, in Exhibit A.
7. A shared-use path shall be constructed along one side of the new public street connection between Smithland Road and tax map parcel 71-A-13. A sidewalk will be constructed on the other side of the public street.
8. A ten foot (10') wide shared use path will be constructed between a public street and tax map parcel 71-A-13 in the location generally depicted on the Concept Plan in Exhibit A. A twenty foot (20') wide public shared use path easement shall be conveyed to the City upon completion. The shared use path shall be constructed and dedicated to the City of Harrisonburg as a public shared use path easement prior to the completion of the Development.
9. A recreational play area of no less than 500 square feet shall be provided. If provided adjacent to Smithland Road, then a privacy fence at least six feet (6') in height shall be constructed between the recreational play area and Smithland Road. Between the privacy fence and Smithland Road, a staggered double row of evergreen trees shall be planted and maintained by a Homeowner's Association, with the trees in each row planted not more than ten feet apart and a minimum of six feet (6') in height at the time of planting.
10. One (1) large deciduous tree for every forty feet (40') of public road frontage shall be planted and maintained by a Homeowner's Association along the frontage of all streets. At the time of planting, trees must be at least two inches (2") in caliper and at least six feet (6') in height.

The conceptual plan is not proffered.

Land Use

The Comprehensive Plan designates this site as Low Density Mixed Residential (LDMR) and states:

These areas have been developed or are planned for residential development containing a mix of large and small-lot single-family detached dwellings, where commercial and service uses might be finely mixed within residential uses or located nearby along collector and arterial streets. Duplexes may be appropriate in certain circumstances. Mixed use buildings containing residential and non-residential uses might be appropriate with residential dwelling units limited to one

or two dwelling units per building. Attractive green and open spaces are important for these areas and should be incorporated. Open space development (also known as cluster development) is encouraged, which provides for grouping of residential properties on a development site to use the extra land for open space or recreation. The intent is to have innovative residential building types and allow creative subdivision designs that promote neighborhood cohesiveness, walkability, connected street grids, community green spaces, and the protection of environmental resources or sensitive areas (i.e. trees and floodplains). Residential building types such as zero lot-line development should be considered as well as other new single-family residential forms. The gross density of development in these areas should be around 7 dwelling units per acre and commercial uses would be expected to have an intensity equivalent to a Floor Area Ratio of at least 0.4, although the City does not measure commercial intensity in that way.

The applicant has proffered that the site will not exceed 70 single-family detached dwelling units and has committed to planting trees along public streets, that would be maintained by a homeowner's association (HOA), and to providing a minimum of 500 square feet of play area. As noted above, the layout of the development is not proffered. Thus, the applicant would have the ability to design the site in a different way as long as the proffers, Zoning and Subdivision Ordinance requirements, and other design standards are met. Staff continues to encourage the applicant to locate the proposed play area in a more central area to the development to encourage social activity within the neighborhood rather than at its perimeter near Smithland Road.

When looking at the density and housing type that is proffered, the applicant's proposal of 70 single-family detached dwellings is 6.9 dwelling units per acre and aligns with the LDMR's recommended density of about 7 dwelling units per acre and in providing small lot single-family detached dwellings.

Transportation and Traffic

The Determination of Need for a Traffic Impact Analysis (TIA) form ("TIA determination form") for the proposed rezoning is attached. The TIA determination form indicated that the project would not generate 100 or more new peak hour trips, which is the threshold for staff to require a TIA. Therefore, a TIA was not required for the rezoning request.

As previously noted, the concept plan is not proffered. Proffers 3 and 4 address the construction of new public streets and requires a minimum of three public street stubs to provide connection to adjacent parcels. As described in Proffer 3, no more than one public street connection would be made to Smithland Road. This street is also required to stub to the adjoining parcel to the southwest identified as 71-A-13, and requires the same street to meet access management standards in accordance with the Virginia Department of Transportation's (VDOT) Road Design Manual Appendix B (2) for an "avenue." Streets that are "avenues" balance access to destinations with vehicle and pedestrian traffic. Typically, "avenues" have fewer travel lanes, a slower design

speed, and dedicated space for pedestrian and bicycle facilities. While it was staff who originally suggested to the applicant to use the Appendix B (2) standards and staff has supported Subdivision Ordinance and Design and Construction Standards Manual (DCSM) variance requests to reduce public street right-of-way and street width requirements, staff does not believe it is appropriate for these standards to be proffered and that deviating from Subdivision Ordinance and DCSM requirements should be evaluated during the preliminary platting phase of development.

Although a development layout is shown on the concept plan, staff does not believe this layout addresses all matters that staff would typically expect in preparation for a rezoning request of this magnitude. As indicated within the General Notes of the concept plan, the plan was created based on limited data and without a site visit. The notes also state that grades and conditions of the site are not known at this time and that a more detailed investigation of the City's regulations is required. While a site visit is not required or may not always be necessary, in this case, staff is concerned that the applicant might either have proffered too many restrictions that could make the development difficult to achieve or has not considered the interplay between various needs and requirements and how they could be addressed to design a well-planned residential neighborhood.

If the request is approved, the developer must complete a preliminary subdivision plat, where, among other things, they could request variances from the Subdivision Ordinance and the DCSM. Other recently reviewed development proposals have requested to deviate from location requirements for public general utility easements and to deviate from minimum public street right-of-way and street width requirements. If the rezoning is approved, staff anticipates that the applicant will request the aforementioned variances.

When appropriate, staff has supported variance requests to reduce public street right-of-way and street width requirements. However, at this time, staff is uncertain whether it is appropriate in this development due to questions staff still has about the design of the public street network, public street intersection spacing, the number of driveways along the public streets, and parking abilities for residents and visitors. The concept plan illustrates 24 feet of public street pavement width from curb face to curb face, which would not allow for on-street parking. Additionally, the applicant described to staff that they plan for each home to have a two-car garage and that the driveways would not be large enough to accommodate additional car parking in the driveway, however, know that these details are not proffered. Acknowledging that there is likely not enough space to park cars within the driveway also identifies another concern staff has with the compacted design of the neighborhood. Proffer 10 is intended to provide street trees between the dwelling units and the public street, yet staff is uncertain as to whether there will physically be enough space to accommodate this desirable detail. It appears the development might want to utilize reduced public street right-of-way widths and might be utilizing a 10-foot setback for the planned dwellings. If such a design is planned, it leaves very little space to accommodate street tree planting and maintenance.

Proffers 5 and 6 relate to the dedication of public street right-of-way and Proffers 7 and 8 address shared use paths in the development.

Staff believes more planning and design work is needed for the street network, which impacts the overall layout of the development. Additional design elements that cause concern for staff include:

- The design of the “T-intersections” located near lots 58 and 26 is not supported by staff as presented. The concept plan shows that lot 58 would be built at the end of the stub of the T-intersection and the T-intersection next to lot 26 does not take into consideration the necessary width of pavement for the public street stub to 71-A-13 and may result in the loss of lot 26. Additionally, if a street stub is intended, the applicant should expect to dedicate public street right-of-way to the property boundary to provide connection to adjacent parcels and to construct the public street, unless a variance from the Subdivision Ordinance to not construct the street is approved.
- While Proffer 8 requires construction of a shared use path the call out showing the shared-use path from “public street A” demonstrates only the future shared-use path easement. Additionally, Proffer 8 references that the connection would be to tax map parcel number 71-A-13 but shows the easement connecting to 64-B-4-A.
- The concept plan only demonstrates two of the three proffered public street stubs to tax map parcel number 71-A-13.
- A number of elements are not drawn to scale such as the shared use path along “public street C,” which would require a 10-foot-wide path with a minimum 5-foot grass buffer between the path and the street, along with dedication of public right-of-way or shared use path easement.
- Staff has concerns with the design of the median shown along “Public Road C”. Staff understands that the median was provided to be able to control traffic movements to meet the minimum intersection distance requirements, but the Fire Department has not had an opportunity to weigh in on the lane widths shown nor is staff convinced of the street network design that necessitates the purpose for the median. Additionally, the median is illustrated as a 5-foot wide median, which likely will be constructed of concrete. Staff recommends widening the median to accommodate landscaping for an inviting entryway into the development.

Public Water and Sanitary Sewer

While staff does not anticipate issues regarding water service availability for the proposed development, the applicant has been advised that they will be responsible to complete a study of the water and sanitary sewer capacity prior to submittal of an engineered comprehensive site plan. Any public system improvements required to meet the increased demands resulting from the

project will be the responsibility of the developer. Additionally, the applicant has also been advised that sanitary sewage will discharge to a sewage lift station (Smithland Road pump station) that may require modifications of the station by the developer to address increased demand.

Housing Study

The City's Comprehensive Housing Assessment and Market Study (Housing Study) places the subject property within Market Type D, which notes that "[m]arket type D has lower market activity as well as lower access to amenities. This could be because the areas are stable residential neighborhoods or because the area is less developed and therefore has fewer sales and fewer amenities. Strategies that would be appropriate in the latter case include concurrent development of the housing and economic opportunities through mixed-use developments to build commerce and housing centers across the City."

Public Schools

Staff from Harrisonburg City Public Schools (HCPS) noted that based on their student generation calculations, based on the applicant's original proposal of 64 residential units, it is estimated to result in 28 additional students. Based on the School Board's currently adopted attendance boundaries, Smithland Elementary School, Skyline Middle School, and Rocktown High School would serve the students residing in this development.

As with all requests to the Planning Commission, HCPS primary focus is to ensure that they have adequate classroom space and maintain appropriate class sizes to educate the students of Harrisonburg. While most changes will positively impact residents and the community, HCPS remains focused on the fact that increased housing opportunities in Harrisonburg will increase the number of students who attend HCPS. HCPS staff also noted that currently four of the six elementary schools exceed effective capacity.

For total student population projections, the City of Harrisonburg and HCPS both use the University of Virginia's Weldon Cooper Center for Public Service's projections. These projections are updated annually and are available at: <https://www.coopercenter.org/virginia-school-data>.

Recommendation

While the planned project's housing types and density are both in conformance with the Comprehensive Plan and will accommodate interparcel connectivity, there remain significant concerns with the overall public street network and layout of the site. Staff recognizes that single-family detached dwellings on small lots is a desirable type of housing that is needed in the City, however we must ensure that neighborhoods are planned and designed accordingly for the long-term success of this neighborhood and future residential developments that would be constructed adjacent to the site. At this time staff cannot support the rezoning request and recommends denial.

Chair Baugh said a fair summary is that, just based on the totality of things right now, staff simply thinks that submission right now just is not sufficient for approval at this stage?

Ms. Rupkey said correct.

Vice Chair Finnegan said is there a reason why staff is not recommending tabling this?

Ms. Rupkey said we did consider the possibility of recommending that. Working with the applicant at this time, they would like to move forward with their request. With what we have worked with the applicant, this is where we are right now.

Councilmember Dent said I wondered about that too. What is the most effective way to say go back to the drawing board a bit? I know that tabling keeps it stuck in Planning Commission and even if we voted to deny it, it still could go to City Council and perhaps they could address some of these issues in the meantime. That is an open-ended question.

Chair Baugh said it matters as to who tables it. If we table it, we do not actually get to sit on it forever.

Councilmember Dent said well, it does not go right to Council the next meeting.

Chair Baugh said typically it stays and depends on the calendar. You typically buy yourself a meeting, maybe two.

Councilmember Dent said within Planning Commission.

Chair Baugh said if you do not act, it is deemed favorable and goes forward.

Councilmember Dent said within two more meetings.

Ms. Dang said it is ninety days after the close of public hearing.

Councilmember Dent said I was wondering, what is the most effective way to say, "Back to the drawing board a little bit please?" I like it a lot overall. It seems like these are tweaks that could be worked out in the process.

Commissioner Washington said when you say that a site visit was not done, who did not do the site visit?

Ms. Rupkey said on note one, there is note that the concept plan was based on limited data.

Ms. Dang said the applicant 's designer, I presume. They may be able to answer in more detail, but I presume the designer of the concept plan wrote that note there just to be transparent as to what they did and what information they have and do not have.

