



# CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

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September 1, 2021

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

**SUBJECT: *Consider a request from PDY LLC to rezone a +/- 2.03-acre parcel located at the terminus of Suter Street***

*Consider a request from PDY LLC for a special use permit for townhomes on a +/- 2.3-acre property at the terminus of Suter Street*

*Consider a request from PDY LLC to preliminarily subdivide a +/- 2.3-acre parcel to create 23 parcels and dedicate public street right-of-way for the extension and permanent termination of Suter Street*

**EXTRACT FROM MINUTES OF HARRISONBURG PLANNING COMMISSION  
MEETING HELD ON: August 11, 2021**

Chair Finnegan clarified that there are three separate requests for the same property that will be discussed together and asked staff to review.

Ms. Banks said that the Comprehensive Plan designates this site as Medium Density Mixed Residential. 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.

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

Site: Undeveloped property, zoned R-2

North: Single family detached and duplex dwellings, zoned R-2

East: Non-conforming single family detached dwellings, zoned B-2 and commercial uses, zoned B-2 and B-2C

South: Single family detached dwellings, zoned R-2 and commercial uses, zoned B-2C

West: Duplex dwellings, zoned R-2

The applicant is requesting to rezone a +/- 2.03-acre parcel from R-2, Residential District to R-8C, Small Lot Residential District Conditional and is simultaneously applying 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. Moreover, the applicant is also requesting approval of a preliminary plat with variances. If the requests are approved, the applicant plans to dedicate and construct the extension and permanent termination of Suter Street and to build 9 duplex dwellings (18 units) and 3 townhomes (3 units) for a total of 21 units on the site.

#### *Rezoning and Special Use Permit*

With regard to the rezoning request to R-8C, the applicant has proffered the following (written verbatim):

1. Construct an asphalt surface 8 ft wide shared-use path, to connect the proposed Suter St. cul-de-sac and Clinton St. through the existing Madison St right-of-way.
2. Duplex structures on lots numbered 11-22 on the 'Preliminary Plat-Site Layout' drawing, dated 7-9-2021 and prepared by Colman Engineer, PLC, shall have a minimum 23-ft front setback.
3. Provide a 20-ft wide Public Shared Use Path Easement on lots 9 and 10 depicted on the 'Preliminary Plat – Easements and Typical Section' drawing dated 7/30/21, and prepared by Colman Engineering, PLC.

Note that the submitted conceptual site layout is not proffered.

As noted above, the applicant is proposing to dedicate and construct the permanent termination of Suter Street. With this design they are requesting a variance from the Subdivision Ordinance to construct a cul-de-sac that will exceed the Design and Construction Standards Manual's (DCSM) maximum length and maximum vehicle trips per day design regulation. (The variance requests are described later in this staff report.)

Proffer #1 addresses concerns of the extended, long cul-de-sac length by proffering the construction of a shared use path, which will provide not only pedestrian and bicycle connectivity, but, when necessary, can be used in the event of a fire or other emergency that prohibits emergency

response from being able to access this section of Suter Street via Jefferson Street. In other words, the shared use path could be used by emergency response vehicles and by other vehicles to enter and exit this neighborhood if this section of Suter Street was blocked at or near the intersection with Jefferson Street.

Proffer #2 provides that the duplex units situated around the curve of the cul-de-sac will have a 23-foot front setback, allowing for parking in the front. The additional setback is also needed so the six duplexes meet the required lot width of 18-feet measured at the point of required front setback.

Proffer #3 provides that a 20-foot wide public shared use path easement will be provided for the proffered path.

The subject property is located within an existing neighborhood consisting of duplexes, multifamily dwellings, and single family detached dwellings. Also adjacent, along North Main Street, are commercial uses. As previously noted, the subject property is designated Medium Density Mixed Residential, which means such 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.

The requested rezoning to R-8C is supported by the Comprehensive Plan and staff recommends approval.

With regard to the SUP, additionally, staff believes that the request to construct townhomes is also in conformance with the Comprehensive Plan and is consistent with good zoning practice and will have no more adverse effect on the health, safety, or comfort of persons living and working in the area and will be no more injurious, economically, or otherwise, to property or improvements in the surrounding area, and therefore staff recommends approval of the SUP request.

#### *Preliminary Plat*

If both the rezoning to R-8C and the SUP to allow townhomes of not more than eight units are approved, then the preliminary plat can be considered. If the rezoning or SUP are denied, then the submitted preliminary plat request is no longer relevant and cannot be approved.

The preliminary plat illustrates a proposal for 21 residential lots and 2 common area parcels. The common areas will provide for the required stormwater best management practice (BMP), drainage facilities, and for the proffered shared use path. The residential lots are proposed as 18 duplex dwelling units and three townhouse units. Each residential lot will provide at least one off-street parking space as required by the Zoning Ordinance.

