



July 8, 2025, City Council Meeting

## Title

Consider Rezoning (Proffer Amendment) and Special Use Permits at 810 Port Republic Road (The Vista at Forest Hills) — Planning Commission and Adam Fletcher, Community Development

## Summary

Project name	The Vista at Forest Hills
Address/Location	810 Port Republic Road
Tax Map Parcel	92-A-1
Total Land Area	+/- 5.91 acres
Property Owner	DCI Partners, LLC
Owner's Representative	AES Consulting Engineers
Present Zoning	B-2C, General Business District Conditional
Proposed Zoning	B-2C, General Business District Conditional
Special Use Permit Requests	Section 10-3-91(9) to allow reduction in required side and/or rear yard setbacks Section 10-3-91(17) to allow multiple-family dwellings and/or mixed use buildings
Planning Commission	June 11, 2025 (Public Hearing)
City Council	July 8, 2025 (First Reading/Public Hearing) Anticipated July 22, 2025 (Second Reading)

## Recommendation

Option 1. Staff and Planning Commission (6-1) recommend approval of the rezoning and two special use permit requests with suggested conditions.

## Fiscal Impact

N/A

## Context & Analysis

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

Site: Fuel station and convenience store vacant land, zoned B-2C

North: Townhomes, zoned R-4; commercial uses, zoned B-2

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

South: Across Devon Lane, multiple-family dwellings, zoned R-4

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

In May 2008, City Council approved a rezoning for the subject property from R-4, Planned Unit Residential District to B-2C, General Business District Conditional. In October 2023, City Council approved requests to amend the 2008 proffers and a special use permit (SUP) to allow multiple-family dwellings and/or mixed use buildings with a development plan. At the time, the applicant proposed to redevelop a portion of the site by constructing a multi-story building containing retail establishments and 119 multi-family units that would be marketed to the college student population. The development is now in the engineered comprehensive site plan review phase of the project. The current 2023-approved proffers are attached herein and the 2023 staff memorandum and supporting documents are available here: <https://harrisonburg-va.legistar.com/LegislationDetail.aspx?ID=6371257&GUID=22D5C2BE-9F4F-4787-B5E9-DE9F92342E90&Options=&Search=>.

Today, the applicant is requesting to amend the existing proffers and to receive approval of two SUPs. The first SUP is an amendment to the previously approved request to allow multiple-family dwellings and/or mixed use buildings in the B-2 district per Section 10-3-91(17). The second SUP is a request to allow for the reduction in required side and/or rear yard setbacks per Section 10-3-91(9).

### *Proffers*

All current, 2023-approved proffers will remain the same except for changes within the second bullet of proffer #1. Currently, proffer #1 from the 2023 approved rezoning states:

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 number of stories within such building and structures, which Applicant proffers shall be comprised of four (4) 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,

- Applicant proffers to provide a minimum of 1.35 parking spaces per dwelling unit,
- One (1) large deciduous or evergreen tree shall be planted and maintained no less than every fifty (50) linear feet on center along the building façade facing the adjoining property along Village Lane, with trees sizes meeting the requirements as defined in Section 10-3-24 of the Zoning Ordinance at the time of planting, and
- The general location of sidewalks and crosswalks within the Property.

The applicant is requesting to amend the above existing proffer to allow an additional story of residential dwellings above the proposed parking area on the northeastern side (rear) of the building. . They propose the following new proffer #1 (note the changes are within the second bullet):

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 number of stories within such building and structures, which Applicant proffers shall be comprised of five (5) stories of residential dwellings atop three (3) stories of parking garage in the rear and four (4) stories of residential atop three (3) stories of combined commercial/retail space and parking garage along Port Republic Road, as shown in the Rendering,
  - Applicant proffers to provide a minimum of 1.35 parking spaces per dwelling unit,
  - One (1) large deciduous or evergreen tree shall be planted and maintained no less than every fifty (50) linear feet on center along the building façade facing the adjoining property along Village Lane, with trees sizes meeting the requirements as defined in Section 10-3-24 of the Zoning Ordinance at the time of planting, and
  - The general location of sidewalks and crosswalks within the Property.

