

Proffer Analysis for Housing Affordability

The Link Project
City of Harrisonburg, VA
January 27, 2026



Submitted by Timberwolf Capital Partners, LLC

**Prepared by Virginia Proffer Solutions™
a division of Impact Analysis, LLC**

**Providing Data Driven Proffer Analysis Utilizing the
ProfferPro System™**

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Introduction

For the last seven years, Virginia Proffer Solutions (VPS) has been preparing proffer impact analysis reports that evaluate methods that can be utilized as a basis for proffers by analyzing the impacts of a specific project and evaluating possible mitigation of those impacts. Fundamental to the report is VPS' deep understanding of the legal basis for proffers under Virginia and Federal Law, including the enabling legislation and applicable legal limitations. This is combined with the experience VPS has in locating and utilizing project and location specific data and information. Timberwolf Capital Partners, LLC, has retained VPS to evaluate the impacts its proposed multifamily project will have on housing affordability in Harrisonburg, VA, and establish a range for a cash proffer to mitigate that impact.

The Role of Virginia Proffer Solutions

VPS is committed to providing independent analyses of development impacts and potential mitigating proffers. We believe this is particularly important given the complexity of developing a proffer for housing affordability in light of the Virginia enabling legislation, Timberwolf's rights under the U.S. and Virginia Constitutions as interpreted by the U.S. and Virginia Supreme Courts, the potential for proffers being subsequently voided, and the potential liability faced by a jurisdiction arising from requesting or suggesting excessive proffers.

As a matter of policy, local governments seek to obtain monetary contributions from developers to help pay for the impacts that will be generated by the development. These contributions may take the form of voluntary proffers, specific conditions imposed by the government, or impact fees. Virginia Proffer Solutions, a division of Impact Analysis, LLC, specializes in providing developers and local governments with a rigorous analysis of the land use impacts of specific real estate developments located in that jurisdiction.

While the courts and Virginia legislature have recognized the need for and legality of the contributions, the courts and state governments have imposed limits on what contributions can be offered and accepted. Examples of this include the United States Supreme Court *Koontz* case and its progeny in Virginia, Section 15.2-2303.4 of the Code of Virginia. These limits require that the contributions must relate to the specific impacts of a particular development and must not be greater than is necessary to mitigate those impacts. Consequently, for contributions to be valid, they should be based upon verifiable data and predictive analytics.

The importance of a factual basis for proffers is amplified by Section 15.2-2208.1 of the Code of Virginia that imposes liability on jurisdictions that violate constitutional rights. Virginia Proffer Solutions reports are intended to help protect local jurisdictions from this liability, to protect jurisdictions from proffers that are later found to be unenforceable and to protect applicants from demands for excessive proffers by providing the in-depth, high-quality analysis that we believe is required by the *Koontz* case and the applicable proffer legislation.

Virginia Proffer Solutions gathers the necessary data and uses predictive analysis to determine the impacts of each development upon a locality. For each Virginia Proffer Solutions

engagement, the data that is gathered and the predictive analysis that is conducted takes into consideration the legal and policy constraints and requirements applicable to the project. The result is a detailed and substantiated *Proffer Analysis for Housing Affordability* that will permit Timberwolf to scientifically present the impacts of its development and the level of mitigation that is appropriate and defensible to the City of Harrisonburg where the project is located. In this case, much of the data utilized is from two studies prepared for the city of Harrisonburg: The City of Harrisonburg Comprehensive Housing Assessment and Market Study, (published in 2021) (The Housing Study) and “The Central Shenandoah Regional Housing Study Technical Report” (published in 2025) prepared by the Central Shenandoah Planning District Commission (the CSPDC report).

This report sets forth our opinion as analysts. However, we do not provide legal advice, and to the extent such advice is needed, it should be provided by legal counsel for Timberwolf and the City Attorney for the City of Harrisonburg. Our role is to provide information, data and analysis that can be utilized by Timberwolf, the City of Harrisonburg, and their respective counsel during the rezoning process. As part of that process, we will set forth our opinion as to a reasonable range of proffer amounts. This is done for two reasons: First, predictive analytics is not an exact science that can provide a precise answer. Secondly, as explained later in this report, an affordability proffer is voluntary, and the amount is to be determined solely by the applicant and owner after taking into consideration the economics of a particular project.

The VPS Team

The Virginia Proffer Solutions team combines the talents of outstanding individuals in the areas of law, land use planning, analytics, fiscal impacts and research. Mike Vanderpool has been a zoning and land use attorney in Virginia for more than 50 years and has handled numerous rezonings, special use permits and variances.¹ He has represented both developers and local governments, including serving as a Deputy City Attorney, and he is a Martindale Hubble AV rated attorney. For nine years, he was an adjunct professor at George Mason University, teaching in the Master of Real Estate Development program, where he taught the program's law class. He was recognized as faculty member of the year in that program in three of those years. Virginia Business Magazine and other publications have recognized him for many years as a Legal Elite business and real estate attorney. Mike is a Phi Beta Kappa graduate of Penn State University and earned his law degree from the Georgetown University Law School where he was a member of one of the Law Reviews.

