



# CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

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July 5, 2023

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

**SUBJECT:** Consider a request from Farhad Koyee and Mikael Bahar to rezone 937 Vine Street

**EXTRACT FROM MINUTES OF HARRISONBURG PLANNING COMMISSION  
MEETING HELD ON:** June 14, 2023

Chair Finnegan said I was made aware on the site tour of the potential conflict of interest for the next item and so I will recue myself and I will hand the gavel over to Vice Chair Byrd.

Vice Chair Byrd read the request and asked staff to review.

Ms. Dang said on November 9, 2022, public hearings were held for the subject property to consider two requests from the applicant: 1) to rezone the property from R-1, Single Family Residential District to R-8C, Small Lot Residential District Conditional, and 2) for a special use permit (SUP) per Section 10-3-59.4 (1) of the Zoning Ordinance to allow attached townhomes of not more than eight units within the R-8, Small Lot Residential District. At that time, the applicant planned to demolish the building addressed as 935 Vine Street (the building located closest to Wren Way), to keep the single-family detached dwelling addressed as 937 Vine Street, to construct 10 duplex units (5 structures) and eight townhomes, and to permanently terminate Wren Way. Staff recommended approval of both the rezoning and SUP. Planning Commission recommended denial of the rezoning (6-1) and denial of the SUP (6-1). The applicant later withdrew the requests and the items were never presented to City Council. The applicant is requesting to rezone a +/- 1.77-acre parcel from R-1, Single-Family Residential District to R-8C, Small Lot Residential District Conditional. If the request is approved, then the applicant plans to demolish the building addressed as 935 Vine Street (the building located closest to Wren Way), to keep the single-family detached dwelling addressed as 937 Vine Street, to construct eight duplex units (4 structures), and to permanently terminate Wren Way.

If the rezoning is approved, at some point the developer must complete a preliminary subdivision plat, where, among other things, they must request a variance from the Subdivision Ordinance to allow lots to not have public street frontage. During the preliminary plat process, the developer could also request other variances of the Subdivision Ordinance or Design and Construction Standards Manual (DCSM) that might be needed to build the project. It is possible the developer

could request deviating from cul-de-sac or other street termination designs. These matters should be considered when making a recommendation for this project as approving the rezoning could be perceived as also providing an endorsement for the variance that would be requested during the platting phase.

### *Proffers*

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

1. A 6-ft wide pedestrian access easement will be provided between Wren Way and the property line closest to Vine Street [*sic*].
2. A sidewalk access easement will be provided along the western property boundary closest to Vine Street, 7.5-ft from back of curb.
3. No townhouses or [*sic*] multifamily structures will be allowed.
4. At the time of development, the property owner shall construct an acceptable turnaround at the end of Wren Way. The turnaround may include a cul-de-sac or another design accepted and approved by City staff. The property owner shall also dedicate the necessary land for public right-of-way to include the turnaround, and along the south side of the turnaround, the property owner shall dedicate an additional 7.5-ft. width of land as public right-of-way for future sidewalk. The property owner will not be responsible for constructing the sidewalk.

Note that the submitted conceptual site layout is not proffered.

With proffer #1, the property owner will dedicate a 6-ft. wide pedestrian access easement between Wren Way and the property line closest to Vine Street. The reason why the access easement cannot extend to Vine Street is because there is an unusually shaped parcel (TM 28-O-21) between the subject property and Vine Street that is not owned by the applicant.

With proffer #2, a sidewalk easement would be provided along the western boundary of the property so that the City may construct a new sidewalk along Vine Street in the future.

Of the residential uses allowed, the R-8 district allows single-family detached dwellings and duplex dwellings by right and allows townhomes by special use permit (SUP). With proffer #3, the applicant has proffered that townhomes and multifamily structures will not be allowed. It should be understood that multifamily structures are not permitted by right or by SUP. While proffering to prohibit multi-family structures is not necessary, the applicant is proffering this in response to concerns heard from neighbors after meeting with them.

