



# CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

409 SOUTH MAIN STREET, HARRISONBURG, VA 22801

OFFICE (540) 432-7700 • FAX (540) 432-7777

To: Ande Banks, City Manager  
From: Adam Fletcher, Director, Department of Community Development and Harrisonburg Planning Commission  
Date: September 12, 2023 (Regular Meeting)  
Re: Rezoning and Special Use Permits – 210, 280, and 290 West Mosby Road (R-2, R-2C and B-2C to R-5C) and (To Allow Multiple-Family Dwellings of More Than 12 Units Per Building and to Allow greater than four (4) stories and 52 feet in height in R-5)

## **Summary:**

Project name	N/A
Address/Location	Portions of 210, 290, and 280 West Mosby Road
Tax Map Parcels	Portions of 7-C-2 and 3
Total Land Area	+/- 12-acres
Property Owner	Daniel W. and Nancy R. Brubaker Trustees and Bluestone Land Company; D&N LLC
Owner's Representative	Beverly J. Searles Foundation, Inc. and Mark Slack, Kanawha Realty Advisors, LLC
Present Zoning	R-2, Residential District, R-2C, Residential District Conditional, and B-2C, General Business District Conditional
Proposed Zoning	R-5C, High Density Residential District Conditional
Special Use Permits Requested	To allow multiple-family dwellings of more than twelve (12) units per building per Section 10-3-55.4 (1), and To allow multiple-family buildings greater than four (4) stories and 52 feet in height per Section 10-3-55.4 (2)
Staff Recommendation	Approval
Planning Commission Recommendation	August 9, 2023 (Public Hearing) Approval (6-0)
City Council	September 12, 2023 (First Reading/Public Hearing) Anticipated September 26, 2023 (Second Reading)

## **Background:**

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

Site: Vacant land and single-family detached dwelling, zoned R-2, R-2C, and B-2C

- North: Single-family detached dwellings, zoned R-1 and R-2C
- East: Vacant land, zoned R-2 and R-2C
- South: Across West Mosby Road, vacant land, townhomes, and multiple-family dwellings, zoned R-2, R-3, and R-3C
- West: Across Pear Street, single-family detached dwellings and nonconforming vehicle repair, zoned R-1

In February 1999, City Council approved a rezoning of +/- 24.83 acres identified as tax map parcel 7-C-2. The request was to rezone +/- 21.62 acres from R-1, Single Family Residential District to R-2C, Residential District Conditional and rezone +/- 3.21 acres from R-1, Single Family Residential District to B-2C, General Business District Conditional.

The proffers for the R-2C zoned area included (written verbatim):

1. Any dwellings permitted by right in the R-1 Single-Family Residential District.
2. Single-family dwelling units with limitations as required by area and dimensional regulations set forth in R-2 regulations.
3. Accessory buildings and uses clearly incidental to above.

The proffers for the B-2C zoned section included (written verbatim):

1. Governmental, business and professional offices, and financial institutions.
2. Accessory buildings and uses customarily incidental to above listed uses.

The intent with the above proffers was to be able to construct a higher density detached single family home neighborhood utilizing the allowable smaller lot sizes of the R-2 district while permitting the noted nonresidential uses along a portion of the property's West Mosby Road frontage and at the intersection with Pear Street.

The current request is associated with a portion of the R-2C-zoned land, all of the B-2C-zoned area, and a portion of a separate parcel zoned R-2 with frontage along West Mosby Road.

**Key Issues:**

The applicant has submitted three separate applications. The first is a rezoning request for portions of two parcels totaling +/- 12-acres from R-2, R-2C, and B-2C, to R-5C. The second application for the same area is for a special use permit (SUP) to allow multiple-family dwellings of more than twelve (12) units per building per Section 10-3-55.4 (1) in the R-5 district. The third application for the same acreage is a SUP to allow multiple-family buildings to be greater than four (4) stories and 52 feet in height Per Section 10-3-55.4 (2) in the R-5 district. (Note: Constructing multi-family dwellings of up to 12 units per building is a by right ability in the R-5 district.) If the requests are approved, the applicant plans to construct an "affordable residential community serving seniors and potentially workforce and other citizens qualifying for affordable housing options." The project would not exceed 164 multi-family dwelling units.