Mike has participated in a Virginia Local Governments Attorneys panel discussion on proffer reform, led the presentation of a webinar on how to deal with the proffer law to over 200 local Virginia government attorneys and planners, testified before the Virginia Senate Subcommittee on Local Laws, written a published article on the topic, advised several jurisdictions and the mayors and chairs in Northern Virginia with regard to the law and presented a seminar on proffers at the 2019 Virginia Planning Association annual meeting

Chris Garcia, PhD, is an Associate Professor in the College of Business at The University of Mary Washington. He is a specialist in analytics and big data and has published works in the areas of computational economics. He specializes in providing advanced analytics consulting and technology development. Chris is responsible for vetting and improving the Proffer Pro™ computational model developed by Impact Analysis, LLC and reviewing the computations set out in the reports on an as needed basis. He said, "I have been teaching advanced analytics and consulting in the field for several years. I am excited to bring that experience and my expertise to Virginia Proffer Solutions." Chris received his B.S. degree from Old Dominion University and holds Masters' degrees from NOVA Southeastern University and Florida Institute of Technology; his doctorate degree is from Old Dominion University. Dr. Garcia has published articles in the journals *International Series in Operations Research and Management Science*, *Engineering Optimization*, *AIS Educator Journal*, and *Computational Economics*

Eileen Settlemyer is a Phi Beta Kappa graduate of The University of Mary Washington, where she double majored in Business Administration and English. As an undergraduate, she completed two research-oriented internships, one in Shanghai, China, with Web2Asia, and one with TechInt Solutions Group in Virginia. Upon graduation, she was accepted into a dual master's program at the McIntire School of Commerce at The University of Virginia. Through this

¹While Mike Vanderpool is a licensed Virginia attorney, his role regarding this report is solely that of an analyst. He has not entered into an attorney-client relationship with the Applicant or the city.

innovative program, involving attendance at three universities around the world, Eileen earned a master's degree in Global Commerce from The University of Virginia, a master's degree in Global Strategic Management from ESADE University in Barcelona, Spain, and a certificate in International Management from Lingnan University in Guangzhou, China. As the former Chief Research Analyst for Virginia Proffer Solutions, she developed the research protocols for mining the data that is at the core of every Virginia Proffer Solutions report.

Stan Feuerberg serves as an analyst for Virginia Proffer Solutions. Stan earned both an undergraduate degree in electrical engineering (BSEE) and a law degree (JD) from the University of Nebraska-Lincoln. Stan began his industry experience with the Nebraska Municipal Power Pool / Municipal Energy Agency of Nebraska as its in-house counsel and chief contract negotiator. He moved to Colorado to serve as the General Counsel for the Western Area Power Administration in the US Department of Energy, and later to New England when offered the position of Vice President and Chief Operating Officer of the Vermont Electric Power Company. He recently retired after more than 30 years as the President and Chief Executive Officer of the Northern Virginia Electric Cooperative. For ten years, he served on an advisory board to the Federal Reserve Bank of Atlanta. In matters of land use, he has extensive experience in various regulatory approval proceedings. During its 2022 session, both houses of the Virginia General Assembly passed a special resolution honoring Stan's service to the Commonwealth.

Karen Settlemyer is the Senior Analyst for Virginia Proffer Solutions. Karen received her undergraduate degree from Indiana University, a master's degree from the University of North Florida and a second master's degree in Organization Management and Development from Fielding Graduate University. She spent several years working for Roche Pharmaceuticals and ended her career there as the Development Director for the Oncology Sales Force. She then joined Regeneron as a sales director for their initial product launch. As a result of the company's tremendous growth and her background in Organization Development, she had the opportunity to create and lead the Commercial Organization's Leadership Development Program.

Phyllis McCullagh serves as an analyst for Virginia Proffer Solutions. Phyllis spent 35 years in the technology field in roles that include executive leadership, sales, marketing, strategy development and planning. Born and educated in Canada, she moved to the United States in 1991 and continued her successful career with several of the largest computer companies in the IT industry. Prior to retiring from Hewlett Packard as Regional Director of the Americas, Phyllis led the American division of Jabra/GN Netcom as the President and General Manager. She brings a broad spectrum of analytical skills and development experience to her consulting role with Virginia Proffer Solutions.

Calvin Hackeman who serves as an analyst for Virginia Proffer Solutions earned a Bachelor of Science degree, cum laude, from The American University with a double major in accounting and real estate/urban development. He was engaged in public accounting at Grant Thornton LLP from 1975 until retiring in 2012. He served in various positions including client service partner and National Managing Partner of the Technology Industry.

About the ProfferPro™ System

At the heart of the ProfferPro™ System developed by Impact Analysis, LLC, is a deep understanding of the Federal, state, and local levels of legal scrutiny that must now be applied to each zoning case involving any proffer, condition or impact fee. The foundational legal principals are based in the jurisprudence that has evolved around the “takings” clause in the 5th Amendment to the United States Constitution and Article I, Section 11 of the Virginia Constitution. These legal principles have given birth to the Virginia proffer legislation, which has, in turn, spawned local regulations. Together we believe they require a factual and economic analysis to support every governmental exaction in a land use case.

According to Mike Vanderpool, “Much has changed in zoning and land use during my 50 plus years of practice. With that said, the *Koontz* case is truly revolutionary. Even without legislation at the state level, it has created the potential for liability at the local government level. And because *Koontz* was decided under the 5th Amendment of the Constitution, it cannot be legislated away. Essentially, the *Koontz* case is another step in the evolving jurisprudence that requires local governments to rely on and be able to demonstrate a factual, statistical basis for their decisions involving land use exactions, including proffers, conditions, and impact fees.”

The ProfferPro™ System provides that factual and statistical basis through an independent, well-researched, rigorous analysis that can be relied upon by developers and local jurisdictions. The ProfferPro™ System builds on the prior work performed by localities in the creation of monetary proffer guidelines but corrects several of the defects that made them subject to attack on constitutional grounds. Each ProfferPro™ report documents the facts required to show a nexus between the impacts of a project and the proffer condition or impact fee that is offered and also demonstrates their proportionality to the impacts. Each report is individually prepared and reflects the unique characteristics of each development and each jurisdiction.

Applicable Law

The following sections of this Report are not intended to provide legal advice but rather set forth Virginia Proffer Solutions' understanding of the Applicable Law. To the extent legal advice is deemed necessary, it shall be provided, as applicable, by the Applicant's Attorney and the City's Attorney.