Vice Chair Finnegan said meaning the surveying was not done.

Ms. Rupkey said they may be able to answer that more.

Chair Baugh 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.

David Gast, applicant's representative, came forward to speak to the request. He said my company is Riverbend. We are a small boutique real estate company that operates throughout Virginia and Maryland. We own and operate approximately five hundred apartment units. We have a development pipeline of a little over two hundred and fifty acres, of which Smithland Village is a small part. The common theme throughout all of our projects is a focus on workforce housing. Our apartments are geared for individuals who are not yet in a financial position where they can own their own home. Our development projects specifically focus on that next tier of the financial ladder where we are targeting first time home buyers, young families and renters who are now able to realize that dream of home ownership. I am joined tonight by my land planner, Conor O'Donnell, who will speak to you as soon as I am done, and my partner in this project, D.R. Horton. As you probably know, D.R. Horton is the largest home builder in the United States. Since I am doing introductions, David, if you would come up for a second. Just introduce yourself and D.R. Horton, please.

David Coleman, a representative from D.R. Horton, came forward. I am a land acquisitioner for D.R. Horton. We have been operating out of the Valley, out of our Verona office, for just over a year now. I have teamed up with the applicant here on this particular project to provide our express level housing, that is really our entry level house, and that is what we would offer here if the rezoning is approved.

Mr. Gast said we understand that there is a strong need for housing in Harrisonburg. When we have reviewed the housing report, one of the stats that first jumped out at me was that only thirty-five percent of the dwelling units in Harrisonburg are owner occupied. Compared to most cities in the United States, where that number hovers around sixty-five percent. We also took note in our research that of the roughly twenty-nine hundred non-student housing dwelling units in Harrisonburg's development pipeline, only about seven percent are single family homes. We also understand from a lot of conversations with staff that there has been some frustration within the City over the difference between the gross number of lots that have been approved and are in the pipeline versus the number of homes that have actually been constructed. I understand that between

2021 and 2024, there have only been about fifty-four single family homes that have actually delivered. I know that this Commission and the City Council are focused on correcting the imbalance of housing here and providing additional opportunities for homeownership at reasonable and obtainable prices. I think there are two points that I hope we can convey to you this evening. The first is that Smithland Village is specifically designed to provide housing at an obtainable price point. The second is that this is a development that will absolutely be put into construction. D.R. Horton is here with me tonight. They are anxious to get to work on this project, and if you are willing to grant the rezoning, we can reasonably be shovels in the ground by mid 2026. The next obvious question then is, why are we here asking to rezone the property to R-8? As I mentioned, our mission is to provide moderately priced housing to young families and first-time home buyers. At Smithland Village, we think that this mission aligns with the City's need for housing. Our site is only about ten acres. It is oddly shaped. It has got some topographical challenges, all of which add to the site costs and the development costs. We certainly looked at developing this property, by right, under the current R-1 zoning. We quickly came to the conclusion that, if we were to do so, we would not really be meeting our mission and we would not be addressing your needs for housing. We believe that when we deliver homes here, they will be at a price point of around \$400,000. If we were to develop under R-1 with the larger lots and the larger homes that would be required, the price point would have to be closer to a million dollars. I think we could all agree that the City is better served by providing more entry level homes than luxury estates at the top of the market. The R-8 zoning was created here in 2019, and it specifically provides for the development of small-lot single-family communities. It is these small lots that allow us to deliver a product at a reasonable price point, and it also allows us to produce the minimum number of lots that make this development economically viable. As staff mentioned, Smithland Village fits within a Comprehensive Plan designation of Low Density Mixed Residential. Which recommends a residential density of seven units per acre. There is good and compelling precedent for rezoning land within this Comprehensive Plan designation to R-8. The closest of which is Tuscan Village. The R-8 portion of Tuscan Village covers approximately 6.9 acres and has a density of about eight and a half units per acre. Again, Smithland Village is about ten acres and our concept plan has a density of 5.8 units per acre. You will also notice that both Tuscan Village and Smithland Village are very close together. It is about 2,000 feet from one point to the other. We know from our interaction with staff and their requests that our road network allow for interparcel connectivity, that there is a long-term vision that this land in between will ultimately be developed. Both Tuscan Village and Smithland Village would be connected. As part of our application, we have reached out to adjacent landowners to solicit feedback. I have personally knocked on doors. We have passed out literature. Two weeks ago, I had the opportunity to meet with Mr. Rublee and Mr. Gasco, who are here this evening. We had a great conversation. I think I sat in their home for about two hours as we talked about the project. I will say it is unique as a developer to have a retired City Civil Engineer as an adjacent landowner. That has never happened before, but Dan is a wealth of information, and I appreciate all the feedback that that he provided to us. That said, the only specific request that we heard during those meetings was that we include

a fence or a landscape screening along the western property line. We are happy to do that. We can write that into the proffers if that is what is required. These are some photos of the homes that D.R. Horton is proposing to build here. As David said, this is part of their express series, which they have developed all up and down the East Coast to a high level of success. These homes are roughly 1,600 square feet, three bedrooms, two and a half baths. They have two-car garages. Again, geared specifically towards that first-time home buyer. Which we think in Harrisonburg, these would sell for around \$400,000. Connor, would you like to cover the proffers?

Conor O'Donnell, a representative from Gentry Locke Attorneys, came forward to speak to the request. I am a land use planner with Gentry Locke Attorneys. I have been working with the applicant to develop the proposal, working with staff, and so I am going to speak a little bit more on what exactly has gone into this project up to now. I think to add some context, the staff presentation maybe made it sound like this is half-baked. We have been working since June with staff moving forward. There is a significant amount of time that has gone to this. While there still are some concerns, we believe that we have really developed proffers to meet staff requests. Looking again at the site here, there are some significant site constraints. Obviously, the shape is a little difficult. There are also two HEC power easements moving through here. You can see the one through the middle, quite clearly. There is another one that you cannot see towards the top of the property. Then there is also the need to consider interconnection with internal parcels. So, there are a fair amount of constraints here.

To add context to the concept plan, what it means by not doing a site visit is that the concept plan that we worked on, is that the engineer has not come on site to physically survey the property to look at the topography. It is not a fully engineered plan. That is what would come during site plan [review]. This is using GIS as a two-dimensional view and this is the constraint we work within. There is some natural friction between the development side and the planning side. From the development perspective, the costs coming with a fully site engineered plan are very significant. From the planning perspective, staff always wants as much information as possible. We understand that, but I would like to highlight that this is a potential for 50 to maybe 60 homes. This is not a nine-hundred-acre development where you can spend tens of thousands of dollars doing site engineering. Without the assurance that we can even build here from a rezoning, it is chicken and egg. In the absence of significant site engineering, with the rezoning we have tried to incorporate all of staff's comments. We have actually accepted every single one of staff's suggested proffers to make sure that whatever the final layout of this site is meets whatever the City feels like they need for their own assurance. Specifically, interparcel connection.

Before I go into the proposed proffers, I would like to go very quickly through a series of conceptual layouts that the applicant has put together over the past eight months. I hope this shows how much consideration has gone into meeting staff preferences regarding layout and housing type. This is a layout that was advertised with the sale of the property. [Referring to an image on

the screen] This is not something that the applicant has put together, but this is one example of what could go here under by-right zoning. You will notice one interparcel connection and a cul-de-sac and a limited number of large lot homes. This is a development proposed in 2023 that Mr. Rublee sent us from when he was at the City Engineering department. This is a layout that he provided staff comments on. You will notice one single interparcel connection. Two connections to Smithland Road and cul-de-sacs. This is an initial plan for all townhomes that the applicant put together. This was essentially maximizing density. Here is another one with duplexes. You will notice essentially no interparcel connection or cul-de-sacs. We are starting to move closer to what we see now. This is another plan, multiple cul-de-sacs. You will notice the theme here that it is difficult to build this development without cul-de-sacs because of the layout of the property. After meeting with staff a number of times, we came together with this plan. Staff really pushed for single family homes, that was that was critical. We made the development half single family homes, half townhomes, to try to get to the density. Then we moved forward and got rid of all townhomes together. I am showing you these to show you that there has been a significant evolution over the last eight months of the layout here. The reason that the layout is not proffered in the conditions is because when we sent staff our original proffers, we went back and forth a few times. Then we received proffers back from staff that they had edited that did not have the concept plan being proffered. I emailed notably "I see that you all removed the proffers relating to the concept plan. Was that the intention?" Instead of that, staff suggested different proffers, such as a maximum density, proffering specific home types and specific street connections. Those proffers, which I believe are significant in if you were to rezone this property, give the City what they want to see here, while also constricting the layout to work within these proffers. Number one is a density restriction. That is at seven units per acre for seventy total. Realistically, in our current concept plan, there are about mid-fifty. Seven is just a number that conforms with the Comprehensive Plan. Number two, single-family only. In R-8 you can develop single family or duplexes, by right, or townhomes with a special use permit. I showed you plans with townhomes. That was our original intention. We had duplexes. Staff really wanted to see single-family only homes. We worked with that, and we are proffering out anything else but single-family homes as a principal use. Interparcel connectivity was extremely important because if you move backwards you can see the undeveloped portion in the middle of this property. You will notice that a few of the by-right plans have limited or no interparcel connectivity. In further working with staff and constraining potential layout, we have committed to, not one, but two interparcel connections. In addition, staff was concerned about Smithland Road and the potential need for a turn lane in the future. In the proffers, there are twenty feet of the parcel that will be dedicated to road easements for future expansion of Smithland Road. Again, further constraining the site. Finally, we have two shared use paths. One along the road and one for future connectivity to the elementary school and a playground area. I fade to the background in this image, our concept plan because the concept plan is not being proffered. Again, that was removed by staff in favor of their own proffers, which we accepted all. If you were to vote on this rezoning, what you would be approving today is permitting R-8 zoning, permitting up to seventy units on this lot, which again realistically, will be

about fifty given the site constraints. You would be committing to single-family only. You would be getting one interparcel connection from a main road, connecting to Smithland [Road] and a second interparcel connection. You would get dedicated easements along Smithland Road and shared use paths for future connectivity to the elementary school and the proposed playground. Again, I go back to the by-right development here. In rezoning, you have a lot of the proffers as we have them give significant control to the City to require that we have some of their biggest priorities. Whereas if we were to move by-right, interparcel connectivity, or cul-de-sacs or anything else the City would have limited, to no, say in its development. Finally, I believe that the concept plan that we have come to, that you have seen, is essentially served as informational to develop what specific proffers would make staff feel comfortable moving forward with the rezoning. What is difficult is that if you send us back to the drawing board, which I do not believe is necessary, it is very difficult for us to know exactly what changes are needed. The concept plan is not being proffered, it is an example which has led us to the specific proffers. Which I really do believe meets all of what the City really wants to see out of this, which is specifically interparcel connectivity, number one, and type and density of homes. Thank you.

Chair Baugh asked if there were any questions for the applicant's representative.

Councilmember Dent said I am not sure I agree with single-family only, but we can table that thought for now.

Vice Chair Finnegan said that is in the proffers.

Councilmember Dent said we can reject a proffer if we feel like it, right?

Mr. O'Donnell said the proffers are applicant suggested, and we are willing to change proffers. All of the proffers that we have accepted were recommended by staff. While we agreed to them, they are not imposed upon us. We are open. If you need to get to a point of comfort where you say well, you know, maybe sixty units would be better here than seventy. We are open to amending that right now, but as the proffers sit now, they are the controlling force of the development of this property. One final comment on the concept plan, I do not want to get hung up on that because that is not the end all be all here. Staff mentioned certain things not being placed correctly on the concept plan. Once staff removed the concept plan from being proffered, we stopped updating the concept plan and focus on proffers to make sure that whatever staff was mainly concerned about, those connections, the housing type, that we would meet those.