With proffer #4, the property owner will be responsible for constructing an acceptable turnaround, which may be a cul-de-sac or tee/hammerhead turnaround. Details will be worked out during the engineering design and preliminary plat phases of the project. Note, however, that the proffer indicates they would not be responsible for constructing sidewalk along the public extension of Wren Way. If the City accepts this proffer, it means the City must also be accepting of and must ultimately approve a Subdivision Ordinance variance to deviate from the requirements to not construct the public sidewalk. The variance request would be part of the preliminary platting process.

### *Land Use*

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

“These areas consist of single-family detached dwellings in and around well-established neighborhoods with a target density of around 4 dwelling units per acre. The low density residential areas are designed to maintain the character of existing neighborhoods. It should be understood that established neighborhoods in this designation could already be above 4 dwelling units per acre.”

The proposed density of the development is just over 5 dwelling units per acre.

Adjacent properties are designated Low Density Residential and Medium Density Residential. The Medium Density Residential area is described as:

“[D]eveloped or are planned for development of a variety of housing types such as single-family detached, single-family attached (duplexes and townhomes), and in special circumstances, multi-family dwellings (apartments). Depending on the specific site characteristics, densities in these areas should be around 15 dwelling units per acre. Non-residential uses may also be appropriate.”

To the north of this property, across Vine Street, and within the Reherd Acres neighborhood on and around Meadowlark Drive, there are existing townhomes that are adjacent to existing single-family detached dwellings.

Know also that the R-8 district’s occupancy regulations are the same as the R-1 district’s occupancy regulations. When the R-8 district was drafted, the proposed occupancy regulations were intentionally designed to mimic the R-1 and R-2 districts because the R-8 district was intended to promote family occupancy with higher unit density abilities. The occupancy regulations allow:

1. Owner-occupied single-family dwellings, which may include rental of space for occupancy by not more than two (2) persons, providing such rental space does not include new kitchen facilities, and
2. Nonowner-occupied single-family dwellings, which may include rental of space for occupancy by not more than one (1) person, providing such rental space does not include new kitchen facilities.

Said differently, owner-occupied dwellings can be occupied by a family plus two individuals or a maximum of three individuals and nonowner-occupied dwellings can be occupied by a family plus one individual or a maximum of two individuals.

### *Transportation and Traffic*

During pre-application meetings with the applicant for the 2022 rezoning and SUP requests, there was much discussion between the applicant and City staff on how best this property should connect to the public street network. Three general scenarios were explored: (1) to extend Wren Way to connect to Vine Street (which included a few intersection options such as full access, right-in right-out, right-in only, or right-out only), (2) to have vehicular access only to Vine Street, or (3) to have vehicular access only to Wren Way. Ultimately, City staff believed that vehicular access only to Wren Way was best due to factors including, but not limited to: a parcel between the subject property and Vine Street that is not owned by the applicant; at times, southwest bound traffic on Vine Street backs up from the intersection with Country Club Road to the frontage of the subject

property; and connecting these proposed homes to Wren Way, which would create a more inclusive component of this residential development by making it part of an existing neighborhood rather than separating it from that neighborhood.

During staff's review of the current rezoning application, the applicant explained that their intent is to allow two duplex units in the southwestern corner of the property to have an entrance on Vine Street and for the remaining dwellings to have entrances onto Wren Way. Staff is comfortable with this and will continue to review proposed entrance locations for each parcel during the engineering design and preliminary platting phases. Note that in the conceptual site layout, the applicant illustrates a private access easement for Lot 8 to cross Lot 9 to have access to Vine Street.

As required per Section 10-2-41 (e) of the Subdivision Ordinance “[c]uls-de-sac [sic] and other permanent dead-end streets are prohibited except when permitted by the planning commission in accord with the DCSM.” Therefore, Planning Commission must give consent to constructing an acceptable turnaround at the end of Wren Way and permanently terminating Wren Way. If Planning Commission consents to creating a permanent termination, the applicant can continue later with applications for preliminarily platting the property with the permanent termination of Wren Way. If the rezoning request is approved, then staff recommends approval of the request for permanent termination of Wren Way. (Note that the proposed permanent cul-de-sac only requires Planning Commission approval.) Staff requests for Planning Commission to consider this component of the project now and to act on this request during the current application reviews.