In their letter, the applicant explains that this requested change allows them to meet accessibility building code requirements by adding an additional story in the rear of the building, which would provide the additional square footage needed. There will be no increase to the square footage of the retail space, nor will there be an increase to the number of residential units.

The applicant submitted an updated Building Height Profile to illustrate the height of the proposed building relative to the building addressed as 865 Port Republic Road (known as “865 East”)

located on the opposite corner at the intersection of Port Republic Road and Devon Lane. There is a small change to the proposed highest roof elevation. The 2023 Building Height Profile illustrates the “top of the roof” at an elevation of 1,449.0-feet and the new Building Height Profile illustrates the “high point of the building” at 1,450.73-feet, which is 1.73-feet taller.

In addition, the applicant submitted an updated Building Section drawing that illustrates the relative height of the front portion of the building adjacent to Port Republic Road and the rear portion of the building adjacent to Forest Hills Townhomes and Forest Hills Manor.

As previously noted, all other proffers would remain the same as was approved in 2023.

#### *Development Plan*

In October 2023, City Council approved a SUP to allow multiple-family dwellings and/or mixed use buildings on the property. As specified by Section 10-3-93 (d) of the Zoning Ordinance (ZO), applicants must submit a development plan 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:

- a. The general location of buildings and structures as illustrated.
- b. The number of stories within proposed buildings and structures as illustrated.
- c. The general location of parking areas as illustrated.
- d. The general location of pedestrian connections as illustrated.

The proposed proffer amendment changes the number of stories identified in the development plan that was approved in 2023. This new SUP request would amend the development plan to reflect the changes proposed in the proffer amendment request.

Note that the development plan shows the rear travelway encroaching on the neighboring parcel identified as tax map 12-L-14 (Forest Hills Townhomes). Staff has determined that the travelway may straddle the property line provided that an agreement is signed by both property owners containing language and an exhibit for a private access easement, that the agreement contains a maintenance agreement for the travelway, and that the agreement is established in perpetuity and binding on future owners until the development or travelway changes. The engineered

comprehensive site plan should illustrate the limits of the private access easement, and the agreement must be in place before any certificates of occupancy are issued. The applicant is working on obtaining a letter of intent from the adjacent property owner stating that they plan to sign an agreement that conforms to the requirements stated above. The letter of intent must be provided prior to the issuance of the Land Disturbance Permit.

The 2023 SUP approval included a condition that limited the number of dwelling units to 119, with no more than 440 bedrooms. Staff continues to recommend this condition, as follows:

The number of dwelling units shall be limited to 119 with no more than 440 bedrooms.

The proposed proffer amendment and the amended development plan provide additional flexibility in the design of the building, while allowing a slight increase in the maximum height of the building overall and, with staff's recommended condition, would maintain the previously approved maximum number of dwelling units and bedrooms.

### *Setbacks*

The Zoning Ordinance requires that when a property is zoned B-2, and has boundaries that abut residential districts, the minimum required side and rear yard setback increases from 10 feet to 30 feet. Furthermore, when structures on the B-2 zoned property are taller than 35 feet, an additional foot of setback adjacent to residential districts is required for each foot above 35 feet. Forest Hills Townhomes (TM 12-L-14) and Forest Hills Manor (TM 92-A-2), located to the rear and side, respectively, are zoned R-4 and have multi-family dwellings.

With the 2023 rezoning and SUP, the applicant intended to perform a boundary adjustment by acquiring adjacent land from neighboring properties to account for the needed additional setback. The boundary adjustments were illustrated on the 2023 Development Plan as a possibility with a note that stated "Adjacent land may be obtained from one or both adjacent parcels, up to the amount shown, if needed, to achieve property building setback based upon final building height and footprint. If needed, land transfer shall occur after rezoning/SUP approval but prior to site plan approval."