Chair Baugh said before we open for further comment, I will just note for everyone's benefit. Staff was contacted earlier in the day and a request was made for one person to make a presentation on behalf of a number of folks and so they talked ahead of time and I said that I would give them ten minutes on the representation that the speaker is going to be speaking for a number of people who

otherwise could and would have come and would have each taken up three minutes. Then I will just sort of add, just to be clear, this does not forbid anybody else from speaking, but I am mindful that you know, in this type of situation. I will say that I think it does less good sometimes than people think to have speakers just come up and essentially repeat what the prior one did. We are going to listen to everybody and certainly listen to whatever representations can be made about how many people you speak for, or you know who in the room is supportive.

Daniel Rublee, a resident at 1251 Smithland Road, came forward to speak to the request. I am one of the parcels adjacent to this proposed development, and as Mr. Baugh kindly mentioned, I am speaking on behalf of a larger neighborhood. We have a lot of elderly in our neighborhood. We have a lot of people with young children. We have people that have had recent family tragedies, so they have all put their faith in me to bring their concerns to the Commission. A lot of those concerns were written and put in writing into the petition that I am hoping you all received and have read. This is a copy of that. Included with that are 25 signatures of property owners and residents along the stretches of Smithland Road that goes from the roundabout up basically to the top of the hill and that represents all but two properties, one of which is vacant, the other which we were unable to contact the owner. It is pretty much everybody on the entire stretch of the road in and near this development that has signed off onto this petition speaking against this proposal. Just quickly, I wanted to describe the neighborhood that is there now. First of all, I guess this area was annexed into the City in 1983. It was in Rockingham County prior to that. There were about 25 homes plus a couple farms in the area at that point in time. The farms have now gone away. A couple were demolished. There are some farming activities in in City areas, but they are farms that extend from the County into pieces across Smithland Road. There has been about eight additional houses built since then. There are about 33 houses and that is of the whole, almost two-mile, stretch from Old Furnace Road all the way through the roundabout and up over to Keezletown Road. That is 33 houses on roughly sixty-some acres. If you start measuring house areas and lot areas, and now we have a proposal to build twice that many homes on a size of land one-sixth the size of that. That makes it for a considerable difference in density. I think density seems to be the thing that is the big focus on everybody's mind here. Density is kind of everywhere. When you look at that I think you need to consider that while there is a neighborhood out there that has existed for decades that represents, I think, a quality area to the City. It is kind of more rural in its nature in some ways.

[Referring to a map on the screen] I will point out that area in yellow has twelve units on it. That is just slightly over an acre, maybe 1.1 acres. That is twelve houses on an area of one acre squeezed between streets. Just trying to get some perspective on what we are looking at and what type of look this is going to have. I think from the neighborhood's perspective, I guess our big question is, is this the right fit for this neighborhood? One of the issues is we have a Comprehensive Plan that designates this for Low-Density Mixed-Residential; however, that is not a zoning district. We are looking at R-8 as sort of an equivalent. Well, in some ways it is, when you talk about density. In other ways, it is not.

The Comprehensive Plan discusses innovative design. It discusses communal green spaces. It discusses protection of environmental resources in sensitive areas such as tree canopies. When we look at this lot as a neighborhood, we do not see much innovation here. I think the extent of innovation is narrower streets and tighter turns and tighter intersection in order to conserve as much space for putting lots. I will discuss the issues with that here in a few minutes. The community green space proffered of 500 square feet, that represents 0.1 percent of the total area of the site. If that is what Low Density Mixed Residential is desirable to have.

There is a substantial three or so acres of very mature forest out there. I am talking about big hardwood trees. There is another acre of the immature forest that is has been growing for 25 years or so. Those areas by this plan and by the grading needed for the site would be taken out. They are habitat for a lot of wildlife. There is a lot of wildlife that moves through this property, so that could make substantial difference in in that regard.

There has also been a lot of discussion about the layout and the proffer not proffering the layout. Well, I think the one issue that needs to be recognized here is, you cannot proffer this layout because it is shown representing a considerable number of variances to City standards. I do not think that you approve a development with proffers that require variances that would have to be granted in another format, in another arena. I am just kind of bringing that up.

Some of the issues we have with traffic and street, the Low Density Mixed Residential also discusses this whole idea of walkability and neighborhood connectivity and that kind of thing. Maybe in the future with these extensions through these properties that are now held by people who have no interest in developing perhaps there will be some of that. Right now, Smithland Road is a two-lane road. There are no shoulders. There is maybe this much pavement behind the white edge lines and then there are drop offs everywhere. Some into rock lined ditches. Moving up and down the road to discuss this with the neighbors, it's frightening to walk on that road. Most of the people with family and children, they do not walk this road because there is nowhere to escape if they find themselves in trouble. There are no bike lanes, there are no shoulders. The nearest public sidewalk is a half a mile from this property. The nearest bus stop is a mile or more from this property. Yes, there is walkability inside the neighborhood, but where do you go beyond that? The shared use path connection goes to private property that may or may not develop. Beyond that, if that happens, it would have to go through the school property which is a wooded area where they have the cross-country trails. I can speak from experience that they do not want citizens up there in that area during school hours because I was kindly kicked off as I was getting some exercise post-surgery last year.

I think those are most of the issues that we have with the development, but I really want to harp on some other issues here that were discussed to a point in the petition. That is that the

Comprehensive Plan, in my analysis, effectively eliminates low-density residential development in the City. If you look at the Comprehensive Plan Land Use Guide map, there is a Low Density Residential that is similar to what R-1 is today. However, out of the 1,650 or so acres of that, all but about 40 or 50 acres are already developed neighborhoods. They have taken all of the existing R-1 that is undeveloped, aside from about 40 acres, and they have moved it into higher density residential areas. Now, out of those 40 or so acres, 30-some is Chestnut Ridge, which is a property owned by a prominent family for six decades or more. It has a mansion on top. It is 30 or 40 percent slopes of wooded area. It is basically a mountain. The possibility of that developing as low-density residential seems a little slim. What you are left with is a few parcels scattered in between here and here that are in and around existing neighborhoods. A couple of those parcels are just extensions of County farms that just happen to come into the City that are next to existing neighborhoods. When you look at the Comprehensive Plan and you look at the designations, the Comprehensive Plan effectively eliminates R-1 type of development from the City's future plans.

Chair Baugh said Mr. Rublee I am letting you know you have about two minutes

Mr. Rublee said we have the big focus on density. I talked about the layout not being able to be proffered. Well, there are issues with street design. There are issues with other designs. There are issues with off-street parking. I think when you consider that the City is now looking to reduce street widths and street right away widths to get rid of parking on street, parking in the single-family off-street parking requirements at one per dwelling, I am guessing assumes that there is on street parking available. Otherwise, you would think that that number would be higher. It should not have parking minimums be proffered into a plan like this. I think when it comes to that, is it fair to the City? Is it fair to the developers? Is it fair to the neighborhood? You look at this plan, with all these unknown answers, and make a decision now. I believe that, if we are looking at a rezoning here with variances required, you would almost have to identify all those things and have a plan that you can proffer, that you can stand behind that represents infrastructure that the City is willing to accept otherwise. They are going into it almost blindly, because even though they have this concept plan, they have no idea whether things that they show on it are going to be acceptable in the end because those decisions are not made here.

Just to close, we have got this idea that the City needs all this housing, and perhaps they do. I know we have a lot of developments that are approved or on the verge of being approved that would provide a lot of opportunities for this. Mr. Gast did meet with me and one of the neighbors, and he was very honorable and very straightforward. His characterization that all we asked for was a fence is not quite true because we totally were in opposition to this from the start of the conversation. That was just something we tossed in as, hey, would you be willing to add that? The question is, do we really need to maximize housing at every available parcel, or can we look at an area like this and say we need to respect the existing characteristics of the neighborhood? We need to consider what this particular piece of property is best suited for. Do we want to ask the bigger

question which was, do we really want to get rid of all of the Low Density Residential Development as a future land use in the City? Thank you. I am happy to answer any questions.

Ted Williams, a resident of Park Apartments, came forward to speak to the request. He said I am going to make it short and sweet. I think this rezoning request needs to be rejected. To me, it is dollars and cents for me, as someone who lives in the City. This is the exact kind of development that will cost the City more in services it will need to provide. The taxes that will be generated from the same property. That means residents in Harrisonburg are going to have to make up the difference somewhere. That means I am going have to pay higher rent. I may have to pay higher sales tax on, you know, if the restaurant tax needs to go up, sales tax, etcetera. To me that is my real opposition to this. All the talk about need for more housing is all well and good. I am sure there is more housing that needs to be built. To me, until the City can get its hands on approving developments that do not pay for themselves, that cost current residents more money, then we need to reject these types of housing developments and not approve the rezoning. I ask you to not approve this rezoning tonight. Thank you.

Devin Oberdorff, an adjacent property owner on Smithland Road, came forward to speak to the request. He pretty much covered it all, but I will take more personal angle. First off, I can appreciate your mission. It took me a long time to find a house suitable for a single family. I am a first-time home buyer. Well, I was three years ago when I bought the house. I can appreciate the mission. One thing I do not appreciate would be the lack of communication. He stated that this has been under work since June. My family never noticed the sign before. Well, the sign was not up. We noticed the sign on February 3rd. Just a short story, it came to our attention in a game of deer alert. What is deer alert? That is when you see a deer in the window, and you yell “deer alert.” My nine-year-old son, he yelled deer alert, and I looked out and saw no less than a dozen deer crossing Smithland [Road] out of this wooded lot, but my attention really focused on this sign that popped up. I just wanted to bring some more focus to the nature of the wildlife that inhabits this area. Thank you for your time.

Chair Baugh asked if there was anyone else in the room or on the phone wishing to speak to the request. Hearing none, he closed the public hearing and opened the matter for discussion.

Mr. Fletcher said first off, thanks to everybody, great conversation. One thing I want to point out, I thank Conor for showing the evolution of the project. I wish that we could do that all the time. I do not know if we can or not, but I appreciated that because it really shows sort of where we started and where we ended off. The one thing that was probably from their perspective seems a little different from our perspective is that the last iteration we saw was a single-family with some townhomes. Then, we thought that they were not moving forward, and then just one day the application showed up with all single-family. In fact, the very first thing I said to Ms. Dang was, “oh, I am surprised. I was not expecting all single-family out of this development.” You know, we

reacted to what was submitted for application. I point out that the Comprehensive Plan calls for single-family, which is what we pushed for, but it also calls for duplexes in special circumstances. I do not know that I would say we were a hundred percent all single-family, but we pushed for single-family knowing that it is a very desirable housing option for the City. People really do want single-family housing, and our Comprehensive Plan calls for it in this specific location. We pushed for maintaining tree canopy and for the interconnectivity, which was huge for us.

One point of clarification about the proffers, can the proffer be accepted that would require a variance? The answer to that is yes. You have to be careful, of course, because we do it all the time, especially with townhome developments. Townhome developments often times require variances to subdivision regulations because they do not front on public streets. The reason why we gave suggestions to eliminate the proffered layout is because we did not like the layout. The design of the streets was causing for subdivision design variances to the streets that, not just us but our Public Works Department, was not really looking favorably upon. We thought, well, how can we reasonably make this work and what can we live with? We said, well, why do they not eliminate the proffered layout and proffer a density. Which is what they ended up doing, taking on our suggestions. It was not that we just were like, we do not want to proffer this because we did not necessarily think it was the right layout. We said, well, let us eliminate it because then they will have to eventually have to come back with something that meets code or something that we might be able to live with from a variance perspective. All the time, we have proffered properties that show developments where there are street design variances that we can live with, and we do offer a favorable recommendation to those during the rezoning phase. Quarry Heights being one of them. In this particular case, it is difficult. They have a very complex piece of property, and they hit the nail on the head with the shape of the property because they are trying to design this basically in a vacuum. Trying to design it all site-specific, what they own, what they have control over. In a perfect world, you would absolutely take that street through, and you would not start making intersections until you got further in, and then you would double back and take another street back towards Smithland Road. The elevation, the contours, the terrain out there makes it very difficult, and the easements make it difficult. Both side that were presented this evening gave some very good answers, and it is always nice to see Mr. Rublee again, so I always appreciate some of his thoughts. I just want to make those points known because it was not that we were just one hundred percent this has to be single family. That is what was actually officially submitted to us. Again, I was not expecting exactly that. I was excited to see if they could make it work and just the layout, and the tight turns and the small lots, all those things come into play.

