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MARK B. CALLAHAN
OF COUNSEL

AMY L. RUSH, C.P.A.
NOT AN ATTORNEY

August 1, 2023

Via Electronic Mail:

Adam Fletcher, Director
City of Harrisonburg Department of Community Development
409 S. Main Street
Harrisonburg, VA 22801
Adam.fletcher@harrisonburgva.gov

Re: Beverly J. Searles Foundation, Inc. – Application for an R-5C District Zoning Ordinance Amendment and Special Use Permits for a multifamily community not to exceed 164 units; located at 150 and 210 W. Mosby Road, Harrisonburg, VA 22801, Tax Map References: Portions of 007 C 2 & 007 C 3 (“Subject Property”)

Dear Mr. Fletcher:

I write on behalf of the applicant, Beverly J. Searles Foundation, which requests an R-5C High Density Residential District rezoning approval with two (2) Special Use Permit requests for the Subject Property. The Subject Property contains 12 acres and is a portion of City Tax Parcels 007 C 2 and 007 C 3. The Subject Property is designated as Medium Density Mixed Residential on the Future Land Use Guide Map contained in the 2018 City Comprehensive Plan. The proposed Rezoning and Special Use Permit requests would allow for the development of the vacant Subject Property into a diverse and affordable residential community serving seniors and potentially workforce and other citizens qualifying for affordable housing options. The approvals would directly address the existing need for additional housing stock, units of varied types and additional density as identified in the City of Harrisonburg Comprehensive Housing Assessment and Market Study. It is further noted that the project will address the critical affordable housing needs of seniors in a community designed specifically for senior housing. The location, unit mix and proffers dictate that the proposed housing units are not student housing, luxury, or short-term rentals.

The applicant, the Beverly J. Searles Foundation, desires to establish an apartment community not to exceed 164 units on the Subject Property. The number of units is fully compatible with target densities in the Medium Density Mixed Residential district of up to 20 units per acre. Proffered

amenities include a dog run, gazebo, koi pond, , picnic pavilion and sidewalks. The community would also benefit from full-time professional property management and maintenance personnel on site.

Beverly J. Searles Foundation, Inc. (“Searles Foundation”) is a not-for-profit 501(c)(3) corporation incorporated in Georgia on August 31, 2007. An independent Board of Directors governs Searles Foundation. IRS issued a determination letter dated February 12, 2008, confirming Searles Foundation is exempt from federal income taxation under Section 501(a) of the Internal Revenue Code of 1986, as amended (the “Code”), as an organization described in Section 501(c)(3) of the Code. The mission of the Searles Foundation is to transform communities by providing quality, affordable, and workforce housing for families and seniors. The Foundation focuses on excellent resident service, energy-efficient new housing, opportunities for community leaders, and a holistic approach to wellness and healthy lifestyles. Since 2007, Searles Foundation has been a developer and owner of affordable housing in Georgia. As of February 20, 2023, Searles Foundation holds member interests in eighteen (18) limited partnerships that own and operate Affordable Housing financed in part with Housing Tax Credits (often called “LIHTC” or “HTC”).

The Subject Property is located generally at the intersection of West Mosby Road and Pear Street. The surrounding properties include the Millwood Townhome and Condominium communities, the Mosby Heights Apartments, and single-family detached homes. Numerous retail facilities are located along South Main Street which intersects West Mosby Road about one-half mile east of the proposed entrance to the new apartment community. These amenities are easily accessible to pedestrian and bike trips with existing connecting sidewalks along the south side of West Mosby Road. This rezoning would facilitate the improvement and widening along the north side of West Mosby Road and the installation of pedestrian improvements on that frontage. The Subject Property is also located on an existing City bus transit line and a new transit stop is proffered to be installed on the Subject Property.

This development will address many of the housing concerns outlined in the Harrisonburg Housing Study dated January 2021 including:

1. *There is a “housing mismatch” in which thousands of households live in units that do not align with their income (page 6).*
2. *The City’s rental market is comparably tight (page 6).*
3. *More than 3,600 lower income renter households are cost-burdened and pay more than 30% of their income on housing costs (page 7).*
4. *There is strong demand for expanding the rental housing inventory at both ends of the income spectrum (page 8).*
5. *Recommendations from the report specify:*
 - a. *Large sites may be appropriate for substantial multifamily apartment...development (page 81).*
 - b. *In most cases, affordable housing projects should maximize allowable density to provide the City’s greatest number of affordable housing units (page 81).*

August 1, 2023
Page 3

The Subject Property is also located to provide additional senior, and potentially workforce and affordable housing options in the redeveloping South Main Street corridor of the City with convenient access to City shopping venues and other amenities.