Proffers are governed by Federal and State Constitutional Law and Virginia Statutes. The 5th Amendment to the U.S. Constitution and Article 1 of the Virginia Constitution provide that private property cannot be taken for public purposes without appropriate compensation. Several U.S. Supreme Court and Virginia Supreme Court decisions have applied these constitutional provisions to the real estate development process. At the Federal level, the *Nollan*, *Dolan* and *Koontz* cases^{2 3 4} have established a three-part test for determining when land use exactions are valid or invalid. Under those cases, an exaction is constitutional only if it has a nexus to the impacts of a development, the amount of the exaction is roughly proportionate to the impacts of the development, and the determination is made on a case-by-case basis. More recently, the U.S. Supreme Court in the *Sheetz* case⁵ stated that exactions relating to the permitting process are subject to these tests whether the exaction is made by a legislative body or by an administrative body. The Virginia Supreme Court has applied these tests in the case of *Board of Supervisors of the County of Albemarle vs Route 29, LLC*.⁶ In that case, the Court in 2022 reviewed a proffer that had been made and accepted in 2007. In finding the proffer invalid, the Virginia Supreme Court, based on the U.S. Supreme Court decisions, found that even voluntary proffers must meet the nexus and proportionality tests, and that the determination concerning these tests must be made on a case-by-case basis, rejecting the County's contention that a voluntary proffer is exempt from the unconstitutional conditions doctrine. The Virginia *Cupp* and *Rowe*^{7 8} cases embody the same tests under the Virginia Constitution stating that improvements to roads cannot be demanded from a developer if the need for the improvement is "substantially generated" by public demand rather than by the development.

Of particular note is the *Koontz* case. The opinion in that case stated "Land-use permit applicants are especially vulnerable to the type of coercion that the unconstitutional conditions doctrine prohibits because the government often has broad discretion to deny a permit that is worth far more than property it would like to take... So long as the building permit is more valuable than any just compensation the owner could hope to receive for the right-of-way, the owner is likely to accede to the government's demand, no matter how unreasonable. Extortionate demands of this

² *Nollan vs. California Commission* 483 U.S.825 (1987)

³ *Dolan vs. City of Tygard* 512 U.S.374 (1994)

⁴ *Koontz vs. St. Johns River Management District* 570 U.S.595 (2013)

⁵ *Sheetz vs. El Dorado County* 601 U.S.267 (2024)

⁶ *Board of Supervisors of the County of Albermarle vs. Route 29, LLC*, Supreme Court of Virginia, Record No. 201523 (2022).

⁷ *Cupp vs. Board of Supervisors of Fairfax County*, 227 Va 580 (1984)

⁸ *Board of Supervisors of James City County vs. Rowe*, 216 Va 128 (1975)

sort frustrate the Fifth Amendment right to just compensation and the unconstitutional conditions doctrine prohibit them.”⁹ In that case, the U.S. Supreme Court further determined that a suggestion by a locality for a voluntary monetary proffer triggers the *Nollan/Dolan* analysis requiring nexus, rough proportionality and the need for an individualized determination. Importantly, the Court not only found that a mere suggestion for an excessive exaction can be a violation of the 5th Amendment, but that is the case even if the project is approved.¹⁰ If those requirements are not met, a locality can face liability under Federal and state law. The *Koontz* case resulted in the Virginia legislature adopting section 15.2-2303.4 of the Code of Virginia in 2016 and amending it during the 2019 legislative session. That Code section incorporates the constitutional test by specifying that a voluntary proffer is unreasonable unless it “addresses an impact that is specifically attributable to a proposed new residential development, that the new residential development or new residential use creates a need, or an identifiable portion of a need in excess of existing public facility capacity at the time of the rezoning or proffer condition amendment... A locality may base its assessment of public facility capacity on the projected impacts specifically attributable to the new residential development or new residential use.” These requirements are in addition to those required under the applicable case law. For example, while the proffer legislation also specifies that communications between a jurisdiction and locality cannot be used as a basis for deeming a proffer to be unreasonable, that language does not erase the holding of the cases under the U.S. Constitution to the contrary. Further, while subsection D.1 of the state statute permits a developer to offer any proffer it deems reasonable, the proffer must still meet the *Nollan*, *Dolan*, and *Koontz* requirements. If it fails to do so, the locality may face liability under Section 15.2-2208.1 of the Code of Virginia which states in part: “Any applicant aggrieved by the grant or denial by a locality of approval or permit, however described or delivered...where such grant included or denial was based upon, an unconstitutional condition pursuant to the United States Constitution, the Constitution of Virginia, shall be entitled to an award of compensatory damages...”

Turning to affordability proffers, the Virginia Legislature has adopted a number of statutes authorizing the acceptance of affordable units by jurisdictions in exchange for density bonuses.¹¹ We believe this was done because the density bonuses provide a quid pro quo in an effort to avoid the risks of violating a developer’s constitutional rights.¹² The Central Shenandoah Regional Housing Study Technical Report (2025, CSPDC Study) recommends that the city adopt a density bonus ordinance since the authority exists under section 15.2-2305.1 of the Code of Virginia. However, the study recognizes that the city “*cannot* condition the approval of any development on the inclusion of affordable units”¹³ and recognizes that the rental prices required cannot be so low “that the developer/owner will suffer ‘economic loss’ by not recouping costs.”¹⁴ (Emphasis in the original quote.)