Also, what Mr. Rublee said about the off-street parking, you get caught in this very tight, difficult situation. You want to reduce the pavement width because you do not want to have wider. You also do not want to have to have required parking in all those cases, but the reality is if you are building single-family homes in a location like this, you need places to park the vehicle. Whether it is in a garage or it is just on the property, you are going to end up with a lot of these curb cuts along the

public street. That is why we push for alleyways behind lots so that you get the curb cuts in the alleyways. The predicament there is that the City does not maintain alleyways, so you are then increasing the cost in the construction that they have to then build the alley and then maintain the alley. A lot of different perspectives that I wanted to capture and to make it even more of a complex situation for you.

Councilmember Dent said that is interesting. That thought I tossed out, why limit it to single-family homes? It seems to me that if we allowed some mix of duplex or even townhomes, it might make the layout easier if, say, you contracted three units into one, for instance, a triplex. Just a thought that it seems like that is overly restrictive for the sort of... I like the mixed-density developments that we have been seeing. That, you know, address several different price points and help to increase the density. In the sense of clustering to allow for more green space, for instance. I am sad to hear about the trees that would have to be taken down. Looks like it would all have to be wiped out. How can we keep trees that are already there versus plant new ones that are, you know, immature? Just a couple of thoughts, pro and con.

Mr. Fletcher said maybe one last point, you were talking about the mixture of developments, a lot of our other developments have been in land use designations that were not Low Density Mixed Residential. They were in higher density designations for the Comprehensive Plan.

Vice Chair Finnegan said this is kind of on the edge of town. This is probably more of a Public Works question, but what infrastructure would need to be provided? There was a comment about this would not pay for itself. Which I do not know that we can verify that. I do not know if staff can speak to, the expense to the City to provide...?

Mr. Fletcher said are you talking about, like, public water and sewer? Water and sewer are available on Smithland Road. As is the case with any development, they would extend the public water and public sewer into their own development at their cost. Now, of course, you can turn that around and say that cost is handed off to the property owner or whatever, when they sell the lots. Yes, there are tap fees for all those sorts of things that come into play.

Ms. Dang said there is also a mention in the staff report about the sanitary sewage would discharge to a sewage lift station that may require modifications. Like Mr. Fletcher was saying, that cost would be on the applicant developer to make that work if that was found to be deficient.

Mr. Fletcher said the streets, of course, are also paid for by the developer. It is a very rare situation that the City builds a local street for residential development. Almost all residential streets in the City of Harrisonburg were built by a private developer on their dime and then dedicated the City.

Vice Chair Finnegan said then it becomes the obligation to the City to maintain it.

Chair Baugh said maybe I am misunderstanding or got it wrong, but I do think since the subject has been raised of what are the fiscal implications of a project like this. It seems like we do not have a great way of looking at this in advance, apparently cause among other things, we do not. When I am looking at something like this is, we have waved the magic wand, so there are 50, 55 residences there. The most conspicuous thing from a budgetary standpoint, how many kids they are they going to put in public school? Then you work backward and you say well what revenue do you expect to generate from real estate taxes off of the property and how does that all match up? Is it average? Is it below average? What we know generally is that the traditional single-family detached home, the family that has kids there in terms of real estate taxes are probably paying more of their share than the people who are living in apartments. Presumably, this one's smaller. It is somewhere in between there. Anyway, that is what I think the point is about. Although again, I am not sure that we have any great way of looking at it or knowing what it is. I think that is maybe more of what the assertion is. The other things here are just, as Mr. Fletcher was saying, their cost of development that you just run into wherever it is, you have to have water, you have to have sewer. If you have a traffic study that says that there are road implications that need to be taken up right away as part of the development, you do that. Let me ask an off the wall question of staff. I feel sometimes like I am the only person that ever remembers that this is an option, and I sort of think I know the answer to this anyway. Maybe my punch line is, I am starting to think that that the creation of R-8, among the implications is, it really killed something that never really had much of a life anyway which is R-6. Well, we do not have many of them. In some respects, you are talking about the challenges of the..., as somebody who was around when we invented R-6, when you talk about a track like this that is large... That was really where it came from. It was, we have used up all of the undeveloped R-1 land where you can just push the street through. They have topographical issues they have odd shapes, all the things we are talking about here. Part of the idea with R-6 was to allow people to build to the contours of the land to do some stuff and maybe get more tree preservation than you might have otherwise. My suspicion is the density still does not really work for them. It is still too close to what they are talking about for the R-1.

Mr. Fletcher said R-1 is essentially four, if you can even make that work. R-6 is six units per acre.

Councilmember Dent asked R-8 is how many?

Mr. Fletcher said in R-1 and R-6 you can only build single family home. So it is four units an acre and six units an acre. R-8, if you are building single-family, by calculation is 15.

Ms. Dang said unless they proffer a reduced density.

Mr. Fletcher said the other thing about R-6 is that it is a Master Plan community. What I heard from the applicant this evening is that - which is very true for many - lots of people come in and

they spend as much as their budget is going to allow in the preliminary stages and then they really invest when they get to the next stage, and they have their legislative approvals. With an R-6, you are putting way more money up front because you are designing it exactly the way it is going to be laid out.

Councilmember Dent said R-6 is a planned community?

Mr. Fletcher said it is just like R-7. Chatham Square across from the Nissan [Dealership] on East Market Street and Betts Road is an R-6 development.

Councilmember Dent said what was Bluestone [Town Center]? Was that R-7?

Mr. Fletcher said R-7.

Vice Chair Finnegan said I did want to address some of the concerns that we heard tonight. I share a concern about the loss of tree canopy cover, as Mr. Rublee had pointed out. I do want to make it clear that tree canopy cover, wildlife habitat, I do want to make it clear that if this were to get denied by City Council, this site can still be developed, and those trees can still be removed. Voting against this is not necessarily preserving the trees. If it is private property and it is not a wildlife refuge, there is nothing stopping the current property owner from taking a chainsaw to all those trees if they wanted to clear cut it for some reason. Which is also why I think the City should look at Subdivision Ordinances to the extent that state law allows. I do not know, Mr. Russ, if any of those bills even passed that would allow Harrisonburg specifically. I think they apply to like planning district eight or something like that. I do not know if there is anything that we are allowed to do under Dillon's Rule to protect trees from being cut down on private property, whether it is under development or not.

I also hear the concern about an increase in traffic. As someone who uses a bike for most of my transportation, I do not like riding alongside cars. There is a connection between, if the number one concern is an increase in cars on the road and one of the requests is more parking, we have to understand how those two things would work against each other. The more car storage we build, the more cars there will be on the road. I do share staff's concern about, if there is going to be a sidewalk in a driveway, right now with SUVs and trucks getting bigger and bigger and bigger every year, would they even be able to fit on the driveway? Those are just two things that I wanted to address is about the cars and the trees.

I would also say I feel like this comes up a lot when it comes to we want housing and maybe the people of this neighborhood do not specifically want housing, but broadly, as a city, the City has said in different studies and different objectives that we need more housing. Is it because of the low-density residential nature of this? I recall a time that staff recommended denial of a

development at the corner of North Main Street and the one that is being built right now, that staff recommended denial because it was not dense enough. Maybe that is not the exact reason, but could you speak to that?

Mr. Fletcher said that area was designated Mixed Use which called for around 24 units an acre. You have a five-lane facility, which is Mount Clinton Pike, and you have at that particular location probably wide enough for four lanes, but it is probably only three lanes because of the two-lane facility of North Main Street. You have an environment that is very open. We believed in that scenario that going taller and higher density made most sense given the physical build environment of the types of streets that were out there. As well as it would have been in line with Comprehensive Plan for going higher density. We also thought it made more sense from a physical development perspective of the type of neighborhood they were going to be constructing. To us, it made sense that they could have built taller buildings that would have been a little closer to the public street. It did not have to be right on the public street, but that could create that physical build space for the massing of the building to be closer to the street so that it was more of that sort of apartment complex. What is out there now, which could be very successful, at the time we were saying we thought that that neighborhood they were constructing was separated away from other neighborhoods. It was just sort of confined in and of itself and was not really connected to anything else. It could turn out to be a very successful project. In that particular case the information that was presented to us, we thought higher density was most valuable there.

Councilmember Dent said as I recall, the developer did compromise to the degree that they were originally going to be all townhomes and they added multifamily several stories.

Mr. Fletcher said they added a few multifamily units along Mount Clinton Pike and I believe the height is about the same as the other spaces. It was just that developer had an idea. That was their idea and their product in that space. We just had a different vision. Which is kind of similar to this situation. It is just that they started with much higher density, all townhomes and to us that that did not seem to fit within the Comprehensive Plan because the Comprehensive Plan calls for low density residential single-family and in special circumstances duplexes. How many duplexes is always the magical question. At what point is it too many? I actually very much enjoyed seeing that evolution and you can sort of see where things start and evolve to.

Vice Chair Finnegan said I was on Planning Commission when R-8 was created, and this seems to fit the use case that at least I had in mind when Mr. Blackwell was here, and they were talking about needing smaller lot sizes to fit more housing. We have used R-8 to allow people to build porches and other things, and I feel like this is more in the spirit of why R-8 was created in my mind.

Councilmember Dent said yeah, exactly I am coming to like R-8 more and more. The smaller lots, smaller setbacks, allowing for more affordable housing, frankly. I say it all the time, Harrisonburg is a City. We need to grow inward and to some degree upward or at least upward in density. Now it is a question of, is this the right place to build further density? Is that just where we are spreading to rather than spill out into the County. I mean I can see the pros and cons for it. Overall, I agree that I like the idea of the R-8 and the density. It just seems like cutting out any mixed density might be a mistake. I would rather have them able to build some combination of duplexes, triplexes, maybe not go as far as full townhomes. Anyway, that is my only thought for how I might want to see it revised. That and the trees, I agree.

Chair Baugh said one thing that is sort of nagging at me a little more than maybe it should, and it was interesting because I think Mr. Rublee commented about a lack of green space and granted it is a concept. Well, lack of green space is a concept. What I recall is, I did not hear staff say that they did not think there was enough green space, but they did not like the concept of a playground/public area being sort of off on the edge and up next to Smithland Road. I have to say I agree with that.

Mr. Fletcher said what they are showing they actually are providing more green space than the proffer, the proffer was just the minimum. They do have green space under the power line. Elevation will change in there and the usability. What are these terms greenspace, open space, recreational space? They are all kind of the same, but they all mean something a little bit different. We saw a version where there was a parking lot in the area where the power line was, and we were like, well, that actually is not a permitted use in R-8, and we understood why they were trying to do it. They knew that they needed more parking for the people that would be coming to visit and even maybe some of the people's properties that might have more than two vehicles.

Ms. Dang said the discussion about green space, I will share my perspective. I do not want to speak for all of staff, but I remember discussing this concept with them. We have some really nice City parks throughout the City. Sometimes I get conflicted of do we really need to push a developer to provide additional playground or play areas? Maybe it depends on the type of development? You know an apartment usually I like to see some kind of play area because they do not have a backyard. Maybe in a single-family home neighborhood it is not as important. I think of Sunset Heights neighborhood and the two parks that are within walking distance from much of the neighborhood there. That functions well where the neighbors can go to a nearby park. I also recognize walkability and transportation design, and all those things all have to come together to make that work well.

Chair Baugh said you are a long way from ever making Smithland Road a big bastion of walkability and bike friendliness.

Mr. Fletcher said it depends on the type of bicyclist you are.

Councilmember Dent said well, if even Brent does not want to go there, then it is not really friendly.

Chair Baugh said I think they will typically sort of play that out whether we sort of see anything we would like to come to you on. I know I cannot make a motion.

