



# CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

409 SOUTH MAIN STREET, HARRISONBURG, VA 22801

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To: Planning Commission  
From: Department of Community Development  
Date: August 9, 2023 (Regular Meeting)  
Re: Rezoning and Special Use Permit - 810 Port Republic Road (B-2C Proffer Amendment) and (To Allow Multiple-Family Dwellings and/or Mixed Use Buildings)

## **Summary:**

Project name	The Vista at Forest Hills
Address/Location	810 Port Republic Road
Tax Map Parcels	92-A-1
Total Land Area	+/- 5.91-acres
Property Owner	DCI Partners, LLC
Owner's Representative	Blackwell Engineering
Present Zoning	B-2C, General Business District Conditional
Proposed Zoning	B-2C, General Business District Conditional (Proffer Amendment)
Special Use Permit Requested	To allow multiple-family dwellings and/or mixed use buildings per Section 10-3-91 (17)
Staff Recommendation	Table the request
Planning Commission	August 9, 2023 (Public Hearing) If tabled by Planning Commission, then the public hearing could be continued to: September 13, 2023
City Council	If tabled by Planning Commission, then: Anticipated October 10, 2023 (First Reading/Public Hearing) Anticipated October 24, 2023 (Second Reading)  If not tabled by Planning Commission: Anticipated 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: Commercial uses, zoned B-2C

North: Townhomes and fueling stations, zoned R-4 and B-2

East: Townhomes and multi-family dwellings, zoned R-4

South: Multi-family dwellings, and across Devon Lane, multi-family dwellings, zoned R-4

West: Across Port Republic Road, townhomes and multi-family dwellings, zoned R-3 and R-3C

In May 2008, City Council approved a rezoning of the subject property from R-4, Planned Unit Residential District to B-2C, General Business District Conditional. The existing, regulating proffers include (written verbatim):

1. The property is limited to an additional 10,000 square feet of Gross Leasable Area.
2. No new additional entrances will be constructed onto Port Republic Road with this building addition.
3. Sign restrictions:
  - a. The total square footage of all free standing signs will be 150 sf.
  - b. The sign height is limited to 25 feet.
  - c. The current lot and any future lots created will not be allowed to have an interstate overlay sign.
4. The following B-2 permitted uses are hereby removed:

10-3-90.6; 10-3-90.7; 10-3-90.8

The referenced additional 10,000 square feet of gross leasable area that could be added to the property is the amount that can be added based upon the total square footage of gross leasable area that existed in May 2008. The uses that are prohibited based upon proffer #4 includes the sale and repair of vehicles, recreation equipment, or trailers and also general service or repair shops.

**Key Issues:**

The applicant has submitted two applications. The first is a rezoning request to amend proffers associated with the B-2C property. Since new proffers are being offered, if approved, the site would remain zoned B-2C, but with new regulating proffers. The second application is a special use permit (SUP) request to allow multiple-family dwellings in the B-2 district. The property is located at the intersection of Port Republic Road and Devon Lane. If the rezoning and SUP are approved, the applicant intends to redevelop the site and construct a building to include a convenience store and restaurant, with 119 student apartments located above the commercial uses and parking garages.

While staff would like to proceed with explaining some details of the proposed project and holding the public hearing for the rezoning and SUP requests, staff would like it known upfront that significant details remain unresolved and thus we recommend for Planning Commission to hold the public hearing at the August 9, 2023, meeting, but then to table the requests until at least the September 13, 2023, regular Planning Commission meeting. While staff appreciates the applicant's hard work and diligence in revising their application and supporting documentation, staff had only received the most recent versions on the morning of Friday, August 4, 2023, the same day the Planning Commission agenda and staff reports are published. Staff has not had sufficient time to provide a full analysis and explanation for the Planning Commission, and thus must request to table the applications.

In brief, the unresolved matters are associated with the maximum height and minimum setback requirements for the project, issues with parking lot landscaping requirements, and questions regarding proffer statements. While each of these issues are independent matters to be resolved, they are all

connected and must be accurately represented on the submitted SUP development plan, which is required by Section 10-3-93 (d) and governs the development of the site.

*Proffers*

If the subject rezoning is approved, it would supersede and replace the existing 2008-approved proffers.