The developer has committed to sustainable features within the community and has proffered the installation of solar panels to power its amenity areas and EV charging stations for resident use. Convenient bike and e-bike parking and storage will also be provided to allow residents to conveniently access bike trip options.

The applicant requests approval of the R-5C and two technical Special Use Permit applications for multifamily units within the Medium Density Mixed Residential planning district under the submitted applications, proffers, and supplemental documents. The applicant further requests that as a condition to approving the Special Use Permit requests, that these uses be established, or any construction authorized shall be commenced and diligently pursued within 48-months of the approval date of the Special Use Permits.

I appreciate your consideration of this proposal. Please do not hesitate to contact me with any questions or concerns.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Todd C. Rhea', with a long horizontal flourish extending to the right.

Todd C. Rhea, Esq.

cc: Philip Searles
Beverly J. Searles Foundation, Inc.

BJSF Harrisonburg Phase I

**RZ - _____
REZONING REQUEST PROFFER
(Conditions for this Rezoning Request)**

Applicant:

The Beverly J. Searles Foundation, Inc.

Owners:

BRUBAKER DANIEL W. NANCY R. TRUSTEES

Tax Map No. 007 C 2

150 W. Mosby Road

AREA = 32.98 acres

ZONED: R2C

BLUESTONE LAND COMPANY INC.

Tax Map No. 007 C 3

210 W. Mosby Road

AREA = 3.3 acres

ZONED: R2

Dated: June 8, 2023 and Revised July 7, 2023 and August 1, 2023

**TO THE HONORABLE MAYOR AND MEMBERS OF
THE COUNCIL OF THE CITY OF HARRISONBURG**

Property Information

The Applicant and the Owners of the above-described parcels, containing 36.28 acres (+/-) of land (the "Property"), have petitioned the City of Harrisonburg, Virginia (the "Council") for a rezoning to allow for the development of a specific project, identified as the BJSF Harrisonburg Phase I (the "Project"), as specifically detailed in the Mosby Road Rezoning Area Map and Concept Plan (2 pages) ("Concept Plan") by Valley Engineering containing a total of 12.00 acres which represents the portion of the Property delineated in the rezoning application filed with the City.

The Applicant intends to develop up to 164 units of affordable multifamily rental housing on this 12 acres. 82 of the units will be in a single four-story building designed for occupancy by senior residents, ages 55 and older, containing one- and two-bedroom units. A minimum of 82 of the units will be in a separate four-story building for occupancy

by residents with families containing one-, two-, and three-bedroom units. Depending on funding, all units may be converted to 55 and older units in the project as rezoned.

Proffers

In furtherance of the Proposed Rezoning, the Applicant hereby proffers that in the event the Council shall approve the rezoning of the Property, from their varying current zoning districts to R-5C High Density Residential District, then the Project shall be done in conformity with the terms and conditions as set forth herein, except to the extent that such terms and conditions may be subsequently amended or revised by the Applicant and such be approved by the Council in accordance with Virginia law. In the event that such rezoning is not granted, then these Proffers shall be deemed withdrawn and have no effect whatsoever. These Proffers shall be binding upon the Applicant, the Owners, and their legal successors or assigns. Any and all terms and conditions, accepted or binding upon the Property and Project, as a condition of accepting these Proffers, shall become void and have no subsequent effect. The Applicant hereby agrees that the Proposed Rezoning itself gives rise to the need for these Proffers, that the Proffers have a reasonable relation to the Proposed Rezoning, and that all conditions are in conformity with the City's Comprehensive Plan.

The Applicant, who is acting on behalf of the Owners of the Property, hereby voluntarily proffers that, if the Council approves the rezoning, the Applicant and the Owners, or their successors and assigns, will provide the following during the Project:

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 100th 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.

IN WITNESS WHEREOF, the parties have executed this Rezoning Request Proffer as follows:

APPLICANT:

BEVERLY J. SEARLES FOUNDATION, INC.

By: _____ (SEAL)
Philip E. Searles, President

STATE/Commonwealth of _____
CITY/COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 2023, by Philip E. Searles, President of the Beverly J. Searles Foundation, Inc., Applicant.

Notary Public

My commission expires: _____
Registration Number: _____

(Owner signature pages to follow)

OWNER:

DANIEL W. BRUBAKER,
Trustee of the Daniel W. Brubaker Revocable
Declaration of Trust, under Trust Agreement
dated June 10, 2003

_____ (SEAL)

COMMONWEALTH OF VIRGINIA
CITY OF HARRISONBURG

The foregoing instrument was acknowledged before me this ____ day of _____,
2023, by Daniel W. BRUBAKER, Trustee of the Daniel W. Brubaker Revocable
Declaration of Trust, under Trust Agreement dated June 10, 2003.