Commissioner Washington said this is hard because I find this is in a place where we have space and when we talk about first time home buyers and being able to afford housing. When you think of low residential R-1, a lot of people cannot really afford that right now. When you think about how much space density is kind of what we need in the City in regards to where we are with housing. My concern is, I do not know how you can plan a community without all these things. Like if a more detailed investigation of the local zoning regulations will be required, I do not know how you can plan a community without a site visit and really knowing the background of what it is that you are looking for in terms of topography and how that is going to happen. That is my only concern. Other than that, I think the density is in the place where we need it. I think this would work here if it is realistic.

Chair Baugh said it has kind of been mentioned already, but then again, I think it is anything more for reiteration to the public and other interested parties that people looking in from the outside will look at this as a choice between the R-8 proposal and the forested deer-full field that we have now. That is not really our choice. Our choice is more R-8 versus R-1, so that in many respects it is a balancing act between... I have not heard anybody say they really support, but in theory I guess you could say no. We do not have a whole lot of actual planned low-density land left in the City, as has been pointed out. If you wanted to hold the line to try to push R-1 development, this is kind of the place where you would say you might do that. I think that is what you have on the one hand. I do not know that there really is a lot of support for that view, but I could see conceptually you say, well, I really think it ought to be R-1 then why would I let them rezone to something else. Then the flip side of that just really is this piece that I know is nagging at me a little bit. I get it is a balancing act, and I am not questioning the applicant when they say you know in terms of budget and approach and so on and so forth. They have sort of done what they need to do now and really feel like that. I know that is a real thing that property owners and developers run into. Yet, I got a little hung up on the playground, there is just sort of a... I feel like it is close and there is just some massaging that I would prefer to see done, which is really more of a staff-applicant thing. That is what I am seeing as the best of the considerations.

Vice Chair Finnegan said I think what we often hear is just put it somewhere else. We have limited land in the City, and in fact because of JMU and other things buying land, the landmass of the City has been shrinking since 1983. I cannot in good conscience vote for denial on this. I could support a tabling, if we think that that would be in any way constructive and buy anyone any time to make

any changes. I think with that we would need to be specific about what we would like to see if this comes back.

Chair Baugh said I mean, this is one where the proffers are evolving, they are continuing to evolve. They are continuing to evolve so much that staff got new proffers today. This is ultimately a Council decision, but one of the things that I have always found very problematic was, and again, it is not a hard and fast thing, you want to be reasonable. You want to try to work with people. We want to try to help things come together. To me, at some point, you risk what Council ends up voting on. If what Council ends up voting on is materially different from what we reviewed at Planning Commission, I did this as a Council member, I would say, well, that means we need to send it back. I would hate to see that kind of happen with this too, just because that is just a pet peeve. Again, we want to work with people. We want to get things done, but I am not sure how we provide value to Council when we vote to approve or deny something, and they are asked to approve or deny something because of subsequent proffers ends up being something else.

Vice Chair Finnegan said one question would be, are there things that could reasonably be done in about a month? Changes that could be made that people would support?

Chair Baugh said it is an open question, but I guess I can look over here. I would be interested to hear staff's perspective on this. We understand, we know you do not have a crystal ball. We are not asking you to predict the future or make commitments, but I would at least give staff opportunity, I think at this point to say... any thoughts that you guys have at this point relative of the discussion?

Councilmember Dent said just to piggyback on that, at this point you have recommended denial, what would it take for you to recommend approval? What would need to change?

Mr. Fletcher said I can give a few things. This does not mean that is everything because this is right on the spot, trying to find all the solutions, but let me point out a few things that I think are known fact. You might even get head nods from the developers as well about what they think is realistic. We are not going to know all the answers to how this is going to be able to work with a street network with single-family homes and meeting more acceptable design standards. I think that is one of the big things here. The street intersections, Thanh, could you point to the two street intersections? [Referring to the screen] That one and that one, as well as how it goes out to Smithland Road, they are too close, they do not meet the design standards. They have attempted to answer the question about making it more acceptable to meet the design standards by placing the median in there, which essentially makes the first intersection a right in/right out. We are not a big fan of the center median. I mean, it is a solution, but we are not a big fan of the median for this particular situation. The ninety-degree turns are not favorable, and they are obviously trying to make that work as well. I do not fault them for trying this design to see what is workable, but it is

not a design layout that we find to be acceptable. That is why it is like if they were able to acquire more property, they could start to switch back, they would go further into the development, then make intersections and then go further back. They are still going to be eating up land that would otherwise be reducing their density, at which point may not make the economics work for them in this specific type of development. Might they be able to make it work economically if they added townhomes in certain blocks? Probably. I still do not know exactly how they layout the streets. They have gone through many different iterations, and I am not sure what would be acceptable. The shape is just so controlling in this particular case.

Ms. Dang said can I ask a point of clarification for Mr. Fletcher? If I am not mistaken, we were talking about the median and we did not like it because what we saw here was that they are trying to maintain a narrow street and it be like a concrete median. We have seen other concepts where they really had a wider median that was really an entry or gateway into the into the neighborhood.

Mr. Fletcher said Emerson Lane has one. There are others throughout the City, even into the County.

Vice Chair Finnegan said Purple and Gold Way.

Mr. Fletcher said there are other examples.

Mr. Russ said by acceptable do you mean would recommend approval of a subdivision variance for it?

Mr. Fletcher said correct. Getting the radius of streets to an acceptable, I do not know if I want to use the word, standard because they would be deviating from something, but I just do not know.

Ms. Dang said something that we know that our Public Works Department and Fire Department were comfortable with. Which we did not have enough time to vet all of those things given the quickness of the submittal and you know, comment reviews and what not. The applicant tried. There was a lot of conversation back and forth, I want to be clear, and lots of changes that they were making and there just was not enough time.

Councilmember Dent said that might argue for tabling then.

Mr. Fletcher said it could be. I do not know what the applicant's contract is with the property owner and how much then it is going cost them to delay it even more. There are always those factors.

Ms. Dang said if you all are willing, they may be able to address some of those questions that we do not know the answers to.

Mr. O'Donnell said this is a difficult site, and you recognize that and our constraints. That is why you mentioned that you all got rid of the concept plan as a proffer because you did not like it. In a way, that works for them and that works for us because there are so many constraints on this site that it is difficult to come to you and say this median will be six foot wide. Without the topography, it is kind of an unknown. By moving away from proffering the concept plan, that leads us to prioritize a few things that you want to see, for example, the interparcel connectivity. Then it puts on us, the applicant, during the site development phase, the pressure to come up with a layout that conforms with what you all are prioritizing first. Mister Chair, I agree with your opinion, it is a conversation between do we want this as R-1 or R-8? If this is R-1, I can promise you, no one is going to be prioritizing interconnectivity. That is one of the reasons why it is so difficult for us to proffer a layout because we are proffering two interparcel connections. From our perspective, we want to put as many proffers on here that, one, make this site developable, but two, give you all what you are looking for. I hear, in general, a conversation around what do we want this area to be? I am sympathetic to that. It is rural right now, it is beautiful. There is a huge question mark in the middle about what it will be five, ten years down the road. What will be developed in the huge parcel in the middle, and will we have lost a chance to have interconnectivity? Right now, we have control over the proffers. I think that it is difficult from a developer standpoint to see the City put forth a demand for housing and a density requirement. Then we talked about not fully developing the site engineering. This is kind of the reason why, because we do not know if we have the blessing to move forward with this. As you all are debating this, I think the signal would be that if this were not to be recommended for approval, the signal to developers is that we do not want higher density. Which is like you mentioned, if you are signaling that R-1 is preferred, then that is the case and go. Everything else, Comprehensive Plan, Housing Study, point to something else and that is difficult. Even here, our density is below the recommended density for the Comprehensive Plan as this is currently laid out. If you are debating about what to do here, I think focusing on the concept plan is very useful demonstratively, but it is the proffers that I believe if we were to go back to staff, it is easy to get distracted about the median, but in reality you all have Subdivision Ordinances, you have design standards that we are required to follow. We have to follow VDOT standards. For example, this first intersection 330 feet minimum is the first intersection we can have from Smithland Road. If we do a right in/right out, it is two hundred feet. Those are the kind of things that will determine the layout, and they are coming second to the proffers that we are trying to put forward. If you wanted to proffer more to remove the single-family homes, we are open to that, but then, sympathizing with the neighbors, do you want townhomes here? We are open from the developer standpoint, density is dollars. There is obviously the friction here between what does this neighborhood want to be. Just to guide your conversation, we are totally open to working within the proffers. Please recognize that those are controlling right now, not the concept plan for a reason because this site is so difficult, and that you have robust standards in the Subdivision Ordinance, in VDOT standards. At the site plan approval process, that requires full engineering comments from DPW, from everyone, where this will be fully engineered. Again, in

summary, open to changes but if we go back to staff, we are just working on proffers, which is not helpful because we want to meet your concerns. If you have suggested proffers, we would be open to changing them or adding them. I am just not sure what they are right now. As staff had mentioned, there is a concern that at this point we have given so many proffers that it has made it undevelopable because you know the changes that you got today were reducing from three to two interparcel connections. Nothing significant, but you can see how constrained it is already. We are open if you have any suggestions, but I am not sure what types of proffers right now would inherently meet your desires without reducing flexibility more than it already been reduced. Thank you.

Chair Baugh said does anybody have any questions they want to direct to Mr. O'Donnell?

Councilmember Dent said this is more for us, I guess. Since I have just tossed out the idea of why do we not eliminate the only single-family? I have not heard much traction on that, but that would also involve a little bit of back to the drawing board or at least refiguring what proportion of what kind of densities, like minimum eighty percent single-family. The rest could be duplex or townhomes. How do we determine that? I might have unwittingly thrown a wrench into it more than just sort of allowing more flexibility, if we chose to go that way. I think that overall we are kind of stymied on this, my inclination is to go ahead and recommend it to Council with the caveats of this is still a work in progress and that progress happens through the site planning and the engineering and all that will happen with staff and VDOT and the Fire Department. All that will happen to, I hope, finalize the issues that are still outstanding. Rather than just say no, we do not like this, so it is not happening. That just seems a bit too abrupt. Even though, again, Council could overturn that, what is a reasonable recommendation for a work in progress? I have been kind of grappling with that. Given all that, just to move forward, I will make a motion to approve it as is rather than raise the whole omit the proffer or whatever. I move to approve this, as presented.

Vice Chair Finnegan seconded the motion.

Chair Baugh said I am not quite there. I like the tabling idea better. I think we are looking at the same question we are just maybe close, but on other sides of the divide. As I am conceptualizing this for me to vote yes on this, that is saying what we have now is close enough. I am confident that it will all get worked out fine between staff and City Council and everything. I am not a million miles away from that, but I am not there.

Commissioner Washington said I would also go for tabling it as well.

Chair Baugh said anything you want to say that is germane to how you intend to vote on the motion or what you would like to discuss?

Councilmember Dent said you could vote no to the motion to recommend and then counter move to table.

Chair Baugh said do you want to withdraw the motion then?

Councilmember Dent said withdraw that motion and somebody move to table.

Commissioner Alsindi said I will make a motion to table the request.

Commissioner Washington seconded the motion.

Councilmember Dent said tabling means it has got to come back ideally so that we can say yes.

Chair Baugh said staff, do you need anything else from us at this point? Anything that would be helpful in addition to us at this point?

Mr. Russ said what are the things that would change that would not require this body to approve a subdivision variance? I guess I am getting caught up on, other than the location of the playground, what is not controlled ultimately by the Subdivision Ordinance and the Design and Construction Standards Manual? The things that staff does not like about this other than loss of tree canopy and the location of the playground. All of that requires them to come back to this body and ask for a subdivision variance or variance from the Design and Construction Standards Manual, right?

Ms. Dang said yes, and I am questioning if I am concerned about how parking will be addressed, I suppose we could deny reducing the street width because you cannot have on street parking because they had not explained to us or shown how they would address off street parking.