⁹ *Koontz* @ page 605

¹⁰ *Koontz* @ page 606

¹¹ See Section 15.2-2304 et seq Code of Virginia

¹² *Ibid*

¹³ The Central Shenandoah Regional Housing Study Technical Report (2025), pages 293

¹⁴ *Ibid*, page 294

The City of Harrisonburg has not, as of this date, adopted an ordinance utilizing the applicable ADU statute. As a result, affordability proffers in Harrisonburg must be based on Section 15.2-2303.4 of the Code of Virginia which authorizes proffers for residential projects. In that context, it is important to understand that statutory bonuses are quite different from impact proffers. The bonus proffers are, in essence, offers by the government to pay for affordable dwelling units by permitting developers to build extra units they would not otherwise be able to build. The rules are set out in the legislation as to what the “payment” will be for a specific number of affordable units. As a result, no significant analysis is required. However, voluntary proffers which are governed by a different set of statutes, including section 15.2-2303.4, cannot be used to solve preexisting problems as that would violate the Fifth Amendment prohibition on a taking without compensation, and the Virginia Constitution pursuant to the ruling in the Cupp Case. Rather, they are designed to mitigate the specific impacts that will be produced by a specific project in a specific location. Because each project is unique, and can produce unique impacts and mitigations, both the impacts and mitigation must be established on a case-by-case basis.¹⁵ And the fact that they are deemed to be voluntary does not isolate them from the limits imposed by the U.S. and Virginia Constitutions.¹⁶

¹⁵ *Dolan vs City of Tygard* 512 U.S.374 (1994) at page 386

¹⁶ *Board of Supervisors of the County of Albermarle vs Route 29, LLC*, Virginia Supreme Court

“D.1 Proffers”

Subsection C.1 of Virginia code section 15.2-2303.4 sets forth specific criteria for determining whether a proffer is reasonable when the proffer relates to facilities but not affordability. However, subsection D.1 provides that notwithstanding the aforesaid, an applicant may submit any proffer it and the owner deem reasonable, and the statute clearly states that the failure to do so shall not be a basis for the denial of a rezoning. It is important to note that determination of reasonableness is not an objective standard but is to be determined solely by the applicant and owner. This helps to protect the jurisdiction. Subsection D.1 also serves a second function. In our opinion, it provides the authorization required by the Dillon rule¹⁷ for affordability proffers as it speaks to “any proffers” and is part of a statute that deals with proffers for residential development.

Subsection D.1, however, does not erase all limitations on proffers. As noted above, proffers are also limited by the 5th Amendment to the U.S. Constitution and Article I of the Virginia Constitution. These limitations cannot be waived by a state statute, including subsection D.1 of the Virginia Proffer Statute. The U.S. Supreme Court and the Virginia Supreme Court have set forth these limitations in a series of cases. The Albemarle Virginia Supreme Court case says these requirements must be met for a voluntary proffer to be enforceable. Failure to acknowledge these limitations may void an otherwise voluntary proffer even after a property is rezoned subject to the proffer. In addition, mandatory affordability exactions in real estate cases have been attacked on constitutional grounds. In the *Yu* case¹⁸, a California city dropped its demand for an affordability impact fee when the fee was challenged on constitutional grounds using the theory that new housing does not cause a need for affordable housing. The allegations in that case included the allegation that new residential development “Neither creates nor contributes to the need for affordable housing; Does not cause anybody else to be unable to afford housing; and alleviates the need for affordable housing by creating new housing. Because new residential development categorically does not have a negative public impact on housing affordability, there is no set of circumstances in which the Ordinance could satisfy *Nollan* and *Dolan*.” (allegations 62 and 63).

¹⁷ The Dillon Rule in Virginia limits the authority of local jurisdictions to that provided by the Virginia Legislature. See “*Back to Basics: Dillon Rule*,” Housing Forward Virginia. May 28, 2025, www.housingforwardva.org

¹⁸ *Wesley YUU vs City of East Palo Alto*, U.S District Court , Northern District of California, San Francisco Complaint NO. 3:25-cv-06456 . *California family wins settlement after City charges \$55K to build ADU*. <https://Pacificlegal.org>. November 19, 2025, Retrieved January 22, 2026, from <https://pacificlegal.org/>

Description of the Project



The Link Project is proffered to consist of up to 250 units with up to 555 bedrooms together with 5,000 square feet of retail space, in a multi-story, mixed-use building. The Project will be located in close proximity to James Madison University.

Nexus, Rough Proportionality and Individual Evaluations in the Context of Proffer for Affordability

We believe there may be a nexus between new housing and the need for affordable housing as well as rough proportionality, depending upon the specific characteristics of a particular community and a specific project. It has been commonly assumed that the required nexus exists because growth in housing is linked to increasing demand for affordable housing. This is premised on the theory that new houses bring more people to a community who demand more goods and services. This in turn increases the demand for low-wage jobs, resulting in an increased demand for affordable housing. This is often referred to in the literature as “the housing nexus methodology.” However, we believe that theory is not universally accurate and there is a need for more detailed examination. In our opinion, there are other different scenarios.

The first scenario supports the nexus theory. It can occur in places like California where a rapid increase in high income jobs (for example, in the IT industry) fuels a surge in high income earners. We believe it can also occur in communities with a large growing university presence that requires additional employees with advanced degrees and provides relatively high incomes. In these scenarios, it is likely that the increase in population will cause a need for economically challenged jobs. But there are other possible scenarios. It seems to us that the cause may rise from the bottom of the wage scale rather than the top. This situation occurs when there is a significant growth in employment in one or more low wage jobs due to the growth of certain industries such

as the poultry industry that require low-wage earners. We refer to this as the “employment nexus theory.” Another scenario is when affordability is stifled by significant limitations on the construction of new housing. This happens when a zoning ordinance is exclusionary rather than inclusive. “When designed thoughtfully, zoning laws can promote the development of affordable housing, while restrictive policy can inhibit it by limiting density.”¹⁹ This can be described as the “land use constraint theory.” Finally, there can be situations where new units primarily serve existing residents rather than new residents. We refer to this as “the supply theory” because the new housing provides more capacity, reducing pressure on existing rents.