In January 2024, City Council approved a Zoning Ordinance amendment to allow for the reduction of side and/or rear yard setbacks by SUP. Today, the applicant is requesting to reduce the side and rear yard setbacks from the required 52.03 feet to 44 feet in order to eliminate the need to purchase the adjacent land and adjust the property boundaries. The proposed reduced setbacks are shown on the new development plan.

To ensure that the setback reduction applies only to the planned building that is taller than 35 feet as shown on the development plan, and that any future building that is taller than 35 feet is not closer to the property lines as is required by the Zoning Ordinance, staff recommends the following condition:

The special use permit shall be applicable only to the planned building in the location shown on the Development Plan and no closer than 44 feet from the property lines adjacent to tax map parcels 12-L-14 (Forest Hills Townhomes) and 92-A-2 (Forest Hills Manor).

### *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.

With regard to the Comprehensive Plan, Traditional Neighborhood Development (TND) principles are encouraged to be included in all developments throughout the City. Adding multi-family dwelling units at this location would incorporate some of those characteristics such as: having a neighborhood that allows residents to work, shop, and carry out many of life's other activities; and allowing residents to walk, ride a bicycle, or take transit for many trips between home, work, shopping, and school. Additionally, this development is proposed for college student housing and the location is within close proximity to James Madison University (JMU).

#### *Transportation and Traffic*

A traffic impact analysis (TIA) was accepted by the Department of Public Works on July 21, 2023, as part of the previous rezoning and SUP requests.

Proffer #2 limits all traffic generating uses developed on the site to the total number of vehicle trips in the AM peak hour and PM peak hour as set forth in the 2023 TIA study. To confirm that the proposed changes conform with Proffer #2, staff requested from the applicant a new TIA form ("TIA determination form"), which is attached. The TIA determination form indicated that the project does not change the traffic calculations resulting from the TIA that was accepted by the Department of Public Works in 2023. Therefore, an updated TIA study was not required for the rezoning request.

Together, the proffers, the Street Improvement Agreement with the City dated September 13, 2023, and the Development Plan provide the necessary mitigations to address the development's expected impact on the transportation network.

#### *Public Water and Sanitary Sewer*

The applicant completed a study of the water and sanitary sewer capacity prior to submittal of the engineered comprehensive site plan. Any public system improvements required to meet the increased demands resulting from the project will be the responsibility of the developer.

#### *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 City entered a contract for population and student enrollment projections with the University of Virginia's Weldon Cooper Center for Public Service in 2024. The Center produced a report outlining its findings in April 2025 that can be found at the following link: [https://harrisonburgva.gov/sites/default/files/city-manager/HarrisonburgSchoolEnrollment\\_2025-04-30\\_Final.pdf](https://harrisonburgva.gov/sites/default/files/city-manager/HarrisonburgSchoolEnrollment_2025-04-30_Final.pdf). This report provides overall student enrollment projections through 2034 as well as estimated student generation by housing type for each elementary school attendance zone.

### *Conclusion*

The proposed proffer amendment and the amended development plan provide additional flexibility in the design of the building, while allowing a slight increase in the maximum height of the building overall and, with staff's recommended condition, would maintain the previously approved maximum number of dwelling units and bedrooms. The reduced setbacks, with staff's recommended condition, do not change the proximity of the planned building to neighboring homes. Staff recommends approval of the rezoning and special use permit requests with suggested conditions.

For the special use permit to allow multiple-family dwellings and/or mixed use buildings:

1. The number of dwelling units shall be limited to 119 with no more than 440 bedrooms.

For the special use permit to allow reduction in required side and/or rear yard setbacks:

1. The special use permit shall be applicable only to the planned building in the location shown on the Development Plan and no closer than 44 feet from the property lines adjacent to tax map parcels 12-L-14 (Forest Hills Townhomes) and 92-A-2 (Forest Hills Manor).

### **Options**

1. Approve the rezoning request and SUPs with suggested conditions.
2. Approve the rezoning request with other conditions.
3. Approve the rezoning request and SUPs as requested by the applicant.
4. Deny the rezoning request and SUPs.

### **Attachments**

- Extract from Planning Commission
- Site maps
- Application and supporting documents
- 2023 Approved Proffers & Development Plan