Mr. Russ said I'm trying to figure out what the applicant would change that would change anyone's mind, short of hiring an engineer to do a full engineered site plan.

Councilmember Dent said which they would not do before we approve it.

Vice Chair Finnegan said there was talk about that second proffer, the only single-family proffer, which staff had mentioned that they were surprised that it only showed single-family.

Councilmember Dent said that could be an option to open that conversation and see if that might reduce some of the pressure on the streets and the layout.

Chair Baugh said Mr. Russ, I think there is a lot that I think is well taken about your point. Even then, we have already said, well, it sort of handles parking. I think if I was convinced that it was

more, we have only got two things, and they will actually get addressed at site plan, which is kind of what you are saying. I am not sure it really is that. It does seem like there are the other things around the periphery. There is also a part of me that when the proffer shows up the day of the meeting with the amendments on it and it is not what we reviewed until tonight, if it is the one thing that addressed the one hitch, which it is sometime great. Particularly if we are talking about one meeting. I am not entirely convinced yet that it really just is as simple as, yeah, there are two or three concerns there and they really get addressed. They are going to have to make the streets work through site plan. There are maybe just a couple other things beyond that.

Mr. Russ said I just wanted to make sure that we had identified enough for staff and the applicant to actually make some change.

Mr. Fletcher said what Mr. Russ pointed out is a version of what we internally talked about. As we as we continue to work on the Zoning Ordinance amendment, I said we, as an entity, need to make ourselves comfortable if we start rezoning areas of the City that are undeveloped, that have allowable higher densities, that would just come in to just meet the subdivision regulations like what Mr. Russ is saying, are we comfortable with that at this stage? There are so many different philosophies about how we want to move forward with the Zoning Ordinance amendment because you could just give the higher densities, or you could wait for the rezonings to get something that is more proffered to be laid out in a way you wanted. What he is saying is absolutely true. I mean, they have to come back with something that meets all those design criteria. If we are not comfortable with that, I am not really sure what that means for the Zoning Ordinance amendment.

Ms. Dang said there are some other examples that I can think of, like Quarry Heights. I am going to say an example with hesitation because the scale is different, right? The scale of the project, the size of the development, but we have seen other projects where we have proffered the general layout of street. That is because that is the layout that we wanted. Any other layout we may not have been comfortable with. We wanted to make sure different parts of that property were served with the public street network in a particular way. I just offer that a street layout could be proffered. We were not ready to accept the original proffer that was submitted by the applicant with their layout because it was not a layout that we wanted, that we thought was acceptable to meeting all the street standards or what we would agree with for variances.

Mr. Fletcher said I might be wrong about this but what I have observed over the years is that it is harder to get a rezoning, it is easier to get a subdivision variance. When you have the zoning in place and you have somebody up there telling you, "I am allowed to have this density, I just need this variance that is just a slight deviation away from the design criteria." There is going to be a point where staff is like, can it work physically? Yeah, you could design it that. Does it impact efficiency in the way traffic moves? Yeah, but then somebody may go well, it is good enough. I do not want us to find ourselves just to accept it and here we are fifty, sixty years down the road, why

in the heck did they design the street that way? I also think that there is a component of this that you build this into the entire City of all the proposals that we have seen. If those projects had been moving forward, how would you feel about this one? The number of units have already been to this approval. The number for single-family is so low compared to townhomes and apartment units. This is an area we are planning for single-family. They are showing single family, we want to be able to approve it, but it is not in the layout that we hope to allow it.

Chair Baugh called for a roll call vote.

Vice Chair Finnegan	Aye
Councilmember Dent	No
Commissioner Alsindi	Aye
Commissioner Washington	Aye
Chair Baugh	Aye

The motion to table the request passed (4-1).

Councilmember Dent said just to explain my motion, my vote no to table was I would rather see it go forward one way or the other.

March 25, 2025

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

SUBJECT: *Consider a request from Janis Brown Enterprises LLC to rezone two parcels addressed as 1211 and 1231 Smithland Road*

**EXTRACT FROM THE DRAFT MINUTES OF HARRISONBURG PLANNING
COMMISSION MEETING HELD ON: March 12, 2025**

Chair Baugh read the request and asked staff to review.

Ms. Rupkey said at the February 18, 2025, Planning Commission meeting, City staff presented a rezoning request from Janis Brown Enterprises LLC to rezone two parcels totaling +/- 10.14-acres from R-1, Single-Family Residential District to R-8C, Small Lot Residential District Conditional. The parcels are addressed as 1211 and 1231 Smithland Road and identified as tax map parcel numbers 71-A-3 and 4. The applicant intends to rezone the site to allow up to 70 dwellings. (Note: The Planning Commission public hearing for this item was originally scheduled for February 12th, but due to inclement weather, the regular meeting was held on February 18th.)

At the February regular meeting, staff recommended denial of the rezoning due to concerns with the design of the street network and with the overall feasibility of the layout of the neighborhood given that the conceptual development was relying on deviations from the Subdivision Ordinance that staff was not prepared to support. Planning Commission tabled the request and asked for the applicant and staff to continue working on the application. Since that meeting, the applicant has submitted revised proffers and new conceptual layouts.

The applicant revised a number of the proffers and has added two new proffers. A red-lined version of the edits to the proffers has been provided in the packet.

Proffers

The revised proffers are as follows (written verbatim):

1. The overall density of the development shall not exceed 70 units.
2. Only single-family detached and duplex dwellings are permitted as principal uses. The number of duplex dwelling units shall not exceed twenty-five percent (25%) of the total number of units in the development.
3. No more than one public street connection to Smithland Road shall be permitted. The public street shall end in a street stub to provide connectivity to the parcel identified as tax map number 71-A-13. No driveways will be located on this new public street. Location and alignment of the public street shall be as approved by the Department of Public Works.
4. Any street with on-street parking shall have curb extensions at intersections.
5. In addition to the public street stub described above, a minimum of one additional public street stub shall be constructed to the boundary of the development to provide additional connectivity to the parcel identified as tax map

number 71-A-13. Location of the street stub shall be as approved by the Department of Public Works.

6. Upon request from the City, the Owner/Applicant will dedicate the necessary public street right-of-way along Smithland Road approaching the intersection into the development; up to twenty feet (20') in width to allow for a two-hundred-foot (200') right turn lane and a two-hundred-foot (200') right taper and to include curb and gutter and a five-foot (5)' sidewalk with a two-foot (2') grass buffer . In addition, a ten foot (10') temporary construction easement shall be provided.

7. Upon request from the City, the Owner/Applicant shall dedicate land adjacent to tax map parcel 64-B-4-A for public street right-of-way as generally depicted in Exhibit A.

8. A shared-use path shall be constructed along one side of the new public street connection between Smithland Road and tax map parcel 71-A-13. A sidewalk will be constructed on the other side of the public street.

9. A ten foot (10') wide shared use path will be constructed between a public street and tax map parcel 71-A-13 in the location generally in Exhibit B. A twenty foot (20') wide public shared use path easement shall be conveyed to the City upon completion. The shared use path shall be constructed and dedicated to the City of Harrisonburg as a public shared use path easement prior to the completion of the Development. However, if a public street stub is provided in this general location, then the shared use path would not be required.

10. A recreational play area of no less than 500 square feet shall be provided. If provided adjacent to Smithland Road, then a privacy fence at least six feet (6') in height shall be constructed between the recreational play area and Smithland Road. Between the privacy fence and Smithland Road, a staggered double row of evergreen trees shall be planted and maintained by a Homeowner's Association, with the trees in each row planted not more than ten feet apart and a minimum of six feet (6') in height at the time of planting.

11. Screening in the form of a privacy fence at least six feet (6') in height shall be constructed along the boundaries of Parcels 71-A-5, 71-A-1, 64-B-4-A, 64-B-5, and the southwest boundary of 71-A-2 that is parallel to Smithland Rd, and shall be maintained by a Homeowner's Association.

The edits to the proffers include:

- To Proffer #2, added the ability to allow for duplexes,
- From old Proffer #4 (new Proffer #5), removed the provision for the applicant to petition to waive the requirements of the additional proffered street stub to TM 71-A-13,
- To Proffer #4, added that curb extensions would be required at intersections if parking is provided on streets,
- From old Proffers #6 and #8, removed reference to the concept plan,
- Removed the proffer that would have required tree planting throughout, and

- Added new Proffer #11 that requires the developer to provide screening in the form of a privacy fence along the identified boundaries of three neighboring properties.

The conceptual site layouts are not proffered.

Land Use

Staff believes a predominantly single-family detached home neighborhood at around seven units per acre is in line with the Land Use Guide's Low Density Mixed Residential Designation. However, it is important to note that the conceptual layouts demonstrate 47 units, which is about 4.5 units per acre and would necessitate design variances. As noted above, the layout of the development is not proffered. Thus, the applicant would have the ability to design the site in a different way as long as the proffers, Zoning and Subdivision Ordinance requirements, and other design standards are met. A development proposal that meets the submitted proffers and all design criteria could still be less dense than the conceptual layouts that have been submitted by the applicant.

Transportation and Traffic

Proffers #3 and #5 address the construction of new public streets and requires a minimum of two public street stubs to provide connection to adjacent parcels. As described in Proffer #3, no more than one public street connection would be made to Smithland Road. This proposed street is also required to stub to the adjoining parcel to the southwest identified as 71-A-13.

If the request is approved, the developer must complete a preliminary subdivision plat, where, among other things, they could request variances from the Subdivision Ordinance and the Design and Construction Standards Manual (DCSM). When staff is able to comfortably support a rezoning request for a residential development that would include constructing public or private street networks, often a proffer or a required master plan layout can give a bit of certainty to the final layout of the street network. At times, specific details of street designs (i.e., cross sections, grades, curves, lengths of tangents, etc.) are known ahead of time to not meet minimum design standards and the developer is able to learn what staff finds to be an acceptable deviation and demonstrates them in a submitted layout. This in turn allows staff to support the rezoning ahead of the subdivision platting process acknowledging what we find to be reasonable deviations. While staff anticipates that the applicant would request variances to deviate from location requirements for public general utility easements and to deviate from minimum public street right-of-way and street width requirements, which staff is generally comfortable with, staff believes there is still too much uncertainty regarding other variances the applicant might request at preliminary platting. Projects like Quarry Heights, Weston Park, and Tuscan Village proffered a general street layout that staff found acceptable and there was general agreement between staff and the developer regarding anticipated variances from the Subdivision Ordinance and DCSM.

Recommendation

Staff continues to recommend denial of the request.

However, if the rezoning request is approved, staff hopes that Planning Commission and City Council would agree that an approved rezoning is not an offering of support for known or unknown Subdivision Ordinance or Design and Construction Standards Manual variances. These details will

need more thorough evaluation leading up to preliminary platting and the applicant is encouraged to continue working with staff prior to submitting a preliminary plat application.

Chair Baugh asked if there any questions for staff.

Vice Chair Finnegan said I am seeing in the proffers the language about duplexes being added. I thought that the massing of the buildings was one of the challenges and maybe I can address this to the applicant. Would duplexes change the layout of the street? Would that allow them flexibility to cluster? Is that the same drawing that we saw last month?

Ms. Rupkey said no, this is a new drawing. [Referring to the image on the screen] this one is closer to what you saw last time. Closer but still different.

Vice Chair Finnegan said on the new one are there indications of...

Mr. Fletcher said well, they are both new drawings.

Ms. Rupkey said they are not showing duplexes on either drawing at this time.

Vice Chair Finnegan said I was just wondering if that proffer would make the arrangement and shape of it anymore flexible.

Commissioner Nardi said it is not clustered. Is this considered cluster development as you see it in terms of continuity with the Comprehensive Plan?

Ms. Rupkey said I would not call it cluster [development].

Commissioner Nardi said I would not either, but I wanted to confirm your interpretation.

Vice Chair Finnegan said my recollection of last months meeting was staff was surprised that these were all single-family detached.