#### *Public Water and Sanitary Sewer*

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

#### *Housing Study*

While reviewing this project, the City's Comprehensive Housing Assessment and Market Study (Housing Study) should also be considered. The Housing Study places the subject site within Market Type A, which is characterized by “high population growth” and that “houses in these markets are quick to sell.” The Housing Study also notes that “[w]ithin this market type reside 32% of the City's population and the lowest concentration of college-aged persons.” Moreover, “Market Type A tends to be more built out” and “priorities and policies that are appropriate for Market Type A areas include an emphasis on increasing density through zoning changes, infill development and housing rehabilitation to maintain the quality of housing.” Staff believes that the proposal follows two components of the Housing Study by proposing to increase density for this parcel and by attempting to create an infill development.

While the proposed development of new duplexes is not providing single-family detached dwellings that are recommended by the Comprehensive Plan's Low Density Residential designation, staff does not believe that the proposed project is inconsistent with existing development in this area nor what is believed to be appropriate per substantiation by the Housing Study.

#### *Public Schools*

The student generation attributed to the proposed eight new residential units is estimated to be three students. Based on the School Board's current adopted attendance boundaries, Smithland

Elementary School, Skyline Middle School, and Harrisonburg High School would serve the students residing in this development. Harrisonburg City Public Schools (HCPS) staff noted that schools are over capacity in many of the schools.

*Recommendation*

Staff recommends approval of the rezoning and for Planning Commission to approve constructing an acceptable turnaround at the end of Wren Way and permanently terminating that public street. Vice Chair Byrd asked if there were any questions for staff.

Commissioner Armstrong said the existing house was accessing Vine Street via the easement, I guess, or the one that is now going to be used, will they no longer do that and now be going out of the cul-de-sac?

Ms. Dang said yes. The intention is that yes, they would access through the cul-de-sac. And again, those particular details could change later on but at this time staff is comfortable with two units accessing Vine Street.

Vice Chair Byrd asked if there were anymore questions for staff.

Commissioner Armstrong said this all has to be platted, right? This is a pretty large space, so there is nothing in here about parking or any sort of roadways within this.

Ms. Dang said maybe the applicant can speak to this a little bit more, but what I was thinking was that their intention was to just have driveways because each of these units here, as far as minimum required parking, the Zoning Ordinance only requires one parking space be provided for each of the dwelling units. They might try to put two or the length of a driveway or something there.

Vice Chair Byrd opened the public hearing.

Akarr Koyee, son of the applicant, spoke on this request. He said we are working on this development project. I think I see a couple of new faces, but we were here last year discussing the same project. Thank you, Thanh, for giving the review of that. Our previous design was met with some heavy feedback from the last meeting. I do not know if you guys remember there were a lot of concerns about neighborhood safety, too high density in that neighborhood, especially with that access to Vine Street, there have been concerns of cars cutting through there and exacerbating that situation. We went back to the drawing table with Mr. Colman and we lowered the density significantly because we wanted to match something that would reflect the existing neighborhood and not make them feel like we butted up a big development against them. That private cul-de-sac was met with good feedback and the duplexes being built looking more like single family homes is something that was very appealing as well. We felt that the design met the needs of everybody that was concerned. We actually had the opportunity to meet with the people in the community, in the neighborhood last weekend and we were met with some really good feedback. They were supportive of the project. That was really good for us because when we walked away from the last meeting, we were like oh man we do not want to make everyone upset. We feel much better personally moving forward with this project, should you guys accept it. Thank you guys again, for taking the time to meet with us. I am happy answer any questions.