*Proffers*

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

1. The number of dwelling units on the property shall not exceed 164 units.
2. The property shall not contain dwelling units that have more than three (3) bedrooms. None of the dwelling units shall be rented on a “per bedroom” basis other than one-bedroom units designed for that purpose. At least 25% of the total units will be one-bedrooms.
3. A minimum of 82 units will be age-restricted, in that at least one member of each household must be aged 55 or older and will comply with applicable laws and regulations relating to age restricted housing.
4. A minimum of 1.35 parking spaces per dwelling unit shall be provided. Occupancy shall be limited to a family or no more than three (3) unrelated persons per dwelling unit.
5. Solar panels shall be installed and maintained on a minimum of 10,000 sf of building roof area as measured from the outside perimeter of the solar installation area (and not panel surface area).
6. A minimum of two (2) “Level 2” (equivalent or better technology at the time of construction) electric vehicle charging stations at the property shall be installed prior to project completion and thereafter maintained in operating condition.
7. An easement shall be granted for a bus shelter at a location acceptable to Harrisonburg Department of Public Transportation (HDPT). A concrete pad will be constructed within the agreed easement location to HDPT’s bus shelter design specifications. HDPT will install the bus shelter on the pad provided.
8. Amenities Proffer shall include a minimum of 1,500 sq feet of installed and maintained outdoor amenity area space, to potentially include community amenity and recreational areas such as a dog run, gazebo, koi pond, picnic pavilion. The location and specific amenity type may be changed or relocated relative to final site plan approval and resident mix. A community clubhouse will also be constructed containing a minimum of 2500 sq. ft. Both the clubhouse and outdoor amenity areas proffered shall be completed and opened no later than the issuance of the 100<sup>th</sup> Certificate of Occupancy for residential units on the property.
9. The north side of Mosby Road will be improved and widened for the length of the full property frontage as generally shown on the Concept Plan. These improvements shall contain the following mitigations subject to final site plan approval of the final engineered design:
  - A. The north travel lane of West Mosby Road will be widened to include an eighteen-foot (18’) width of pavement from centerline exclusive of curb and gutter and turn lane.
  - B. Curb and gutter will be provided along the north travel lane of West Mosby Road along the entire property frontage.
  - C. A two-foot (2’) green strip will be provided between the curb and gutter and sidewalk along the north side of the West Mosby Road frontage. Consideration by the City Public Works Department will be given during site planning to allow a sidewalk to be installed adjacent to curbing in sections where topographic hardship can be demonstrated.