As required, all lots would be served by public water and public sanitary sewer. An existing public water main and an existing public sanitary sewer main run within the developed portion of Suter Street and will be extended into the proposed new development. The preliminary plat shows how existing and proposed water and sanitary sewer lines will serve each new lot. As well, all public

general utility easements are provided along the front and side, or rear, property lines as per section 10-2-43 of the Subdivision Ordinance.

The applicant is proposing to dedicate and construct the permanent termination of Suter Street. As required per Section 10-2-41 (e) “[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 first give consent to dedicating a cul-de-sac and permanently terminating Suter Street. If Planning Commission consents to creating a permanent cul-de-sac, the applicant is further requesting Subdivision Ordinance variances to deviate from specific design criterion of the Design and Construction Standards Manual (DCSM).

As a reminder, Section 10-2-41 (a) of the Subdivision Ordinance requires that proposed streets conform to the standards and specifications outlined in the DCSM, except that variances may be approved on a case-by-case basis when:

- “(1) The proposed alternative would better achieve the walkable, pedestrian and bicycle-oriented environment the city desires.
- (2) The particular conditions of the site and surrounding street network would allow the proposed alternative without causing undue inefficiencies for service vehicles, nor an excessive reduction in pedestrian safety due to pedestrian-vehicle movement conflicts.
- (3) The proposed alternative would better balance the needs of pedestrians and vehicles, and better achieve the goals of the comprehensive plan.”

Specifically, the requested variances are to deviate from the DCSM Sections 3.3.3.1 and 3.1.10.2. Section 3.3.3.1 of the DCSM requires sidewalk on both sides of all new public streets (sidewalk is not required along the cul-de-sac). The applicant is requesting a variance from Section 10-2-41 (a) to not construct sidewalk along a +/- 55-foot section of the southern side of Suter Street. As the applicant describes in their letter, a sidewalk is proposed on the opposite (northern) side of the street and will connect into the proposed shared use path, thus connecting Suter Street to Clinton Street. Since no sidewalk exists on the southern side of Suter Street and because sidewalk is not required around the cul-de-sac, in this particular situation, staff does not believe sidewalk is necessary along the short distance of the frontage of the parcel that includes the drainage and SWM facilities and supports this deviation from the requirements.

The second variance to the DCSM is to Section 3.1.10.2, which requires:

A cul-de-sac serving a residential development shall be designed to a length that will carry a maximum of two hundred fifty vehicles per day, not to exceed eight hundred (800) feet in length, measured along the centerline from its intersection with the centerline of the through street to the center of the turnaround, and the minimum length shall be one hundred fifty (150) feet measured from the centerline of the intersecting street to the center of the turnaround.

The proposed subdivision would result in a cul-de-sac length of +/- 1,100-feet with +/- 442 vehicle trips per day (estimated by City staff). City staff and the applicant thoroughly discussed the street

design as we had concerns regarding public service provision efficiencies, concerns with emergency response access, and concerns with interconnectivity of public streets for this neighborhood. Staff suggested constructing the extension of Suter Street to curve into the undeveloped Madison Street ROW so that it could connect to Clinton Street. Such a design might have necessitated other DCSM design deviations while also potentially causing a change in the scope of the project, possibly necessitating more units to make it economically feasible for that design through a multi-family development-type of project. Ultimately, the applicant wanted to move forward with the design that is considered in this application. To assist in alleviating concerns with the long cul-de-sac, the applicant proffered to provide an 8-foot asphalt shared use path that will be placed within a 20-foot shared use path easement that will connect the Suter Street cul-de-sac to Clinton Street. The path will serve not only as a pedestrian access, but will provide ingress and egress during fire and other emergencies that block access to Suter Street via Jefferson Street. With the shared use path serving as a second access point for emergency response, in this particular situation at this location, staff is comfortable recommending approval of the variance.

As required per Section 10-2-23 of the Subdivision Ordinance, a draft copy of the homeowner's association's covenants and restrictions for the Suter Street Development has been provided.

If Planning Commission consents to dedicating a permanent cul-de-sac, aside from the variances requested to not construct sidewalk on both sides of the street and to allow a cul-de-sac to exceed the maximum standards of the DCSM, the development meets all other requirements of the Subdivision and Zoning Ordinances. Staff recommends approval of the preliminary plat and variances and recommends approval of the proposed cul-de-sac as requested by the applicant. (The preliminary plat and variance request will be forwarded to City Council. However, the proposed permanent cul-de-sac only requires Planning Commission approval.)

Chair Finnegan asked if there were any questions for staff.

Chair Finnegan asked for clarification regarding the emergency access.