It is also important to note that the cause of an affordability problem can change over time as localized growth and decline occurs. For example, historically West Virginia experienced growth due to the coal industry. As that industry went into decline, growth ceased and the population declined.²⁰ Currently, however, parts of West Virginia are now growing rapidly, primarily due to migration from Northern Virginia where the cost of living is much higher.

The underpinnings of these various nexus theories, however, have been challenged in the *Yu* case. That case, which arose in California, was brought by a plaintiff who challenged an impact fee for affordable dwellings when he sought to add an additional dwelling unit on his property.. After receiving a notice that a large impact fee would be payable, he filed suit challenging the constitutionality of the fee. The challenge was based on the assertion that additional housing does not create a need for affordable dwelling units. The defendant city of East Palo Alto, California, settled the case and revoked its impact fee. While this does not create a legal precedent because there was no court ruling in the matter, the settlement indicates a significant concern about the constitutionality of exactions whether voluntary or mandatory for affordable dwelling units.

¹⁹ *How Zoning Regulations Affect Affordable Housing*, National Association of Home Builders, <https://www.nahb.org/blog/2024/11/zoning-regulation-and-affordable-housing>

²⁰ *WV Continues Population Loss Despite Influx of New Residents in Eastern Panhandle*, Real News (January 7, 2025) www.therealwv.com

Measuring the Effect of New Market Rate Housing on Housing Affordability—"Rent Compression," "Mitigation Chains" and "Filtering"

There has been significant debate among academics, analysts, politicians, and home builders regarding the impact of new housing on housing affordability. One side suggests that new housing exacerbates the need for more affordable housing. This is encapsulated in the nexus theory described above. It posits that new housing attracts new additional residents which increases the needs for goods and services, including those provided by low-income wage earners. We refer to this as "external inward migration." However, others suggest that it is new jobs that create the need for more housing and any additional housing supply is inherently helpful to address affordability based on the foundational concepts of an imbalance of supply and demand at any level of housing cost. Under this analysis, increased supply at a given level (e.g. high end) provides relief for all lower levels, including at the lowest level of housing costs. This effect is described in several well researched studies outlined in the UCLA Research Roundup described below (The UCLA Report).

A result of external inward migration is what we refer to as "rent compression" which occurs where the rental market is tight, with few vacancies. Simply stated, if there is inadequate supply of higher cost units, those that can afford them move to mid-level rental units, artificially creating increased demand and pushing up rents. This process continues all the way downstream resulting in upward rent trends in even the most affordable units. When not enough homes are built in high-income neighborhoods, people who would have lived in those neighborhoods can usually afford to move into middle income neighborhoods, and middle-income residents can usually afford to move into low-income neighborhoods, but residents of low-income neighborhoods have nowhere to turn. Their options are limited and the data indicates that they keep their housing by absorbing large rent increases. According to the Housing Study these conditions exist in the City of Harrisonburg, describing them as a "housing mismatch."²¹

However, when supply is increased by a project, particularly in tight markets, rents decline due to what has been described as a "migration chain." In 2021, a research roundup paper titled "*Research Roundup, The Effect of Market Rate Development on Neighborhood Rents*" prepared by the UCLA Lewis Center,²² summarized the findings of several research papers dealing with the effects of new rental housing units on the rents charged in existing units, concluding that there really isn't any doubt that in areas where there is high housing demand building more housing can keep help keep the prices of existing housing down. The specific key findings of these relatively recent studies can be summarized as follows:

²¹ Housing Study Executive Summary, page 2, Key Findings

²² UCLA Lewis Center for Regional Policy Studies (n.d.). *The Effect of Market-Rate Development on Neighborhood Rents*. <https://escholarship.org>. Retrieved January 22, 2026, from <https://escholarship.org/uc/item/5d00z6y1m>