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

1. **DESIGN STANDARDS.** The Development Plan for The Vista at Forest Hills contemplates retail, restaurant and commercial uses in each case as permitted by the underlying B-2 zoning, plus residential use as permitted by special use permit. Applicant proffers that the Development Plan will be used as the basis for engineered comprehensive site plan approval of the proposed development/redevelopment of “Future Lot 1” on the Development Plan, to include without limitation:
  - The general location of the mixed-use building and other structures as illustrated,
  - The general number of stories within such building and structures, which Applicant proffers shall not exceed five (5) stories of residential dwellings atop either three (3) stories of parking garage or up to three (3) stories of combined commercial/retail space and parking garage,
  - The number of off-street parking spaces (both surface parking and garage parking), which Applicant proffers will exceed by at least 100 parking spaces the number of off-street parking spaces required by the City’s Zoning Ordinance for all uses on the Property on a combined basis,
  - The landscaping buffer as shown along the building façade facing the adjoining property which fronts on Village Lane, and
  - The general location of sidewalks and crosswalks within the Property.
2. **MAXIMUM DENSITY.** All traffic generating uses developed on site shall be limited to a total of vehicle trips in the AM peak hour and vehicle trips in the PM peak hour as set forth in the traffic impact analysis accepted by the City by letter dated July 21, 2023 (the “**Accepted TIA**”), calculated using the latest edition of the Institute of Traffic Engineer’s Trip Generation Manual, unless the Applicant first, at its cost: (a) completes a Traffic Impact Analysis accepted by the City Department of Public Works and (b) implements all identified mitigation measures or improvements shown as warranted by such Traffic Impact Analysis, whether on or off site, which are attributable to the then-existing and then-proposed traffic-generating uses on the Property on a cumulative basis (excluding any uses to be discontinued due to redevelopment as a part of such proposed plan). The City Department of Public Works may, in its discretion, waive completion of a Traffic Impact Analysis or any identified mitigation measures or improvements.
3. **TRANSPORTATION IMPROVEMENTS.**
  - a. Bradley Drive. As part of the initial phase of redevelopment of the Property for commercial and/or residential purposes, Applicant will concurrently design and construct, at its expense, the roadway shown on the Development Plan as “Bradley Drive” (“**Bradley**

**Drive**”) as a private access road with the “Potential Future ROW Corridor” shown on the Development Plan intended for future public dedication under certain conditions, all as set forth in the Street Improvement Agreement between the City and Applicant entered into as part of this rezoning application (the “**SIA**”).

The entrance location of Bradley Drive onto Port Republic Road shall not be materially modified from what is shown on the Development Plan and the Accepted TIA, but the road design and alignment may deviate from what is shown on the Development Plan as necessary to address engineering considerations and site constraints, subject to approval as part of the City’s site plan review process.

b. Port Republic Road Improvements. Applicant shall participate in the cost of street improvements shown on the Development Plan within and along Port Republic Road in accordance with the SIA.

c. Sully Drive Median. The project site plan will include a median within Sully Drive at its intersection with Devon Lane substantially as shown on the Development Plan, to be constructed by Applicant concurrently with development/redevelopment on Future Lot 1.

d. Future Entrance from Port Republic Road. So long as the commercial entrances to the Property from Bradley Drive, Port Republic Road and Sulley Drive (via Devon Lane) remain open substantially in accordance with the Development Plan and the Accepted TIA, Applicant shall only request a right-out connection to Port Republic Road to serve the northwestern portion of the Property shown as “Future Lot 2” on the Development Plan.

e. Pedestrian Interconnectivity and Bike Transportation.

i. Along Port Republic Road. The SIA contemplates the City’s design and construction at Applicant’s expense of a concrete sidewalk five feet in width and an asphalt bike lane of seven feet in width with adjoining planting strips along the Property frontage with Port Republic Road substantially as shown on the insert entitled “Typical Port Republic Widening Section” on the Development Plan, and Applicant proffers to dedicate such transportation facilities to public use and contribute to the costs thereof as provided in the SIA.

ii. Along Bradley Drive. Applicant shall dedicate to public use a perpetual non-exclusive easement for pedestrian travel across the concrete sidewalk five feet in width along Bradley Drive to the boundary of the adjoining property substantially as shown on the Development Plan.