Mr. Fletcher said that statement was that we had seen so many iterations of different designs that when they submitted an actual application, it was only single-family detached which we had never seen. We were just taken aback by the fact that we had not yet seen that layout. To speak to the cluster development, on a shape of a parcel like this with the elevational challenges and size, to do a cluster development you would probably have to do all townhomes in one section and leave it open in the other section to do true clustering. A lot of the statements in the Comprehensive Plan are still carried over from a long time ago. They are coming from ideas from the early 2000s when there were different ideas about how this can be constructed. What you are looking at from a single-family detached and a density perspective is inline with the Comprehensive Plan's Land Use Guide, but the street network is not. That is where Meg got to the point of saying that we are seeing a responsibility here that we can not just turn our eyes away from. Recognizing that we are trying to create a street network that is going to be longstanding for decades. Not just designed in a vacuum on a ten-acre site. I know it hurts, even for us to say that we recommend denial knowing we need more single-family detached homes. We can not just say yes just because of it; we need to have a good design with it as well.

Vice Chair Finnegan said just to clarify, is it fair to say the number one reason that staff is recommending denial is not necessarily the density, it is about where those streets kind of end up and not knowing what might happen on those adjacent properties?

Ms. Rupkey said I would believe that the overall design and layout there are just too many unknowns at this time. Say we like the location of these stub outs on here now, those locations are not proffered so the developer could come in and change that location in the future and have a different street layout that we are forced to then follow.

Ms. Dang said I will add that it is also that the intersection spacing details. This a new design here. I recognize that these are just conceptual, but they suddenly showed a really wide street. There is still a lot of uncertainty and things changing that we are not comfortable with what has been presented. As Meg said when she was presenting her final statements there, if you recall with Tuscan Village and Weston Park, there were proffers that were made that the street network would conform or be similar to generally conform with the layout that was shown on the concept plan. We are expecting it could be adjusted and moved it does not have to be exact locations but there was some comfort that staff had because we have had those discussions with the applicant and got to that point where we knew what they were anticipating; what variances they planned to request when they went to preliminary plat for the property later. We had anticipated those things at rezoning.

Vice Chair Finnegan said I guess what I am trying to get at is this is a layout with a bunch of single-family detached houses on it. What I am trying to ask is does it matter the configuration of this? Is it really primarily a concern about street network? Could there be another configuration of houses that are either same density or less density that you would support if the street layout was different.

Mr. Fletcher said let me see if I can rephrase what you are asking. Are you saying why are we not supporting the rezoning to allow for the density that we find to be likely acceptable with types of homes that we find to be acceptable and just rely on the platting process to create the street network? That is a possibility, however, I think there is a responsibility here that when we start showing these graphics and we start showing these street alignments that we know we are not comfortable with and that are not possible without variances and then they are showing the community these layouts and then we are like but it may look nothing like this. Then it comes back in a platting phase and looks entirely different. They might say "we still cannot do it exactly without variance." It gets a little awkward, odd for us, from a bigger picture perspective to start going "well they showed this, it cannot be done, but they still have to meet our minimum design criteria." Well then let's pause and allow somebody to come in with something that would able to do both meet the design criteria and the rezoning density.

Chair Baugh said one of the things that we talked about at the last meeting was the fact that we spent some time just on the issue of variances and we did clarify that it is not like we routinely make all the applicants have all of the answers to the variance in advance. We do that all the time. I guess what I think I hear staff saying is that yeah that is true as a general proposition, but in this one it is just too much. It feels like wherever the line is between yeah we know there are going to

be some variances in a particular development and we can see that coming but everything looks like it will be fairly routine. On that one, on paper, you can say they are the same thing, but we would say they are not. Sometimes the variances there are a handful of these things that are straight forward and we often approve a rezoning knowing that those things are to be determined. This one staff is just saying wherever the line is we are still on the wrong side of the line of things that are just too much up in the air. Throwing in, particularly, the odd size of the parcel and how it ends up with whatever development that is out there you are just not prepared to support it. I think part of what I am hearing is something that I think is one thing the public struggles with in listening to us talk about things like this is if you are against a proposal you can reason and say why you are against it and then you get into this overlay with us of I will pick on stormwater. You may not agree with it, but we do not take that up at this stage. It is going to sound to you like we are kicking the can down the road, and you are going to draw inferences from it. The fact is mechanically there is a whole process for dealing with that and it is not here right now while we are talking about the rezoning. By contrast, this is one where we are saying there is enough about this street layout that you feel like you just can sort of approve this. Further details of the street network to be determined later just seems like it is opening the door too wide. Is that a fair statement?

Ms. Rupkey said I would say yes.

Commissioner Porter said the applicant's not present?

Chair Baugh said the applicant is present. There were some inquiries about this ahead of time so I will just sort of throw this out to the group. We do not have to reopen [the public hearing] to let anybody speak. There was some talk about the applicant speaking to it a little bit. I think that is ultimately up to us. I think if we let the applicant speak we want to try to encourage him to speak to the changes that we have here and not the merits and the pros and cons of it because as we have already seen we have some folks here on the other side of this who would like to speak. I guess it is sort of our pleasure and maybe we ought to have talked about this before we do this. Do we want to hear from the applicant again? And if we want to hear from the applicant again, do we want to give other folks in the audience an opportunity to speak

Vice Chair Finnegan said my opinion is if we are letting the applicant speak again, we should let other folks speak again. I do think it is also fair to say only on changes.

Commissioner Porter said I was not present at the last meeting but I think I would like to understand why things are the way they are. Why the plan changed radically from what is being looked at and what staff had seen and also to address these concerns. I think it is a fair thing to ask the applicant to address.

Chair Baugh said Mr. Russ, we had not advertised this as a public hearing. Are we authorized to reopen the public hearing?

Mr. Russ agreed.

Chair Baugh said we will reopen the public hearing on this matter and invite the applicant to come forward. Again, we encourage folks to really talk about the changes. Use this as an opportunity to tell us what we do not know and not to reiterate what your positions are.

David Gast, the applicant came forward to speak to the request. He said can I just really quickly address Mr. Porter's question which I know is rewinding just a hair. We are seeking to rezone this from R-1 to R-8. The specific reason for that is so then we can deliver, what we feel are, moderately priced homes as part of our mission as a company. It is what we understand what the City is desiring. The R-8 zoning specifically allows for these smaller lots. Which means we can then actually build a smaller, less expensive home that appeals to first time homebuyers and renters who are now moving into their own housing for the first time.

Ms. Dang said do you want your land planner on the line right now with you or do you want him to follow you. I think he was trying to call in. If you could pause a moment then they can transfer it.

Connor O'Donnell, a representative and land use planner from Gentry Locke Attorneys, called in to support Mr. Gast as he spoke about the request.

Mr. Gast said to continue this is a very challenging site, it is really narrow, it has odd borders, there is topography. So laying out the street network is difficult to do. Like a lot of developers, the situation is we can fund concept planning through a rezoning but the investment of capital that is needed to do a full engineering of a site to get all the exact details down is a pretty massive investment and we are just not able to do that without removing the rezoning uncertainty off the table. I have a contract with D.R. Horton who will also be doing the engineering design, the construction of the site and the development and building of the homes. That contract says as soon as we get the rezoning, they are going to invest the dollars into all that and get that ironed out through the site plan approval process. What we try to do by providing two concept plans was to address some of the critiques and criticism we heard last month. By providing two plans the intent was to try to demonstrate that there are a variety of ways in developing the site. Each of which conform to the proffers. We believe each of which can be built in accordance with the code in the City of Harrisonburg. Some of the specific changes is that the street width was increased. Our neighborhood streets went from 24-feet to 35-feet wide. That is specifically to address the criticism we heard about parking. With the 24-foot streets the complaint was if we had on street parking, there is not enough room for traffic or fire trucks to move around. At 35-feet we believe that there is. The main entry road off of Smithland [Road] was widened from 30 feet to 49-feet. That was in response to a suggestion that the entry road could kind of have a grand entrance off of Smithland [Road]. The extra width allows us to do that. As result of all of this the overall density decreased. You can see we are right around 45 lots in one plan, 47 in another. Both plans offer a lot more greenspace than the original design you saw last month. Again, that was something that we heard and we were trying to address. My engineer has assured me that all the street radii conform to code. He has taken the fire truck and driven them around the plan. A minor detail but we relocated the playground from a lot near Smithland [Road] to an interior section of the site. Again, that can be placed anywhere. In the revisions, plan number one that you see is a revision to the plan that we showed last month that kind of has the circular loop road going around it. That has the two intersections in the site. Part of widening the main entry road here was that it allows for a wider

median. We heard a suggestion that a wider median can be landscaped, that is a part of the grand entrance design. We heard you with that suggestion. This maintains that right-in/right-out for the first intersection and on the west side of the plan, we are showing t-intersections. Which our understanding is this all conforms to code, but we understand that it is not the preference of staff. That is why we specifically explored an alternate design which is plan number two.

Commissioner Porter said is that a correct statement that it does conform to code and that it is more about preference.

Mr. Fletcher said what I believe David might be referring to is the code for a fire truck to be able to maneuver through a space. When you are looking at public street design standards there are specific design criteria that you have to meet. If you picture a private street network or even an internal parking lot facility where specific turning radiuses that are needed for a fire truck. What the land planner, or whoever did this, is they probably took this and said "can a fire truck actually make these turning radiuses? Is it physically possible." The answer to that might have been yes but it does not mean that it meets the design criteria of a public street.

Mr. O'Donnell said we are talking a lot about of these two plans, road widening, and etcetera; but I want to highlight that those details are a little bit distracting. What both of these plans are intended to do is inform us as the developer and you all as the Planning Commission about what options are available here. These two layouts show that in reality, whatever the road network will be, you are going to have about 40 to 50 homes. One thing I really want to hone in on is the main road coming in. Both of these layouts entirely surround and are dependent on whether there is one intersection or two. These are VDOT and City standards that we would have to meet. You need a minimum of 330 feet before your first intersection. We have developed these proffers. Staff has mentioned their comfortability with variances. That has been difficult because every proffer that we have written has been worked with staff or staff suggested. There is no question about whether the one road that is proffered is workable or not. That is why you have two layouts here. I just want to focus on that because the conversation here about road widths or medians is less relevant. It is more of conversation of: is the future vision for this site R-8? This site in whatever layout moves forward will have between 40 and 50 homes, that is the site limitation. It will have a main road from Smithland [Road] and it will have one additional street stub connection. Those are the restraints that the applicant and developer are working within. It really just comes down to trusting the site process and the subdivision process of do we feel that rezoning this to R-8, given the restrictions and the proffers that commit to two street stubs, do we want to keep 40 to 50 homes here That is what the developer has shown the applicant has shown that is likely possible in whatever street network ends up being approved. That street network will need to be approved to City standards. There is no prior commitment to the necessities for certain variances. There is no proffered concept plan that upfront is saying we cannot commit to a street network without variances. That is not true. The site plan process will move forward. The developer will be required to meet the standards in the City's design manual. Again, I come back to the larger conversation being R-8 on this site and whether that is the future vision for this area. The road network is something that will come in the future and will be required to meet City standards.