Notary Public

My commission expires: _____

Registration Number: _____

OWNER:

NANCY R. BRUBAKER,
Trustee of the Nancy R. Brubaker Revocable
Declaration of Trust, under Trust Agreement
Dated June 10, 2003

_____ (SEAL)

COMMONWEALTH OF VIRGINIA
CITY OF HARRISONBURG

The foregoing instrument was acknowledged before me this ____ day of _____,
2023, by Nancy R. Brubaker, Trustee of the Nancy R. Brubaker Revocable Declaration of
Trust, under Trust Agreement Dated June 10, 2003

Notary Public

My commission expires: _____

Registration Number: _____

OWNER:

BLUE STONE LAND COMPANY, INC.,
A Virginia stock corporation

By: _____ (SEAL)

Daniel W. Brubaker, President

COMMONWEALTH OF VIRGINIA
CITY OF HARRISONBURG

The foregoing instrument was acknowledged before me this ____ day of _____,
2023, by Daniel W. Brubaker, President of Blue Stone Land Company, Inc.

Notary Public

My commission expires: _____

Registration Number: _____

OWNER:

D & N, LLC,
A Virginia limited liability company

By: _____ (SEAL)

Daniel W. Brubaker, Manager

COMMONWEALTH OF VIRGINIA
CITY OF HARRISONBURG

The foregoing instrument was acknowledged before me this ____ day of _____,
2023, by Daniel W. Brubaker, Manager of D & N, LLC.

Notary Public

My commission expires: _____

Registration Number: _____

SMALL AREA TRANSPORTATION STUDY AGREEMENT

This Agreement is entered into on this ___ day of July 2023 by and between, THE BEVERLY J. SEARLES FOUNDATION, INC. (“Applicant”), BRUBAKER DANIEL W. NANCY R. TRUSTEES and BLUESTONE LAND COMPANY INC. (“Owner”) and the CITY OF HARRISONBURG (“City”). The Applicant, Owner and City agree to the following terms and conditions relating to the rezoning and development of all or portions of Harrisonburg City Tax Map Parcels 007-C-2 and 007-C-3 owned by the Owner/Developer (collectively “BJSF Harrisonburg”), which present and future development is anticipated to have a future traffic impact on the traffic area generally bounded by South Main street, Mosby Road/Pear Street, Erickson Avenue/Bypass, and South High Street (Project Vicinity”).

RECITALS

WHEREAS, the Applicant and Owner have filed a rezoning application with the City of Harrisonburg, VA designated as Rezoning _____ (“City Rezoning”).

WHEREAS, in lieu of Proffers the Applicant and Owner wish to agree on certain transportation related matters as set forth herein in the event the City Rezoning is approved by City Council.

WHEREAS, the rezoning and other entitlements requested in the City Rezoning do not trigger TIA requirements, however entitlements for the entire subject property and other adjacent property owned by Owner may trigger future TIA requirements and it is in the interest of the City to have a comprehensive Small Area Transportation Study (“SA Study”) performed to better plan for traffic and transportation needs in the Project Vicinity,

IT IS THEREFORE agreed between the parties as follows:

1. The Valley Engineering Concept Plans and Rezoning Plans (“Valley Plans”) filed with the City Rezoning are incorporated as an integral term of this Agreement.
2. Applicant will make a Twenty-Five Thousand and 00/100 dollar (\$25,000) cash contribution to the City in order to defray the cost of the SA Study covering the Project Vicinity. The cash payment will be made after City Council approval of the City Rezoning and within thirty (30) days of written request by the City Public Works Department once the SA Study is commissioned and approved by City Council.
3. Applicant or Owner shall not request any material rezoning changes to the approximately 16-acre portion of the subject property (shown on the Concept Plan in yellow and delineated as “Rezoning Restricted Area”) until the earlier of a) substantial completion of the SA Study, or b) the 3-year anniversary of the approval of the rezoning contained in the current application.
4. City agrees to solicit SA Study input from the Applicant during the scoping, drafting and completion of the SA Study.

5. This Agreement shall be binding upon Owner its successors and/or assigns and shall inure to the benefit of the City of Harrisonburg.
6. All recitals set forth above are hereby incorporated into this Agreement.

Signature pages to follow.

SIGNATURES

CITY OF HARRISONBURG, VIRGINIA

By: _____ (SEAL)
By: _____, City Manager

WITNESS:

Attest

Attest

APPLICANT:
BEVERLY J. SEARLES FOUNDATION, INC.