iii. Connecting Path Dedication. Applicant shall dedicate to public use, within thirty (30) days of written demand by the City, a 20-foot wide perpetual non-exclusive easement for shared use path being shown as “20’ Shared Use Path Easement” on the Development Plan.

iv. Forest Hills Manor Connection. Applicant will grant a private access easement for the benefit of the adjoining parcel known as Forest Hill [sic] Manor (being City of Harrisonburg tax parcel 92-A-2) and construct as part of development/redevelopment of Future Lot 1 a pedestrian connection (including crosswalks) from such Forest Hills Manor property to the Bradley Drive sidewalk which leads out to Port Republic Road, all as generally shown on the Development Plan.

f. Dedication of Devon Lane Parcel. Applicant proffers that it will quitclaim to the City, without consideration upon demand, all right, title and interest of Applicant to the parcel on the southern side of Devon Lane (opposite side of Devon Lane from Future Lot 1) which is shown on the City's GIS map as being a portion of City tax parcel 92-A-1.

### *Development Plan*

With regard to the details of the proposal, as specified by Section 10-3-93 (d) of the Zoning Ordinance (ZO), the applicant has submitted a development plan to be in accord with the requirements of the SUP. Section 10-3-93 (d) states that “[f]or multiple-family dwellings and mixed use buildings, the development plan submitted with the special use permit shall govern development on the site and shall be used as a basis for subdivision and engineered comprehensive site plan approval.” If the SUP is approved, then details of the development plan would be used to ensure that what is proposed and evaluated during the SUP review is what is developed. If significant deviations are desired by the property owner in the future, the property owner must apply to amend the development plan by going through the SUP process again.

Features of the development plan submitted with the SUP that would be used as the basis for an engineered comprehensive site plan approval include, but are not limited to:

1. The general location of buildings and structures as illustrated.
2. The general number of stories within proposed buildings and structures as illustrated.
3. The general location of parking areas as illustrated.
4. The general location of pedestrian connections as illustrated.

As mentioned earlier, there remain unresolved matters that have an impact on the development plan including the maximum height and minimum setback requirements for the project and the project appearing to not meet parking lot landscaping requirements. For example, one matter has to do with the B-2 district's setback regulations for when B-2 property boundaries abut residential districts. When this occurs, the side and rear yard setback increases from 10 feet to 30 feet and when structures on the B-2 property are taller than 35 feet (which in this case the building would be), an additional foot of setback is required for each foot above 35 feet. Forest Hills Townhomes and Forest Hills Manor, located to the rear and side respectively, are zoned residentially and the while the building elevation drawings are not proffered and not submitted as part of the development plan, the drawings illustrate a building location that would not conform with the Zoning Ordinance.

### *Land Use*

The Comprehensive Plan designates this site as Mixed Use and states:

“The Mixed Use designation includes both existing and proposed areas for mixed use. Mixed Use areas shown on the Land Use Guide map are intended to combine residential and non-residential uses in neighborhoods, where the different uses are finely mixed instead of separated. Mixed Use can take the form of a single building, a single parcel, a city block, or entire

neighborhoods. Quality architectural design features and strategic placement of green spaces for large scale developments will ensure development compatibility of a mixed use neighborhood with the surrounding area. These areas are prime candidates for “live-work” and traditional neighborhood developments (TND). Live-work developments combine residential and commercial uses allowing people to both live and work in the same area. The scale and massing of buildings is an important consideration when developing in Mixed Use areas. 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.

Downtown is an existing area that exhibits and is planned to continue to contain a mix of land uses. The downtown Mixed Use area often has no maximum residential density, however, development should take into consideration the services and resources that are available (such as off-street parking) and plan accordingly. Residential density in Mixed Use areas outside of downtown should be around 24 dwelling units per acre, and all types of residential units are permitted: single-family detached, single-family attached (duplexes and townhomes), and multi-family buildings. Large scale developments, which include multi-family buildings are encouraged to include single-family detached and/or attached dwellings.”

#### *Transportation and Traffic*

As noted earlier, staff had only received the most recent versions of the development package on the morning of Friday, August 4, 2023, the same day the Planning Commission agenda and staff reports are published. While it appears, at this time, that the applicant has addressed concerns that staff previously raised regarding transportation related proffers and the Street Improvement Agreement (SIA), staff has not had sufficient time to provide a full analysis and explanation for the Planning Commission.