Gil Colman, from Colman Engineering and representative of the applicant said it is good to see you all and this is another nice small infill project that fits what I believe that the Comprehensive Plan and what the Housing Study is looking for and it is respectful to all of the neighborhood. That providing housing that, in this case, when you think about the duplexes on R-8 especially, with the lots being the size they are, they are reputedly small homes. Which, you know, speaks to affordability to whatever extent we can. Then there is also the fact that there were issues with Wren Way, and all of the traffic going to that direction, this is much more palatable when it comes down to it. And then as we know, the City was also concerned about the traffic going into Vine Street, which that would...perhaps provide a different avenue to increase the density and put more units going in that direction, but it is also limited. So, we only have two units going in that direction at this time. Like staff...related to the layout, this sort of proffer layout, but it is very limited what you can put there in R-8. That is where we decided to proffer out the townhomes, which is something you can request a special use permit for. So, it is headed towards that direction, but it would instead limit that development to that number of homes. It is possible perhaps to put a couple more depending on the single-family lot duplex unit also, or something like that, but in general that is the number we are looking at right now. Perhaps this does not satisfy the huge need for higher density, but it does increase the density on that property and hopefully provides affordable housing there. There is some conversation with other groups in terms of planning to buy this property to provide actual affordable housing. There is something along those lines, that perhaps could move in that direction specifically, and I cannot speak to that right now because there is nothing in concrete, but there is a possibility. Something else about this layout, or the lower density in terms of homes, is that potentially preserves, as you might have an interest in, some of the mature vegetation that is there already perhaps some of the trees especially in the boundary and maybe some of the interior ones. Maybe not so much on the north side where we have those four units, but on the rest of the property that is a possibility. There was a question about drives and parking. Most likely, I mean as a regular duplex or single family, it would be a driveway and a place to park. We are going nothing beyond that. There is no need and no interest to do anything like that. If there are any questions, we are happy to answer them.

Vice Mayor Dent said not so much a question as a comment, I remember reluctantly voting to deny before. Not because I was against it, but just went back to the drawing board. You have done an excellent job of going the back to drawing board to mitigate both the density and the traffic by having the combination of only two units going out onto Vine Street so it is not a huge traffic dump and lessening the traffic into Wren Way, which was a lot of what the negative feedback from the neighborhood was, so you have mitigated that all really well. So good job, thanks.

Vice Chair Byrd asked if there were anymore questions for the applicant.

Commissioner Armstrong asked do you anticipate these for rent or for sale? Just curious.

Mr. Koyee answered for sale is the anticipation. If it was rented, I believe Thanh mentioned that it would be rented to families or no more than two people.

Ms. Dang clarified saying no more than one person.

Mr. Fletcher said it is like R-1, it sort of depends. So, if they rented it, they own it and rent it...

Ms. Dang said and they live there, it is different.

Mr. Fletcher said it is confusing. If they own it, if the developers own all of the lots, for instance, and they rent each unit, they have the opportunity to rent to a family regardless of how large the family is and then one border can also reside there. The misstated two unrelated individuals rule, that is like a family or two gets said that way because being a college community, and often times people are renting to students, that student counts as like a family. That one student and then you get the one more and that is where the two comes in.

Mr. Koyee said we really wanted to mitigate renting out to college students, especially as it is butted into a neighborhood. We personally do not want to rent to college students. I need it as a neighborhood. So, the intention was to create homes that would be sold to families. Potentially, from our conversations, people that already live there have family members that are looking to potentially locate into that area, so that is the intention there.

Vice Chair Byrd asked if there were anymore questions for the applicant.

Jennifer Nelson, a resident on Wren Way, and Michael Walsh, a resident on Star Crest Drive came forward to speak on this request. Ms. Nelson said so we are really just here to say that the comparison of the two developments is staggering and we were happily surprised by the second development. We felt like the applicants listened and we have told them that we really appreciate that they did listen. It really felt like they took the concerns of the neighbors and the neighborhood into this second proposal. I appreciate in that my section of the neighborhood is going to continue to be R-1. That this portion even though it is R-8 with the proffer that is being offered of not putting townhomes on that property, not in two years applying for a special use permit to drop in townhouses. We feel like it approximates R-1 and then it is family units. If you look at the number that is coming off of Wren, right now it is seven. If you do the math, that amount of property would house about 6 single family homes. So, we felt like that was...we liked it. We felt happy with that. Really just here to say I speak for many of my neighbors, now I do not think 100% of them, but we are very appreciative and we are seeing this very positively.

Mr. Walsh said I would like to echo that. We think this is positive. If you remember when I spoke last time and talked about the traffic and speed on Star Crest. They did a study, unfortunately it was a little bit more than a mile below the infamous cutoff where they will do something with the street. We average over 570 cars on this stretch of Star Crest from Meadowlark to Blue Ridge. There are 29 units including Wren Way and the cul-de-sac of Bobwhite there are about 29 houses. Think about how many other cars are coming, it is a shortcut. So down the road anything, and I am just pleading I mean I understand you are limited, anything we can do, I mean it is a residential street. The average speed was almost 35 miles an hour. That is what it has to be and it was not quite there. So, we just wanted to let you know that. Anything that can help on the road we would appreciate it. Thank you.