- D. A minimum five-foot (5') sidewalk will be provided along the north side of the West Mosby Road street frontage.
  - E. Public Right-of-Way or a Pedestrian sidewalk easement will be dedicated or granted to a point six inches (0.5') behind the installed sidewalk along the north side of West Mosby Road.
  - F. A one hundred foot (100') right turn lane with one hundred foot (100') taper will be provided serving the primary project entrance as shown on the Concept Plan.
10. A vegetated screen shall be provided and maintained along the common property line with Tax Parcel # 007-C-6 as generally depicted on the Concept Plan. The screen shall include a single row of evergreen trees planted approximately ten (10) feet apart. Trees shall be a minimum of six (6) feet tall at time of planting.
  11. The Owner/Applicant shall participate in a Small Area Transportation Study in accordance with the Small Area Transportation Study Agreement submitted as part of the rezoning application.
  12. A 10' wide minimum gated emergency only access will be provided from Pear Street into the development to provide a second means of egress. The access shall be installed to standards required to support full size fire engine weight. The final location of the emergency only access will be at a location acceptable to the Harrisonburg Fire Department.
  13. The entrance to the Project from Mosby Road shall be installed at the location shown on the Concept Plan. The entrance dual roadway and roundabout shown on the Concept Plan shall be dedicated to the City for public use upon completion of full installation, final coat paving, inspection and acceptance by City Public Works for inclusion in the City's public street network.
  14. The installed roundabout shall maintain a minimum of two hundred twenty-five feet (225') of entrance separation from Mosby Road (measured from the edge of the westbound travel lane on Mosby Road to the outer edge of the inscribed circle diameter (Yield Line) of the roundabout. The 225' entrance separation shall be maintained for access management purposes on any future public street connections to the roundabout.
  15. The Owner/Applicant shall dedicate to the City upon request up to thirty feet (30') of right-of-way along the Pear Street Project (Phase I) frontage as measured from the centerline of the current Pear Street pavement for future right-of-way improvements.
  16. No less than one (1) large deciduous tree shall be planted and maintained for every fifty (50) linear feet of parcel public street frontage where trees are not required by parking lot landscaping regulations (Section 10-3-30.1(1) of the Zoning Ordinance). Trees shall be planted within 10 feet of public street rights-of-way. At the time of planting, tree sizes shall meet the requirements as defined in Section 10-3-24 of the Zoning Ordinance.

Note that the concept plan is not proffered.

While most of the proffers are self-explanatory, staff offers additional information on Proffers #4 and #8. Proffer # 1 is addressed in the Land Use section, and Proffers 7, 9, 11, 13, and 15 is addressed in the Transportation and Traffic section.

Regarding Proffer #4, the R-5 district allows by right dwellings to be occupied by a family or not more than four unrelated persons. Proffer #4 reduces the allowable occupancy of dwelling units to either a family or not more than three unrelated persons. Section 10-3-25 (7) of the ZO requires one off-street parking space to be provided for each dwelling unit when occupancy is restricted. Although the applicant could have been allowed the flexibility of providing only one parking space per unit, they have proffered to provide a minimum of 1.35 off-street parking spaces per unit.

Regarding Proffer #8, the applicant has proffered a minimum of 1,500 square feet of installed and maintained outdoor amenity area space and a community clubhouse containing a minimum of 2,500 square feet. Staff asked the applicant if they would consider increasing the size of the outdoor amenity area as well as the location specifics of the amenity spaces in relation to the building locations. The applicant explained they are still working on the scope, design, and financing for the project and did not want to overcommit.

### *Land Use*

The Comprehensive Plan designates this site as Medium Density Mixed Residential and states:

These areas have been developed or are planned for small-lot single-family detached and single-family attached (duplexes and townhomes) neighborhoods, where commercial and service uses might be finely mixed within residential uses or located nearby along collector and arterial streets. Mixed-use buildings containing residential and non-residential uses and multi-family dwellings could be appropriate under special circumstances. 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. Like the Low Density Mixed Residential designation, 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 could be around 20 dwelling units per acre. 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.

Proffer #1 restricts the maximum number of dwellings on the property to 164 units, which is about 13 dwelling units per acre and within the planned density for the Medium Density Mixed Residential designation of around 20 dwelling units per acre.

### *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 proposed 164-unit project would not generate 100 or more new peak hour trips, which is the threshold for staff to require a Traffic Impact Analysis (TIA).

Know that when the applicant first initiated discussions about this project, they presented a plan that would have rezoned around 28-acres of property. (Reference the Rezoning Area Map included within the application and supporting documents.) Rezoning all 28-acres would have exceeded the 100 new peak hour trips threshold and would have required a TIA study. A TIA study takes months to complete, and the applicant would likely have missed the early Spring 2024 low-income housing tax credits (LIHTC) tax credit application deadlines. Therefore, the subject request is only for 12 of the 28-acres (“Phase 1”) so that the applicant can meet the LIHTC deadlines. Staff understands, however, that the applicant is planning to purchase all 28 acres even though they are only requesting to rezone 12 acres at this time. In knowing a much larger plan of development is anticipated, staff raised concerns about not completing a TIA for all 28-acres prior to any rezoning of this area as it would result in not identifying the overall, planned development’s full impact on the City’s transportation network. Not completing a TIA would not identify needed mitigations and would result in missed opportunities for the applicant to proffer street and transportation improvements, which could then place the burden of responsibility on the City.