Ms. Banks said that the proffered shared use path will be eight feet wide, asphalt and within the 20-foot wide easement. The Fire Department is comfortable with that size and that the path itself will be able to hold an engine or rescue vehicle that may need to come in and out of there, and it can be used as means of driving in and out of the cul-de-sac if for some reason you cannot get out towards Jefferson Street.

Councilmember Dent asked if the letter that was received was directed to her or the entire Planning Commission.

Ms. Banks clarified that it was sent to all.

Councilmember Dent continued by stating that the letter is from a resident on Main Street. Is there an alley that goes from Main Street to Madison Street? Is that the cut through that is being objected to? I am hoping that the shared use path would siphon off the traffic of people using that short cut provided that it is clearly marked.

Ms. Banks said that it is a public alley that goes along the neighboring property from whom the letter came. The public alley is also what they use as their driveway to access the rear of their property. I imagine that people drift and that is the easiest place to connect to walk to North Main Street. The shared use path will be wide, it will be paved, it will take you right to Clinton Street which will lead to Main Street.

Commissioner Whitten said that it will be a longer route.

Ms. Banks said that there will also be new homes at the end of the cul-de-sac.

Commissioner Whitten said that the path of least resistance is still there.

Councilmember Dent said that it is a public alley, so it is usable by the residents.

Chair Finnegan said that it could be fenced off.

Ms. Banks said that they use the alley to access the rear of their property so I do not know that fencing it off would help in their situation. It is public, so it can be used by anyone.

Commissioner Whitten said that there are water issues and there have been flooding issues in that neighborhood. Has this part of Suter Street had those issues?

Ms. Banks said that she does not know if they have had issues with homes flooding. Everything will have to be designed to meet standards. There is not a floodplain in this area. I do not know if the applicant knows anything differently about flooding in the homes currently.

Commissioner Baugh asked if there is any reason that the resident on North Main Street could not petition for an alley closing? If they were to do that and acquire it then they could put a fence along the entire parcel. Under the circumstances, the person who would need to make that decision is not in front of us and we cannot make a representation on behalf of City Council, but I think that you can see the wisdom of doing that to the extent that could cut the pedestrian traffic. If there is a shared use path over to Clinton Street, there probably is not a compelling need to keep that open for the people behind them.

Chair Finnegan asked if there were any more questions for staff. Hearing none, he opened the public hearing and invited the applicant or applicant's representative to speak to their request.

Phillip Yutzy, PDY LLC, came forward to speak to his request. My wife and I intend to provide community conducive to families and to homeownership. We desire to provide opportunities for first time home purchases. We would like to make them as affordable as possible. Affordable is an adjective and is relative to what we are able to do.

Chair Finnegan asked if these are to be for sale, not to be leased out.

Mr. Yutzy said that his intent is to work with Habitat for Humanity (Habitat) for some of these lots. I am willing to provide a rent-to-own option, and some might be sold directly, depending on the market, what I am able to do and what is profitable.

Commissioner Whitten thanked the applicant for doing exactly what we say that we want.

Chair Finnegan said that we did deny a request earlier tonight that could be perceived to be about housing. As we mentioned during that request, this is the type of housing that we need in the City.

Mr. Yutzy added that he is very interested in solar. I did not have those in the cost analysis for my particular buildings. If I am able to work with Habitat, they do put solar panels on the buildings that they do.

Chair Finnegan said that as these are designed, they have individual driveways. They could conceivably find a way to charge EVs in their driveways.

Councilmember Dent said that addresses some of her concerns. I am observing that with townhomes, if the occupant owns the building, they have their own roof and can use an extension cord for charging an EV. The renewable energy is technically feasible. There are tax incentives to get solar panels and EV charging. Thank you for doing family housing.

Chair Finnegan said that since you have mentioned wanting to work with Habitat, Give Solar has worked with Habitat to put solar on roofs.

Councilmember Dent said that is the ideal combination of affordable housing with renewable energy that actually saves people money on their utility bills.

Commissioner Whitten said that there is an active program with Habitat for solar.

Chair Finnegan said that Give Solar has been working with them.

Gil Colman, Colman Engineering, came forward to speak to the request. I had been on the Habitat board for six years. Now I am off the board, but I am on some of the committees. The intent of Habitat is not only to provide affordable housing to families, but also long-term with houses that are well insulated, providing solar. It speaks to affordability in many ways. Regarding this project, some of your questions related to flooding in that area. I think that area has a lot of issues with flooding. In this property there is a pond but is a sinkhole that carries water. There is a channel that goes all the way through to the next street and on to Blacks Run. I have heard some stories about houses in that area being flooded. The City does not have the infrastructure there. There is no infrastructure for that water to be channeled in a proper way to Blacks Run. To remedy the existing situation, the City would need to do something about that. In a new development that is larger than acre, it is required by State law to meet stormwater management requirements. That means that this development is going to have to meet that. Whatever runoff is generated by this development will have address water quality and water quantity, hopefully minimizing and reducing some of the flow that is continuing on to the next property. There is flooding in the area. We will analyze the site so that our homes are elevated in such a way that there will not be flooding.