Ben Lundy, resident on Wren Way, came forward regarding the request. He said actually that is my wife there. I went first last time, she went first this time, but same basic idea here and just echoing what she said. Essentially, when we saw the beginning of this new process and saw the

layout my first feeling was just one that the Koyee's really took into account the concerns that we expressed last time. That is obvious in the difference of the density. We are grateful for that and we are grateful for that chance to meet with the chance to get feedback in that sort of thing. The attitude is generally a lot more positive about this than the previous one with the townhouses and we are grateful for that. I do agree with what was already said about how this is a lot more reflective of our neighborhood as it exists now and helps somewhat to ease our concerns about infrastructure. You know you might even remember, I am the one that had the PowerPoint that showed all of the other R-8's with the other infrastructure layout. Having said all that, I do believe the City still has some work to do with that in regard to infrastructure. This particular project aside, I think I speak for some of our other neighbors too and Mr. Walsh was just up here talking about the statistics for Star Crest. So, while I and many of us like and support this new plan, the City I think has some catching up to do with regard to infrastructure of Reherd Acres. I just wanted to express that. That is independent of this situation with this development, again, I feel good about it and I know many of us do. It is definitely a huge step in the right direction from where we were last November, but we do have some concerns about just a larger Reherd Acres area and infrastructure. I think that we are going to continue to pursue that. But as far as this particular development goes, I stand in support of it. Thank you.

Wayne Wanger, a neighbor in the area, came forward to speak to the request. He said I live close to them. I do not live right on the area where they are going to build, but I have lived there since 1975. When they built Vine Street, they were not planning on a thoroughfare like is there now. I would like to see something corrected on that. First of all, that little piece of land that would hold a lemonade stand that does connect them to Vine could be connected. You said you were going to put a sidewalk through there and just put a ramp like you were talking about on the first project, where the guy is looking to change his lot, and just connect half of that to Vine and the other half to Wren Way, it makes sense to me. If you put the sidewalk in, you are going to have to have a ramp anyway and make some kind of arrangements with the Depoy family to get that little piece of land. It is only as big as this desk. Vine Street, if you try to pull out onto it now, it is terrible. Vine Street is loaded with all the cars and trucks because Mt Clinton Pike is connected to Vine Street and they are trying to get to interstate 81. I am going to take some pictures and I hope...I did not see what the date was for your next meeting, but I would like to show you some pictures of where I think the road should go from Vine Street around to 81. That bridge not be sitting there, but have off ramps for them to go north or south and not driving clean through Harrisonburg and Vine Street, in particular. I feel so sorry for those people that have to...some days they cannot pull out of their driveway. I go down there and I do not walk on it anymore, but we take a shortcut to get to church and different things. Mary Sue one day, she talks to people, I am going to make a little recording and then that would help them get out of the way and play it on a loudspeaker from the car. It is just horrible and it needs to be corrected for those people. I am going to take some pictures and bring them to your next meeting. I would like to go I see you are going someplace at 4 o'clock it says and see what you are talking about on these other projects. To think that they have to suffer. When they built that it was a residential road and then Vine Street was extended and then when it was connected to Mount Clinton Pike it got worse. Now with the bridge out, it is horrible to even just pull out. Even on the street, not just their homes. Thank you for listening to me. Hopefully you can change something on that, and I am going to bring pictures of how I think the new road should be built and the land bought from that farmer. He did not have cows for a while, I thought he was giving up farming, but he is not. The cows are back now. But I am sure he would



be glad to sell some of that land and get the state to help buy it. We spent five million dollars to buy some land for a new high school instead of buying a one million and a half right across the street from the current school. They had 30 or 40 acres for sale and now we are going to build a housing complex there. The City spent 27 million dollars to grade the land and fill up the holes where the new school is. So, we have got money evidently, or at least somebody said my taxes are going up to pay for it. Thank you.