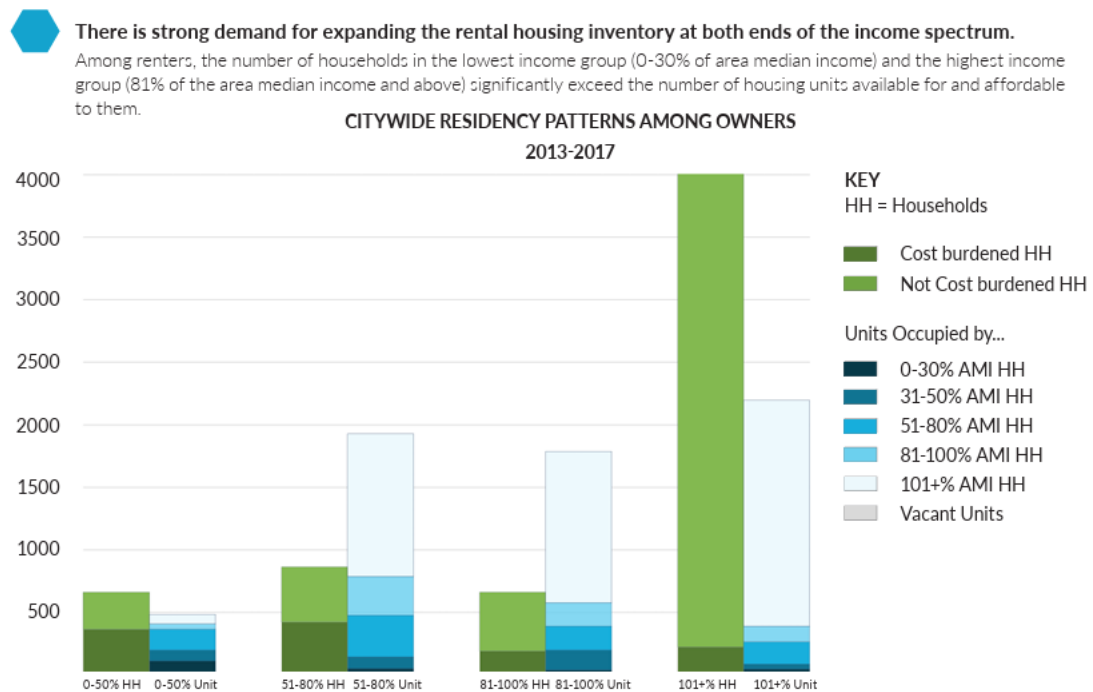
- (1) New large market-rate units result in a rent reduction in nearby units of 5-7%. According to *Supply Shock versus Demand Shock: The Local Effects of New Housing in Low Income Areas* Brian Asquith, Evan Mast, David Reed (2019).
- (2) Based on a study of nearly 700 market-rate multi-family developments in central city and the tracking of 52,000 of their current residents to their previous address, the author concludes that new development establishes “a migration chain: a series of household moves that can be attributed to the new development. As a new market rate project is completed, residents leave their previous address to move in, opening their old home for someone else to move into; someone else moves into that unit, opening up their previous address to new occupants and so on. These migration chains reveal an indirect, yet important effect of market-rate development on the lower- and middle-income housing market...it frees up space in cheaper housing.” From *The Effect of New Market-Rate Housing Construction on the Low Income Housing Market*, Evan Mast (2019). Hereafter the Mast Study.
- (3) Building market rate units leads to movement out of below median and bottom quintile income tracts respectively, creating slack in the lower end housing market. Almost all of this effect takes place within five years. From the Mast Study.
- (4) As for new migration. “...67% of residents come from the same Metro area. Most likely, the remaining 33% would have moved to the new city in any case. These were people who could afford to rent at a new market rate unit...Indeed, in the absence of new housing they would have taken up residence in an older, more affordable home instead.” From the Mast Study.
- (5) According to the UCLA Research Roundup, the active mechanism behind ‘filtering,’ is the process by which homes become more affordable as they age. That mechanism is new building. Without new homes coming onto the market, migration chains cannot be initiated and filtering cannot readily occur.” This helps explain the findings of Liu, McManus and Yannopolous (2020), in which older homes “filter up—aka gentrify—to higher-income households in markets with limited housing production.”
- (6) “...the conclusion is clear: market rate housing improves affordability at both the metro area and neighborhood level.” *Does Building New Housing Cause Displacement?: The Supply and Demand Effects of Construction in San Francisco*, Kate Pennington (2021).

The Housing Study describes this effect in Harrisonburg:

There is a “housing mismatch” in which thousands of households live in units that do not align with their income. In other words, many higher income households live in housing “beneath their means” while many lower income households live in units where they must pay 30-50%, or more of their monthly income for housing costs. While there are

numerous reasons why people choose to live where they live, this housing mismatch has a disproportionately greater impact on lower income households. Higher income households have greater choice in the housing market as a result of having more income available for housing. However, when higher income households reside in lower cost housing, they are effectively “squeezing out” lower income households—who because they are lower income, have the fewest housing options.²³

The rental marketplace in the City evidences the lack of units for residents with incomes between 80% and 120% of Average Median Income (AMI). For example, the CSPDC Study reveals only 311 rental units exist at the 80-120% AMI level, 522 at the 100-120% AMI, and 219 at the 120% AMI level.²⁴ That level of supply appears to be very limited in the context of a city with more than 50,000 residents, an overall vacancy rate of approximately 2%. In fact, affordable multifamily units already represent approximately 61% of the multifamily rental units in the City²⁵ but there is still a lack of units at the lower and upper ends of the housing continuum. The above data points to classic conditions where a lack of upper end housing results in rent compression that can be alleviated by new upper end units that initiate chain migration and reduce rents throughout the system.



²³ Housing Study, Executive Summary, page 2, <https://harrisonburgva.gov/housing-study>

²⁴ CSPDC Study, page 95 (However several units were not accounted for)

²⁵ Ibid, Page 93

The chart²⁶ on page 16 indicates that residents earning 101+% of Average Median Income represent the largest segment of the 51-80% units (below the level of affordable) and are even present in the 0-50% units.

²⁶ Housing Study, Executive Summary, page 4. <https://harrisonburgva.gov/housing-study>

The VPS Individualized Analytic Model™

VPS has developed an analytic model specifically for measuring impacts on affordability and potential mitigation for a particular project in a particular location. We refer to this model as the “VPS Individualized Model.” We believe this methodology is mandated by the constitutional requirement for “individualized determinations” to demonstrate both nexus and proportionality.²⁷ Our model seeks to integrate our understanding of the applicable law with the available data and information for a specific case. Measuring impacts on capital facilities is relatively straight forward. But that is not case for affordability. With that said, there is one significant element that we believe is central to the analysis for both facilities and affordability. It is based on a recognition that impacts are generated by people, not buildings. It is important to acknowledge that new net residential growth can create a demand for more goods and services which in some circumstances may lead to a need for more employees, including those at the lowest income level. But, if there is not a net increase in residents in the jurisdiction as a result the project, there is no basis for an affordability proffer as exactions must be based on the impacts of the project under consideration. A simple example is an apartment building that is obsolete and replaced with a building that yields the same number of residents. Another, germane to this project, is if the project serves existing residents, not new residents, as the demand created by those residents already exists.

To determine the magnitude of the impact, we first project the number of individuals that will occupy the project and their characteristics. We next examine the possibility that a portion of the occupants of the project will be existing City residents. Not only do these existing residents already account for impacts, but by moving into the project, they can also have a significant positive impact on affordability due to the migration chain and the attendant relief on rent compression. Next, in an appropriate case, we turn to the type of jobs that are likely to be needed in order to address any increased demand for affordable housing. At the same time new residents, particularly students, can fill jobs in these industries, mitigating the impacts they create.