In the past few years, there have been several rezonings for new housing developments in this area of the City and Rockingham County, such as Cobblers Valley and Zephyr Hill/s, and there are additional developments anticipated between South High Street and South Main Street that are adding to, and will add to, significant traffic to the existing street network. In believing the existing street network is inadequate to handle all the new development, staff would like to complete a Small Area Transportation Study that would consider the transportation network wholistically by examining anticipated development and land use changes; examining the existing street network and determining general locations for new entrances and new public streets through currently vacant lands; and to understand improvements needed to existing streets, intersections, and traffic signalization. In Proffer #11, the applicant has proffered that they will participate in a Small Area Transportation Study in accordance with the Small Area Transportation Study Agreement submitted as part of the rezoning application. As part of the agreement, the applicant is committing to make a \$25,000 cash contribution to the City to defray the cost of the Small Area Transportation Study.

Regarding Proffer #7, a concrete pad will be constructed and an easement would be dedicated for a bus shelter at a location acceptable to the Harrisonburg Department of Public Transportation (HDPT). It is anticipated that the bus shelter will be located in the southbound direction of the new street between West Mosby Road and the roundabout illustrated in the Concept Plan. The exact location will be determined during the engineered comprehensive site plan phase of the project. HDPT will provide and install the bus shelter. During review of the applications, city staff asked the applicant if they would be willing to proffer constructing a bus pull off. The applicant responded that it is too hard to commit to a bus pull off at this time, but they would be willing to consider it during the engineered comprehensive site plan phase.

Regarding Proffer #9, the applicant has proffered a variety of infrastructure improvements along the north side of West Mosby Road to be completed with the project. In Proffer #13, the applicant has proffered the construction and dedication of a new public street between West Mosby Road and the roundabout as illustrated in the Concept Plan. City staff and the applicant envision that future streets or entrances will connect to this roundabout to serve future development in the surrounding area.

In Proffer #15, the applicant has proffered to dedicate, upon request from the City, up to 30 feet of public street right-of-way along the Pear Street frontage as measured from the centerline of the current Pear Street. While staff is appreciative of this, staff suggested the applicant also consider proffering to construct sidewalk along the Pear Street frontage between West Mosby Road and Ruby Drive. This sidewalk would enhance the City's sidewalk network and serve the residents on the west side of Pear Street, including the manufactured/mobile home park off Ruby Drive and the developed and future phases of Cobblers Valley and Zephyr Hill. The applicant responded that they are wary of the extra expense and its impact to the housing project and highlighted the other infrastructure related proffers they have committed to already. While staff would like to promote the interconnectivity of the City's sidewalk network in this area, staff understands the applicant's hesitations and the fact that constructing sidewalk adds expense to the overall housing cost.

#### *Public Water and Sanitary Sewer*

City staff has advised the application that available downstream sanitary sewer capacity may be inadequate for the proposed use and must be evaluated during a Preliminary Engineering Report prior to the engineered comprehensive site plan submittal.

#### *Housing Study*

The City's Comprehensive Housing Assessment and Market Study (Housing Study) places the subject site within Market Type B, which has "neighborhoods [that] are characterized by high income earning households, large volumes of housing sales and lower population growth." The Housing Study further notes that houses in these markets are quick to sell and that "[p]riorities and policies that are appropriate to Market Type B areas include the preservation of existing affordable housing while at the same time working to increase access to amenities."