By: _____ (SEAL)
Philip E. Searles, President

WITNESS:

Attest

Attest

OWNER:
DANIEL W. BRUBAKER,
Trustee of the Daniel W. Brubaker Revocable
Declaration of Trust, under Trust Agreement
dated June 10, 2003

(SEAL)

OWNER:

NANCY R. BRUBAKER,
Trustee of the Nancy R. Brubaker Revocable
Declaration of Trust, under Trust Agreement
Dated June 10, 2003

_____ (SEAL)

OWNER:

BLUE STONE LAND COMPANY, INC.,
A Virginia stock corporation

By: _____ (SEAL)
Daniel W. Brubaker, President

OWNER:

D & N, LLC,
A Virginia limited liability company

By: _____ (SEAL)
Daniel W. Brubaker, Manager



**BJSF
HARRISONBURG
PHASE 1
REZONING**

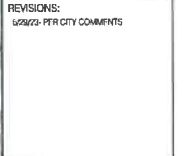


**VALLEY
ENGINEERING**

4001 CROWE DRIVE
MOUNT CRAWFORD, VIRGINIA 22841
(540) 434-6365
www.valleyeng.com

REVISIONS:
6/29/22 - PFR CITY COMMENTS

DATE: 06/09/2023
PROJECT No.: 13006-5
EXP./CLIENT No.: 9014-4



**REZONING
AREA MAP**

SHEET NO.:
CP-1



**BJSF
HARRISONBURG
PHASE 1
REZONING**



**VALLEY
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MOUNT CRAWFORD, VIRGINIA 22841
(540) 434-6365
www.valleyesp.com

THIS PLAN IS THE PROPERTY OF VALLEY ENGINEERING, P.C. ALL RIGHTS RESERVED. NO PART OF THIS PLAN IS TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM.

REVISIONS:
6/29/23 - PFR CITY COMMENTS

DATE: 06/08/2023
PROJECT No.: 13006-5
EXP./CLIENT No.: 9014-4
SCALE: 1" = 30'

**CONCEPT
PLAN**

SHEET NO.:
CP-2



For inclusion in an application for Planning Commission review (for Special Use Permit, Rezoning or Preliminary Plat), this form must be submitted to the Public Works Department at least 5 business days prior to the Planning Commission application deadline.

Contact Information				
Consultant Name: Telephone: E-mail:				
Owner Name: Telephone: E-mail:				
Project Information				
Project Name:				
Project Address: TM #:				
Existing Land Use(s):				
Proposed Land Use(s): (if applicable)				
Submission Type:	Comprehensive Site Plan	Special Use Permit	Rezoning	Preliminary Plat
Project Description: (Include site plan or preliminary sketch and additional details on land use, acreage, access to site, etc)				
Peak Hour Trip Generation (from row 15 on the second page)				
AM Peak Hour Trips:				
PM Peak Hour Trips:				

(reserved for City staff)

TIA required? Yes _____ No TIA
Comments:

Accepted by: Zenith Mason

Date: 6/9/2023

Peak Hour Trip Generation by Land Use

Row	IVG'Nand Use	ITE Land Use Code	Unit	Quantity	AM Peak Hour of Adjacent Street Traffic	PM Peak Hour of Adjacent Street Traffic
1	Proposed #1					
2	Proposed #2					
3	Proposed #3					
4	Proposed #4					
5	Proposed #5					
6	Proposed #6					
7	Total New Trips					
8	Existing #1					
9	Existing #2					
10	Existing #3					
11	Existing #4					
12	Existing #5					
13	Existing #6					
14	Total Existing Trips					
15	Final Total (Total New – Total Existing)					

Instructions

Determination of trip generation rates shall be in conformance with ITE guidelines.

1. Based on the intended use(s), calculate the AM Peak and PM Peak trip generation using the AM and PM Peak Hour of Adjacent Street Traffic rates from the most current version of the ITE Trip Generation Manual (rows 1-6). Attach additional sheets as necessary for more uses.
2. Sum up all of the trips generated for the new uses in the Total New Trips row (row 7).
3. If the development has any existing uses, calculate the AM Peak and PM Peak trip generations using the AM and PM Peak Hour of Adjacent Street Traffic rates from the most current version of the ITE Trip Generation Manual (rows 8-13). Attach additional sheets as necessary for more uses.
4. Sum up all of the trips generated for the existing uses in the Total Existing Trips row (row 14).
5. Subtract the total existing trips from the total new trips to get the final total number of trips generated by the development (row 15). Enter these numbers on the first page.