Having identified the primary impact on employment, we next evaluate the current number of employees in the impacted job sectors and the existing population it serves. The workforce population in each low wage employment category is then divided by the population of the jurisdiction to obtain a per capita impact factor. This impact factor is then multiplied by the applicable number of net new residents generated by the development, resulting in an estimate of the number of new low wage employees that are needed in the impacted sector. The result is an estimation of the number of new individuals in low wage jobs that are required to serve the net number of new residents.

Next, we gather data on the average salary of the workers in the applicable sectors and utilize the accepted definitions of affordability²⁸ to determine the amount that these workers can pay for rent without being house burdened. This is then compared to the median rental costs. These

²⁷ See *Nollan and Dolan*

²⁸ CSPDC Study, page 81. Not more than 30% of income is used to pay for rent and utilities.

steps provide a gross impact number; however, the inherent positive impact that the specific new housing can have on the jurisdiction, particularly in jurisdictions where the housing market is very tight, and any additional factors that mitigate the impact of new development must be considered in order to evaluate the net impact of the project. The results of these factors are considered in our model to establish a nexus and estimate the rough proportionality of impacts as required by the applicable law.

A final consideration to be made by the developer under Section D.1 of the proffer law, is the amount the proposed project can bear for affordability proffers. If the amount is too large, the project may not pencil out to provide a reasonable return on the investment or to provide a debt coverage ratio demanded by lenders. In these circumstances the new project will not be built. As previously noted, the amount of the D.1 proffer is to be determined solely by the developer and owner.²⁹

²⁹ Section 2303.4.D.1 Code of Virginia

The Historic and Current Causes of a Lack of Affordability in the City of Harrisonburg

Under the VPS Individualized Model an understanding of the historic and current causes of a lack of affordable housing in a particular jurisdiction is important for two reasons. First, it can be quite easy to simply adopt the housing nexus theory. However, an examination of the historic causes compared to current causes can better inform expectations and solutions. Even more importantly, the legal requirements for an individualized analysis and rough proportionality demand an evaluation of current causes, not historic causes as proffers cannot be used to alleviate a preexisting affordability problem.³⁰ A failure to understand the historic and current causes can also lead to a distorted view of rough proportionality, leading to a violation of a housing provider's constitutional rights and, in Virginia, the possibility a proffer can be subsequently voided³¹ or that a jurisdiction can be held liable for damages. Thus, it is our position that in addition to historic causation, an individualized study of current data and information is necessary to establish the applicable nexus and rough proportionality to protect jurisdictions and housing providers.

In the context of a potential proffer for The Link Project, it is important to understand why there is currently an affordability problem in the City of Harrisonburg, its magnitude, and its causes. But it is worth repeating that proffers are to be used to mitigate the future impacts caused by a specific project, not preexisting capacity shortfalls. The Virginia and U.S. Supreme Courts have made this clear. Thus, while examination of historic causes are important, a proffer determination must be made on current conditions.

Information from the Housing Study

The Housing Study sets forth a number of key conclusions and provides information which is germane to our analysis. The key findings of that study include the following:

- *There is a 'housing mismatch' in which thousands of households live in units that do not align with their income. In other words, many higher income households live in housing 'beneath their means' while many lower income households live in units where they must pay 30-50% or more of their monthly income for housing costs...when higher income households reside in lower cost housing they are effectively 'squeezing out' lower income households...³² See graph on page 16.*

³⁰ *Cupp vs Board of Supervisors of Fairfax County*, previously cited

³¹ *Board of Supervisors of the County of Albermarle vs Route 29, LLC*, previously cited

³² The Housing Study, page 6

- *The City's rental market is comparably tight...this creates high levels of competition within the market as renters compete for scarce units and where the lowest income households have the fewest options.*³³
- *College students drive population growth in the housing market. College students accounted for 37% of population growth between 2010-2018. Demand for off-campus rental units to accommodate college students exerts upward pressure on rental rates, pricing out non-student households.*³⁴
- *There is strong demand for expanding the rental housing inventory at both ends of the income spectrum. Among renters, the number of households in the lowest income group (0-30% of Area Median Income) and the highest income group (81% of the Area Median Income and above) significantly exceed the number of housing units available for and affordable to them.*³⁵

The report contains the following supporting information and data that form a basis for the study's key findings.

*Harrisonburg has grown by 13% since 2010 from a population of 47,406 in 2010 to 53,391 in 2018. This growth has largely been fueled by students and adults 65 years and older. Of the 5,985-person increase from 2010 to 2018, increased student enrollments accounted for 2,224 additional residents, representing 37% of overall population growth...Students represent 43% of the population in Harrisonburg with off-campus students comprising 30% of the population. Off-campus students are a significant portion of the population across all neighborhoods and market types.*³⁶

*The majority of post-secondary students in Harrisonburg come from high income backgrounds. According to FAFSA data, compiled since 2010, 92% of JMU and EMU students were claimed as dependents by their parents with many likely receiving rental support from their families...61% of students come from families with incomes above \$75,000.00.*³⁷

Turning to the job market, the report found that between 2010 and 2019, the City lost relatively high paying jobs and gained a substantial number of low-wage jobs.³⁸ The report concludes that *because growing industries are largely in low-wage industries, Harrisonburg will need additional affordable housing to meet the needs of future workers.*³⁹ The report also states that “since 2010,