Dan Rublee, a resident of 1251 Smithland Road, came forward to speak to the request. He said I am not going to go into a lot of detail on how I am representing the neighborhood but I still continue

to do that. We have reached out to more people, we have more signatures on the petition that was presented to you last month. We now have 29 signatures on that, all but two of which are property owners along the street. I want to just touch base back on something that we pointed out in that petition which is whether or not the R-8 is truly representative of what the Comprehensive Plan calls for in regard to this property which looks for the vision to be this Low Density Mixed Residential. It just seems like all the discussion here is about density and street layout. There are a lot of provisions and goals and strategies in the Comprehensive Plan. If you had the chance to read the commentary that I sent in today, I listed a lot of these in there. A lot of these are similar; encourage or provide incentives for new development to preserve existing trees in vegetative areas and or add new trees and plantings; to require or provide incentives for open space or cluster development to preserve greenspace within new residential subdivisions; adapt to new trends and demands while ensuring that new development will be compatible with adjacent existing uses. Those are the concerns that I think were laid out strongly in the petition which the neighborhood does not feel like those provisions that are in the Comprehensive Plan, which is supposed to be the guiding document for the consideration of rezonings and such. We do not feel that those provisions in the Comprehensive Plan, as described also in the Low Density Mixed Residential definitions, are being met here. I just wanted to reiterate that. I appreciate staff discussions. This idea about is it 45, is it 55, is it 65, is it 70? I think the concern that I have, personally, and I think it is shared by the neighbors is that each time this plan has been sort of revised/resubmitted since the application was formally made. There are fewer and fewer units being shown and still there are variances that have been identified as being needed in order to even support that. Once we get to this point, and I appreciate the land planner saying we are going to figure that out later. What is it going to be then? Is it going 40 units? 50? Is it only going to be 30? What is it going to be? My concern is similar to what was expressed there. Right now, the proffer still says up to 70 units. There is no commitment to any layout. Could they come back in and say "oh, we want private streets, we are going to make them narrower the City does not have to worry about it because they are not going to maintain it" and now we squeeze in 70 units into one space that is really not appropriate to accommodate that. My thinking and my question that I wrote into this is similar to what staff is saying, why are we not working towards a plan that can actually work and that people can accept and then set a limit on the density based upon that and not upon some maximum based on a density number that is only one factor that should be considered here.

Lee and Lana Gascho, residents of 1270 Smithland Road, came forward to speak to the request. Mr. Gascho said I think just to follow up on what Meghan had said the streets that are within that complex have some issues. I walk again on Smithland Road from the one entrance where these 40, 50 or 60 homes are going to come out of, and I walked that again yesterday. It is a two-lane road, there are no shoulders. There is a foot on each side of the line. No shoulders, no sidewalks, no bike path and just reading through the Comprehensive Plan again there is just an emphasis on safety of our streets. Bicycling and trying to get more pedestrian movement and way from auto movement. That section where they come out the sight lines are so bad and there is no way for the kids and everybody to get to Smithland Elementary to the Smithland Athletic Complex, they would have to walk on private property. I know future developments might come, but for that many cars and that many individuals trying to walk and ride bikes on there. It is a safety hazard for the City.

Anthony Tongen, a resident of 1145 Smithland Road, came forward to speak to the request. He said I would just like to emphasize that I agree with everything my other neighbors have said. I do

think there is a way to do this and do it well in the sense of actually working with neighbors and there has been none of that on our end. Even as I look at the inclusion of a privacy fence in some places but not in all places that is concerning. I think there is a way to do this well and it has not actually been done by the developer at this point.

Chair Baugh asked if there was anyone in the room or on the phone wishing to speak to the request. Hearing none, he closed the public hearing and opened the matter for discussion.

Vice Chair Finnegan said this is a really tough one. I think one of the things that I hear from developers in these hearings and elsewhere is it is so damn hard to build housing. You have got this weird lot, we have this other lot it does not conform to this, we are trying to do this we are trying to make it pencil out. You have got that on one side and on the other side you have neighbors who do not want increased density in their neighborhood, which I understand. I do not think any of those people are wrong. The developers are not wrong, and the neighbors are not wrong. There are just conflicting concerns. I really struggle with this one. I want to be able to support housing in the City. I want to be able to say yes to infill development. I want to be able to say yes to R-8 small lot development, but I struggle with this for the reasons that staff has brought up. I want to be clear; it is not the density and it is not the increase in traffic, it is the street network.

Commissioner Nardi said can staff speak to the two-lane road and the increase in density and therefore traffic and those types of concerns?

Ms. Rupkey said as far as the future plans of widening I cannot speak to that.

Ms. Dang said I believe it is in our Capital Improvement Plan [CIP]. Even if it was in the CIP, I would guess that it is probably far in the future. If this rezoning got approved, and Mr. Gast and his team were successful in getting this developed, that it would be developed before the improvements on Smithland [Road].

Mr. Fletcher said the Smithland [Road] improvements are not this section that is shown in our Comprehensive Plan. Smithland Road from Old Furnace Road, northwest, to Linda Lane. It is that section that goes from Old Furnace across the soccer complex frontage to the roundabout. That is to widen the road to four lanes with a sidewalk on one side and shared use path on the other side. These are old numbers back in 2018. Smithland Road, Linda Lane, and Keezeltown Road connections and this is to construct a two-lane roadway with sidewalks on both sides.

Chair Baugh said Councilmember Dent if she was here might be able to speak to it. My senses are that the plan seems to be lined up right now. It would more likely that further development in that area spurs moving the [road improvement] project to the front of the line.

Commissioner Porter said I just want to speak briefly and somewhat echo the things that Brent just said about the fact that you have two competing interests here that are both viable. I have long spoken out about my support for increasing density in our community simply because we need it for affordability. However, with that being said I would be very sensitive to placing a R-8 in the middle of an existing R-1 that does not conform, even remotely close, with what exist around it. I know that there are some concerns specifically about this property. What I would say is for any

future developer that would come to our community is that you have to be very mindful of where you are putting your development and what exist around it. When you are going to fundamentally change the character of the area it is incumbent upon you to be very forthright and out in front of trying to work with the community around you but also make sure that the site that you are putting forward is complete and as comprehensive as you can make it. I think that the staff concerns about how this plan came to them and the changes that were made and the fact that the plan that was put forward would require variances is a concern. I think that is the question that is the most germane in terms of the vote that may be taking place. In terms of these neighbors and the people that are here that are concerned about their community, I think it is extremely important to make sure that all that communication is very forthright and very active. This is simply trying to make the best community that we can possibly make. The concerns that I am hearing from the neighbors are valid concerns. I know that road is a dangerous road and it difficult and there is not a lot of sidewalks or any sort of infrastructure to aid people to bike or walk safely on it. If development is going to continue to grow in this area, there has to be some thought about what that looks like going forward for the interests of the people who have lived there for many years.

Commissioner Nardi said I would echo that with process. I would think there needs to be more discussion to have between neighbors and developers. I think we have seen some good examples of that on some projects that have come before us that have really made things go that initially might not have been. I am leaning towards denial at this point.

Commissioner Washington said I have no issue with R-1 becoming R-8 in this area just because we do need housing. When we talk about what you are seeing, you are going from R-1 which is single family, to smaller lot sizes. When you think about affordability and keeping things affordable, if we try to stay R-1 then who is going to afford to live there? Especially with the cost of construction and the cost of housing. In terms of Harrisonburg being the Friendly City and making inclusive communities for everyone, I think this is a step forward for that. I think I am also a process person and I also think that there is some need for more discussion with the community. There needs to be some give and take into who needs to be able to...we can not continue to call this place the Friendly City if it is friendly over there where we are going to allow infill development in places that are already over crowded when there is space, there is 10 acres here, that can go towards housing. In terms of accommodations in what the infrastructure that needs to be improved to make this happen, should we make it happen? Absolutely. That is what improvement looks like. That is what development does. That is, when we look at people who need housing, hey do not want dangerous streets either. So what do we do? We improve the streets to accommodate the folks who live there. In terms of denial, I do not think, based off of what we heard last month and this month, I do not think I can say no to housing in this area.

Mr. Fletcher said I want to clarify some responses from earlier. When I was talking about the Smithland Road improvements, the section from the Linda Lane roundabout as then Smithland [Road] then circles back to Keezletown [Road] does not show up as transportation improvements on the Master Transportation Plan. The streets I was referring to where it says the Smithland Road, Linda Lane, Keezletown Road connections is referring to a desired street network where we need to connect those streets. We want to connect Linda Lane. We want to connect Smithland [Road]. We want to connect to Keezletown [Road]. They are just broad strokes on the map to show we want these connections. What we are talking about this evening is the beginning of those

connections. That street that comes off of Smithland Road is the beginning of a street network that we want to create. We want to make sure we get it right because when these streets go in, they are going to be there for a very long time.

Commissioner Porter said it seems to me that this potentially could be disallowed for where a few lines fall on the map here. You are hearing generally that there is not an opposition to density, at least the density proposed in the site plans we have seen here. The neighbors might feel differently, and I respect that. Nonetheless, this very well may fail just based on some streets and how they could be redesigned to conform with what is required by the City, or at least what is being requested by the staff. It seems to me that it would be a shame to let something that you have invested this much time to fall by the wayside based on that issue alone. I do not where this goes from here. I know where I am sitting on it. It seems to me that we are somewhat throwing the baby out with the bath water here if we would let this fall by the wayside for that reason and that reason alone.

Vice Chair Finnegan said we did table it last month because we are in a very similar place right now as we were last month.

Commissioner Nardi said I guess I have to agree. There is so much right with it in terms of housing, the need. There is a balance that I do not feel has tipped for me to be able to say yes without further work.

Commissioner Porter said there are a lot of unknowns here.

Commissioner Washington said do not get me wrong, I find that the site plan is ugly; and we have seen some ugly site plans that we have approved. The fact that it is ugly... I do not think is a reason to say no to it. In order to say no to housing just seems backwards. I am on the side of saying no to a denial.

Vice Chair Finnegan said in the interest of moving this along, I will make a motion to approve.

Commissioner Washington seconded the motion.

Chair Baugh said it is a close vote, but I am a no. Yes, we have a need for housing. We have also approved a whole lot of it that is not getting developed, which may be a whole other reason. It seems to me there needs to be room for saying that the proposal just is not quite there and the need is not just so great that we will not worry about these things. All we have before us is the proposal right now. At this point am going to be voting against the motion, but largely for the reasons that have been stated. I think, particularly, I agree with what Commissioner Porter was saying. It is not about the density; it is about the future mechanics. It is another side of the fact that, as we have said, there seems to be at least some general agreement that the infrastructure, as it is right now, really is not adequate to this type of development. I am probably more comfortable than a lot of members of the public will be with if that actually happens and that in and of itself is not a reason to vote against development. Sometimes one has to pull the other along. I think some of the last points made by Mr. Fletcher about how there really is a sense that, at some point, there is going to be a network there. There is a whole lot we do not know about it. This just feels like it goes to far

setting the template for things that would have to come after it. At least based on what we have tonight.

Commissioner Porter said based on the character of the property, I agree with staff that I would like to have seen some delineating of green zones and trees and those sorts of things. I think that the nature of this development needs to be conforming with the community around; it which has a lot of greenspace. I think that is something that should have been addressed in the site plan that is not as well.

Vice Chair Finnegan said I agree, I think we need more greenspace. As the Zoning Ordinance currently stands there is a certain amount of land that needs to be dedicated to car storage; that is in the Zoning Ordinance that is required by the City. If the applicant wanted to say we would like a reduction in required parking... This is just something that ties that together with the concern about traffic on the road. If your number one concern is traffic and your number one request is more parking, those are working against each other. The last thing that I will say is there is a bill, as far as I know, that Governor Youngkin has not vetoed yet. The bill would allow local governments in Virginia, which we currently do not have the authority, to say we want more greenspace. There is no mechanism to enforce that in Virginia law. Assuming Governor Youngkin either does not sign it and it gets turned into law or he does not veto it and signs it into law. That is something that, I hope, that we can talk about in the future in the Subdivision Ordinance for these lots, we want to say a certain percentage of trees need to be planted. A certain percentage of greenspace. I think from the development standpoint the trade off would be removing the parking requirements so that they can add more trees and less parking. We do not have the authority to do that at this point in time.

Chair Baugh called for a roll call vote.

Commissioner Nardi	No
Vice Chair Finnegan	Aye
Commissioner Washington	Aye
Commissioner Porter	No
Chair Baugh	No

The motion to recommend approval of the rezoning request did not pass (3-2).

Commissioner Porter said I wish to make a motion to deny the application as currently presented.

Commissioner Nardi seconded the motion.

Chair Baugh called for a roll call vote.

Commissioner Nardi	Aye
Vice Chair Finnegan	No
Commissioner Washington	No
Commissioner Porter	Aye
Chair Baugh	Aye

The motion to recommend denial of the rezoning request passed (3-2). The recommendation will move forward to City Council on April 8, 2025.