



# CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

409 SOUTH MAIN STREET, HARRISONBURG, VA 22801

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To: Ande Banks, City Manager  
From: Thanh Dang, Deputy Director, Department of Community Development and Harrisonburg Planning Commission  
Date: October 10, 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	AES/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	Approval for both requests
Planning Commission Recommendations	September 13, 2023 (Public Hearing) Approval (3-4) for the rezoning Approval (5-2) for the special use permit
City Council	October 10, 2023 (First Reading/Public Hearing) October 24, 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 was the amount that could have been added to the site 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.

Most recently, public hearings regarding the subject requests were advertised for the Planning Commission's August 2023 regular meeting; however, the public hearings were not held because the applicant requested to postpone their requests.

**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 per Section 10-3-91 (17) 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 portion of the site shown on the Development Plan as "Future Lot 1" by constructing a multi-story building containing a convenience store, a restaurant, and 119 multi-family units marketed to the student population. All of these uses would be positioned within the same complex and above one or more stories of a structured parking garage. Surface parking is also planned. There are currently no proposals for Future Lot 2, but if the rezoning is approved, this area could be developed with allowed B-2 district uses and in conformance with the approved proffers.

*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 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.
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 Sully 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 a separated asphalt bike lane of seven feet in width with adjoining buffer strips along the Property frontage with Port Republic Road substantially as shown on the Development Plan (the “**Trail Dedication**”), together with appropriate temporary construction easements, and Applicant proffers to dedicate such transportation facilities to public use and contribute to the costs thereof as provided in the SIA and shown on the Development Plan.

ii. Along Port Republic Road (Future). Applicant proffers to dedicate additional public right-of-way or public access easement for public use up to seven (7) feet wide adjoining the Trail Dedication, together with appropriate temporary construction easements, within thirty (30) days of written confirmation from the City that it intends to request authorization to bid construction of a second separated bike lane along the Property’s Port Republic Road frontage and which extends beyond the boundaries of the Property as part of a larger bicycle and pedestrian corridor.

iii. 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.

iv. 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.

v. Forest Hills Manor Connection. Applicant will grant a private access easement for the benefit of the adjoining parcel known as Forest Hill 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.

Proffer 1 states that the Development Plan will be used for the basis of comprehensive site plan approval of the proposed development/redevelopment of "Future Lot 1," establishes the maximum number of stories for the proposed building, establishes the minimum number of off-street parking spaces for dwelling units, and requires landscaping in the rear of the property that adjoins the townhomes on Village Lane. Note that the minimum number of off-street parking spaces required for non-residential uses on the site will be calculated based on the ZO requirements.

Proffer 2 restricts uses to be limited to the total number of vehicle trips in the AM and PM peak hour in the Traffic Impact Analysis (TIA). The TIA studied possible uses to include off-campus student apartments, a mixture of general retail, convenience store, and restaurants, as well as, a hotel. While the applicant contemplates the possibility of constructing a hotel on "Future Lot 2," there are no immediate plans at this time. Any use allowed in the B-2 district may locate on this property (on either Future Lot 1 or 2) if the calculated total number of vehicle trips does not exceed the total in the TIA, or if a new TIA is completed and mitigation measures or improvements are constructed by the property owner. However, the proffer allows the Department of Public Works discretion to waive the completion of a TIA or any identified mitigation measures or implements.

Proffer 3 is addressed in the Transportation and Traffic section.

#### *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.

With regard to setback regulations and the position of the building on the property, the Zoning Ordinance requires that when a property zoned B-2 has boundaries that abut residential districts, then 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. Depending on the final height of the building, adjacent land transfers (or property boundary adjustments) may be needed for the proposed building to comply with setback regulations. The applicant has illustrated this on the Development Plan as a possibility with a note that states “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 foot print. If needed, land transfer shall occur after rezoning/SUP approval but prior to site plan approval.”

Within the applicant’s submittals, the applicant has provided a 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.

A letter submitted by the applicant describes, and the Traffic Impact Analysis (TIA) evaluated, 440 bedrooms. The applicant discussed with staff that they anticipate constructing a total of 119 dwelling units and that the majority of the dwelling units (around 100) will be 4-bedroom units, and the remainder will be 1-, 2-, and 3-bedroom units. However, these details are not proffered nor specifically detailed in the SUP application.

#### *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 student housing and the location is within close proximity to James Madison University (JMU).

If the property is subdivided as planned with 119 dwelling units on Future Lot 1, the density of the proposed project is just over 32 units per acre, which is above the planned density, but less than the maximum density allowed by SUP in the B-2 district.

### *Transportation and Traffic*

While proffers 3.c., 3.d., 3.e.iii., 3.e.iv., 3.e.v., and 3.f. should be self-explanatory, the paragraphs below help clarify a few of the more complex proffers.

Proffer 3.a. describes how Bradley Drive will be extended through the property. The plan is to initially establish a private street, with the potential for it to become a dedicated public street in the future if the area known as Village Lane Townhomes redevelops and thus makes a public street connection possible.

The proposed project necessitated a Traffic Impact Analysis (TIA), which was completed and accepted by the City on July 21, 2023. The TIA recommended mitigations that the applicant is addressing through the additional proffers and by entering into a Street Improvement Agreement (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.

The City's capital improvement project known as *Port Republic Road: Hunters Road to Devon Lane* is fully funded and under design. The project, anticipated to begin construction in 2025, will 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>.

Proffer 3.b. and e.i. reference the SIA and the Development Plan, and the applicant's commitment to dedicate land for public right-of-way and to participate financially in the construction of improvements along the frontage of Port Republic Road. The Development Plan conceptually illustrates improvements that include: construction of turn lanes, installation of a new traffic signal at the intersection of Port Republic Road and Bradley Drive, and the construction of frontage improvements that include a separated bike lane (in one direction towards Interstate 81) and a separated sidewalk. City staff believes that a separate bike lane and separated sidewalk will lessen the growth rate of vehicle traffic along Port Republic Road by allowing users of Port Republic Road to travel by alternative modes of transportation more safely and comfortably.

In Proffer 3.e.ii., the applicant proffers to dedicate additional right-of-way or a public access easement up to 7-feet wide if and when the City constructs a second separated bike lane along the property frontage as part of a larger bicycle and pedestrian corridor improvement project. There is presently no funding or schedule for this future project.

*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*

Considering the proximity of this proposed student housing project to JMU and the Mixed Use designation of this area in the Comprehensive Plan’s Land Use Guide that supports higher density and mixed uses, staff believes that this development can have a positive result for the community. Staff recommends approval of the rezoning and approval of the SUP with the following condition.

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

**Environmental Impact:**

N/A

**Fiscal Impact:**

N/A

**Prior Actions:**

N/A



**Alternatives:**

- (a) Approve the rezoning and SUP request as submitted;
- (b) Approve the rezoning and SUP request with the suggested condition;
- (c) Approve the rezoning and the SUP with other conditions;
- (d) Approve the rezoning request and denial of the SUP request; or
- (e) Deny the rezoning and SUP request.

**Community Engagement:**

As required, the request was published in the local newspaper twice advertising for Planning Commission’s public hearing and twice advertising for City Council’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 (b) approval of the rezoning and SUP request with the suggested condition.

**Attachments:**

- 1. Extract from Planning Commission
- 2. Updated Building Height Profile
- 3. Updated Site maps
- 4. Updated Application and supporting documents

**Review:**

Planning Commission recommended approval (4-3) of the rezoning and recommended approval (5-2) of the special use permit with the following condition:

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