The developer intends to seek support from low-income housing tax credits (LIHTC). LIHTC rentals generally provide affordability for 30 years and typically target households at 60% AMI. In Harrisonburg, there are currently 410 units of LIHTC housing. Sixty units at Lineweaver Annex serve elderly and/or disabled households; this is the only LIHTC senior housing in the City. Bluestone Town Center is zoned for up to 450 multi-family LIHTC units, to be phased over several years, with some senior units planned though not proffered.

#### *Public Schools*

The student generation attributed to the proposed 164 new residential units is estimated to be 26 students. Based on the School Board's current adopted attendance boundaries, Bluestone Elementary School, Thomas Harrison Middle School, and Harrisonburg High School would serve the students residing in this development. Harrisonburg City Public Schools (HCPS) staff noted that schools are over capacity in many of the schools.

#### *Recommendation*

While staff had hoped for additional details regarding amenity space and for more consideration to provide sidewalk along or near Pear Street, staff believes the overall advantages of the proposed project could be beneficial for individuals and families that want to reside in the City. The project's density fits within the range planned for this area and the proposed multi-family would be consistent with existing townhomes and multi-family units located along West Mosby Road and along Mosby Court. Staff recommends approval of the rezoning and both special use permits as submitted.

**Environmental Impact:**

N/A

**Fiscal Impact:**

N/A

**Prior Actions:**

N/A

**Alternatives:**

- (a) Approve the rezoning and SUP requests as submitted;
- (b) Approve the rezoning and SUP requests with conditions;
- (c) Approve the rezoning request and deny one or more of the SUP requests and approve the other;  
or
- (d) Deny the rezoning and SUP requests.

**Community Engagement:**

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

***Rezoning – 210, 280, and 290 West Mosby Road (R-2, R-2C and B-2C to R-5C)***

Public hearing to consider a request from Daniel W. and Nancy R. Brubaker Trustees and Bluestone Land Company; D&N LLC to rezone a +/- 12-acre site from R-2, Residential District; R-2C, Residential District Conditional; and B-2C, General Business Conditional to R-5C, High Density Residential District Conditional. The request includes portions of properties addressed as 210, 290, and 280 West Mosby Road, which are identified as tax map parcel numbers 7-C-2 and 3.

***Special Use Permit – 210, 280, and 290 West Mosby Road (To Allow Multiple-Family Dwellings of More Than 12 Units Per Building in R-5)***

Public hearing to consider a request from Daniel W. and Nancy R. Brubaker Trustees and Bluestone Land Company; D&N LLC for a special use permit per Section 10-3-55.4 (1) to allow multiple-family dwellings of no more than twelve (12) units per building in the R-5, High Density Residential District. The request includes portions of properties addressed as 210, 290, and 280 West Mosby Road, which are identified as tax map parcel numbers 7-C-2 and 3 and total 12-acres.

***Special Use Permit – 210, 280, and 290 West Mosby Road (To Allow Multiple-Family Buildings Greater Than 4 Stories and/or 52 Feet in Height in R-5)***

Public hearing to consider a request from Daniel W. and Nancy R. Brubaker Trustees and Bluestone Land Company; D&N LLC for a special use permit per Section 10-3-55.4 (2) to multiple-family buildings greater than four (4) stories in height and/or fifty-two (52) feet in height in the R-5, High Density Residential District. The request includes portions of properties addressed as 210, 290, and 280 West Mosby Road, which are identified as tax map parcel numbers 7-C-2 and 3 and total 12-acres.



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

**Recommendation:**

Staff recommends alternative (a) approval of the rezoning and special use permits as submitted.

**Attachments:**

1. Extract from Planning Commission
2. Corrected Site map for Land Use Guide
3. Site maps
4. Application and supporting documents
5. Concept Plan and Rezoning Area Map (higher resolution image))

**Review:**

Planning Commission recommended approval of the rezoning (6-0) and approval of both special use permits (6-0) (6-0) as submitted. Commissioner Washington was absent.