Vice Chair Byrd asked if there were any other comments regarding this request.

Scottie Cales, 923 Morning Glory Court, came forward regarding this request. He said I like what I see basically too. It looks very good, definitely. Compared what last time, it makes sense, everything is good.

Vice Chair Byrd asked if there were any other comments regarding this request.

Vice Chair Byrd said before I close the public hearing, the citizen reminded me that when we meet to go around for our tour on the Tuesday... so the Commission meets on the second Wednesday of every month that Tuesday at 4 pm we gather at City Hall to go and tour all of the things. That is a public event.

Ms. Dang said they do not ride with us. They can follow us or they could meet us at the sites.

Vice Chair Byrd clarified so just making sure people know when that is the second Tuesday... no the second Wednesday...the Tuesday of the week of the second Wednesday.

Commissioner Baugh said the day before.

Vice Mayor Dent said the day before the second Wednesday.

Vice Chair Byrd asked if anyone else wants to speak on this application?

Vice Chair Byrd closed the public hearing.

Mr. Fletcher asked could I just quickly interject? Just to help the public and to also speak to a comment that Mr. Wanger just made. I encourage Mr. Wanger, and anyone who might be interested in the road that he is referring to or a planned road that you would like to see built to evaluate our chapter 12 of our Transportation Street Improvement Plan Map that comes out of chapter 12 of the Comprehensive Plan. I suspect, given the description he provided, that the road that he is hoping to be built is actually shown in our Street Improvement Plan or it cuts across the property in the county over towards the bridge that is being reconstructed right now. Also, for the public to be aware of that the City has somewhat little control about interchange access. It is a federal highway. The federal highway administration has regulations as to how interchanges can be constructed and where they are connected and how many there could be within certain distances. I just encourage him to take a look at that and it might save him some time in taking the pictures and coming down to speak with staff. I encourage him to come into our office and take a look, because the road that he might be hoping for is planned.

Ms. Dang said I am trying to look at the Comprehensive Plan to see if it is in the Street Improvement Plan. But I do recall speaking with Mr. Wanger once before and printing out for him the long-range transportation plan, which is published by the Harrisonburg Rockingham Metropolitan Planning Organization in which the City is a member and participant in that planning study.

Commissioner Baugh said when you were talking about the federal side of it that also has funding implications. So, on top of everything else, the source that you get for money to deal with those types of projects is often different from what we are really used to doing with and where the pots of money tend to be available that we go after.

Vice Chair Byrd said Commissioners on this particular application, anything?

Commissioner Armstrong made a motion to approve the rezoning request.

Vice Mayor Dent seconded the motion.

Vice Chair Byrd called for a roll call vote.

Commissioner Armstrong	Aye
Commissioner Washington	Aye
Commissioner Baugh	Aye
Vice Mayor Dent	Aye
Vice Chair Byrd	Aye

The motion to recommend approval of the rezoning request passed (5-0) with Chair Finnegan abstaining. The recommendation will move forward to City Council on July 11, 2023.

Vice Chair Byrd said we have a concern about Wren Way though.

Vice Mayor Dent asked do we do the second thing for the cul-de-sac? I move to approve the cul-de-sac.

Vice Chair Byrd said permanently terminating Wren Way?

Commissioner Baugh said should we vote on the special use permit first?

Ms. Dang and Mr. Fletcher both said there is no special use permit.

Commissioner Baugh said I do not know why I am reading this wrong, my bad. Sorry, I was wrong. Sorry, excuse me.

Vice Mayor Dent said I move to permanently terminate Wren Way as presented.

Commissioner Baugh seconded the motion.

Vice Chair Byrd said any other comments about this? Oh, I have a comment. I am glad to see an applicant and the surrounding community was able to come to an agreement on something. It is very disappointing to me when I see communities and applicants having to be combative all the time. This is a nice example of why we are called the Friendly City.

Vice Chair Byrd called for a roll call vote.

Commissioner Armstrong	Aye
Commissioner Washington	Aye
Commissioner Baugh	Aye
Vice Mayor Dent	Aye
Vice Chair Byrd	Aye

The motion to recommend approval of the request to permanently terminate Wren Way was approved (5-0) with Chair Finnegan abstaining.