Nonetheless, it should be understood that the City already has funded plans to begin construction in 2025 to improve Port Republic Road within the block of this property’s street frontage. As described on the City’s project webpage, “[t]he project will add a traffic signal, including crosswalks with pedestrian signals, at the Port Republic Road and Bradley Drive intersection. A left-turn lane for westbound traffic on Port Republic Road will be added at this intersection, and a median will be constructed between Bradley Drive and Devon Lane. A physical change will be made at the intersection of Port Republic Road and Hunters Road to make it a right-in, right-out intersection.” More information about this project can be reviewed at: <https://www.harrisonburgva.gov/port-rep-road-bradley-dr>.

The proposed project necessitated a Traffic Impact Analysis (TIA), which was completed and accepted by the City on July 11, 2023. The TIA recommended mitigations that the applicant is addressing through the proffers and by entering into a SIA with the City. A copy of the SIA is attached. The SIA is intended to ensure the necessary street improvements caused by the proposed project can be incorporated, designed, and constructed in conjunction with the capital street improvement project planned by the City.

#### *Public Water and Sanitary Sewer*

City staff has advised the applicant 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 property within Market Type D, which has “neighborhoods [that] are characterized by the lowest growth of any market type and low housing volume turnover.” Additionally, “[i]ncomes in different pockets vary greatly. Median household incomes across block groups in these neighborhoods have the broadest range: \$20,000 to \$91,000. This could point to a divergence of two conditions found within these neighborhoods: one of stable, high-income, low turnover neighborhoods and one of lower turnover in lower income neighborhoods. The Housing Study also notes that “[s]trategies that would be appropriate in the latter case include concurrent development of the housing and economic opportunities through mixed-use development to build commerce and housing centers across the City.”

*Public Schools*

The student generation attributed to the proposed 119 new residential units is estimated to be 16 students. Based on the School Board’s current adopted attendance boundaries, Stone Spring Elementary School, Skyline Middle School, and Harrisonburg High School would serve the students residing in this development. Harrisonburg City Public Schools (HCPS) staff noted that schools are over capacity in many of the schools and while the subject rezoning is intended for off-campus student housing, most likely housing vacated by students would create the availability of 119 apartments in the community which may be occupied by families.

*Recommendation*

As previously explained, staff continues to have significant concerns regarding compliance with the SUP development plan requirements and matters associated with the maximum height and minimum setback requirements, parking lot landscaping requirements, and questions regarding proffer statements. Staff cannot responsibly make a recommendation on the rezoning and SUP requests at this time. Staff recommends Planning Commission hold the public hearing at the August 9, 2023, meeting, but then to table the requests until at least the September 13, 2023, regular Planning Commission meeting.

**Environmental Impact:**

N/A

**Fiscal Impact:**

N/A

**Prior Actions:**

N/A

**Alternatives:**

- (a) Recommend approval of the rezoning and SUP request as submitted;
- (b) Recommend approval of the rezoning and SUP request with conditions;
- (c) Recommend approval of the rezoning request and denial of the SUP request;
- (d) Recommend denial of the rezoning and SUP request; or
- (e) Table the requests.

**Community Engagement:**

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

***Rezoning – 810 Port Republic Road (B-2C Proffer Amendment)***

Public hearing to consider a request from DCI Partners LLC to rezone a +/- 5.91-acre parcel zoned B-2C, General Business District Conditional by amending and changing existing proffers. The parcel is addressed as 810 Port Republic Road and is identified as tax map parcel 92-A-1.

***Special Use Permit – 810 Port Republic Road (To Allow Multiple-Family Dwellings and/or Mixed Use Buildings)***

Public hearing to consider a request from DCI Partners LLC for a special use permit per Section 10-3-91 (17) to allow multiple-family dwellings and/or mixed use buildings within the B-2, General Business District. The +/- 5.91-acre is identified as tax map parcel 92-A-1. and is addressed as 810 Port Republic Road.

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 (e) to table the request.

**Attachments:**

1. Site maps
2. Application and supporting documents

**Review:**

N/A