We have had some conversations with neighbors behind the property from whom we are going to need a bit of an easement to address that channel coming through. He was interested in that. We are working with him. He has some flooding in his back yard, not necessarily in his home but under his crawlspace. We have talked with him to drain that so that it gets channeled to help his situation also. The idea is to continue this neighborhood, to expand this neighborhood. We are not just going to throw a bunch of houses here. We talked about many options with staff. This was the labor of many months. We continue to emphasize that the cul-de-sac was more conducive to a static neighborhood than a street that people drive through. It establishes a place, not a something you drive by.

Chair Finnegan said that he is looking at the conceptual drawing and has a question regarding foot traffic and the comment that was received. Has there been any consideration for fencing or anything to alleviate some of those concerns?

Mr. Colman said that the property behind this property has a big fence. He told us that he witnessed people jumping over that fence. The whole lot has become a place where people come and go through it. By putting in the shared use path, we are channeling that traffic in a specific direction. I believe that the person who sent the letter and the neighbors behind them have signs that say “No trespassing” and yet I pointed out that it is a public alley and people have the right to walk through there. I can understand that when people damage the property, that is a different thing. I would support what Commissioner Baugh suggested, encouraging them to close the alley behind their house and fence it. We think that it would be advisable for the units that back towards that alley to have a fence there. Perhaps the development could put a fence behind those properties so that they are protected. We do not want to also have those issues with people walking through and invading somebody else’s property. That is not what we are aiming for, so we might have something like that.

Commissioner Whitten said that in closing Suter Street, then Suter Street is the alley that connects to Main Street. Is that right?

Commissioner Baugh said that there is a second one. Suter Street arguably goes through the building there on Main Street. If it does not go through the building, it is right up against it. You can see it up on the plat, on the northern part of that property line.

Mr. Colman said that Suter Street ends where it ends right now. The other ones have a paper right of way that goes to that property. There is no paper right of way from Suter Street. It ends right there. There was a proposed development, years ago, that only went that far. That is an alley there.

Chair Finnegan asked if there were any questions for the applicant’s representative. Hearing none, he asked if there was anyone in the room or on the phone wishing to speak to the request. Hearing none, he closed the public hearing and opened the matter for discussion.

Chair Finnegan said that a pure YIMBY, that is “yes, in my back yard”, is to say yes to every development that comes before us because housing is housing. I do think that this request, the way that it is laid out, the duplexes, the triplex, and moving from R-2 to R-8 conditional is in line with



what we have discussed on the Planning Commission and on the Zoning Ordinance rewrite. I would be in favor of these requests.

Commissioner Whitten made a motion to recommend approval of the rezoning request.

Commissioner Baugh seconded the motion.

Commissioner Baugh said that we do have a number of these types of parcels throughout the City. Parcels that have a main corridor, typically zoned or used as commercial, with residential behind it and an undeveloped spot in between. These things are bears to deal with. One thing with the developer here is often because they may be pushing the envelope on the density that they want more than we like and more than suits the neighborhood. I think this is a particularly good solution. Usually these types of parcels, when we get to vote on them at this junction, it is much more contentious than it is now. Echoing the person on North Main Street, yes there are going to be changes, but the reality is that they have an undeveloped R-2 parcel behind them that could get filled with duplexes right now. I will be supporting this.

Chair Finnegan called for a roll call vote.

Commissioner Baugh	Aye
Councilmember Dent	Aye
Commissioner Orndoff	Aye
Commissioner Whitten	Aye
Chair Finnegan	Aye

The motion to recommend approval of the rezoning request, as presented, passed (5-0). The recommendation will move forward to City Council on September 14, 2021.

Commissioner Whitten moved to recommend approval of the SUP request, as presented.

Commissioner Baugh seconded the motion.

Chair Finnegan called for a roll call vote.

Commissioner Baugh	Aye
Councilmember Dent	Aye
Commissioner Orndoff	Aye
Commissioner Whitten	Aye
Chair Finnegan	Aye

The motion to recommend approval of the SUP request, as presented, passed (5-0). The recommendation will move forward to City Council on September 14, 2021.

Commissioner Whitten moved to recommend approval of the preliminary plat, as presented.

Commissioner Baugh seconded the motion.

Chair Finnegan called for a roll call vote.

Commissioner Baugh	Aye
Councilmember Dent	Aye
Commissioner Orndoff	Aye
Commissioner Whitten	Aye
Chair Finnegan	Aye

The motion to recommend approval of the preliminary plat, as presented, passed (5-0). The recommendation will move forward to City Council on September 14, 2021.