³³ Ibid

³⁴ Ibid

³⁵ Ibid page 8

³⁶ Ibid page 43

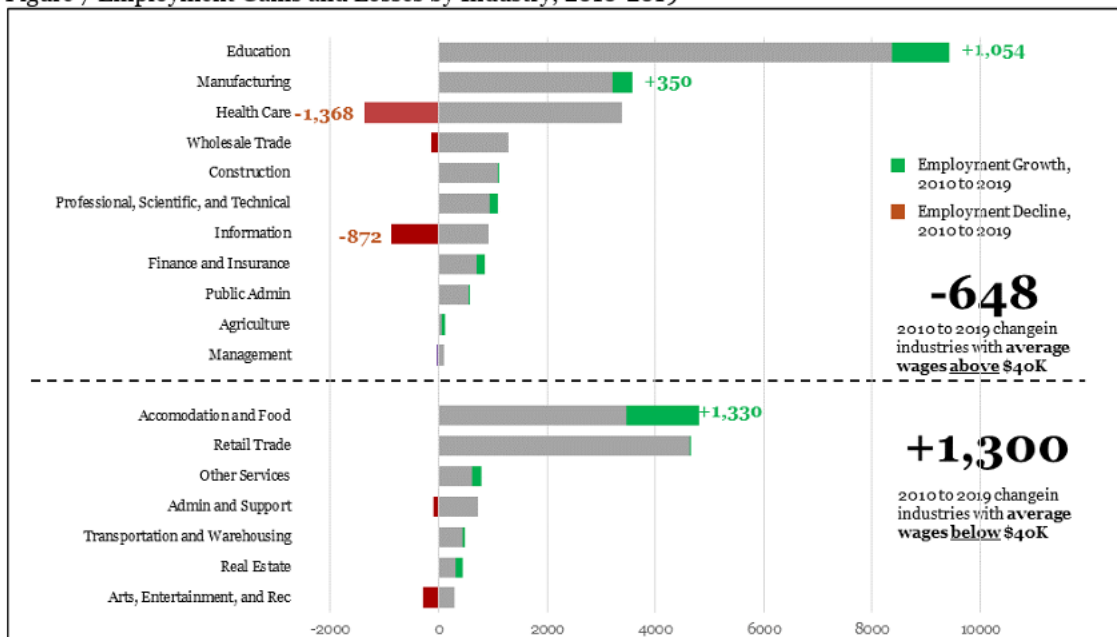
³⁷ The Housing Study, page 44

³⁸ Ibid, page, 47

³⁹ Ibid page 48

cost of living increases have outpaced average wage and household income gains in Harrisonburg.”⁴⁰

Figure 7 Employment Gains and Losses by Industry, 2010-2019



Source: Longitudinal Employer-Household Dynamics, 2010 to 2019

The chart⁴¹ above reflects that most of the gain in high income jobs occurred in education (1,054).

As to affordability and cost burden, The Housing Study cites Comprehensive Housing Affordable Strategy (CHAS) data, and states that over 60% of all rental units in Harrisonburg are affordable to households up to 80% of AMI.⁴² The report reveals that according to CHAS data, only 2% of rental units were vacant.⁴³ However, “because there are many more households with incomes above 80% AMI, but few units available for this income tier, these higher income households occupy rental units that cost less, thereby increasing competition among lower income households for the affordable units.”⁴⁴ *More specifically, there is a critical ‘housing mismatch’ where higher income households are residing in units that are more financially appropriate for lower income households. Without an adequate supply of units available for higher income households, they rent and buy ‘down market’ to meet their housing needs. This exerts greater pressure in a tight market with lower income households negatively impacted the most as they have less income and fewer housing choices. Compounding this trend is the significant additional demand that college students who live off campus exert on both the rental and sales markets.*⁴⁵

⁴⁰ The Housing Study, page 48

⁴¹ Ibid, page 47

⁴² Ibid, page 53

⁴³ Ibid, page 60

⁴⁴ Ibid, page 59

⁴⁵ Ibid, page 100

The analysis indicates that there is a need for 790 to 951 additional rental units in 2025 based on current vacancy rates and projected increases the number of rental households. However, there are 335 known rental units in the pipeline to be completed by 2025, bringing the number of needed units down to a range of 455 to 616.⁴⁶ However, from January 1, 2021, through December 31, 2024, the city issued only 212 new certificates of occupancy, of which only 62 were for multifamily units.⁴⁷

Finally, the Housing Study determined that there is public recognition of the need for more apartments, with survey responses revealing that this need is second only to the need for single family detached homes, with 50% of the population identifying apartments and approximately 55% choosing single family detached homes. Other unit types generated less support. (Respondents were able to make more than one choice in the survey.)⁴⁸

Information from the CSPDC Study

In summary, The CSPDC Study states “...the tight rental market may encourage buyers to make minimal investments and ‘flip’ previously owner-occupied homes for the purposes of renting. Simlutaneously, high demand for rental units with a limited supply can discourage long-term investments in rental properties because tenants must compete for properties (by accepting less quality for higher rent) rather than landlords competing for tenants with upgraded properties and good property maintenance. Indeed, focus group participants discussed deteriorating rental housing and especially instances of mold and poor maintenance. This tendency is likely to have the greatest impact on low- and moderate-income renters who compete less successfully for lower-cost units and may be displaced as landlords increase rents.”⁴⁹

To us, the foregoing data and information is a clear indication that there is significant “rent compression” in the city with much of it caused by students that live off campus. Finally, the report also identifies the need to reduce the costs of construction as that is part of the problem. “Given the increasing costs of development, focus group participants discussed strategies for reducing costs of building, including increased density and mixed uses as well as reductions in time spent in the regulatory processes, such as re-zonings and site plan approval”⁵⁰ This serves as a warning that regulatory costs, including proffers, must be kept at reasonable levels in order avoid creating the unintended consequence of increasing costs that can result in new development not being realized.

⁴⁶ Ibid, appendix, page 87

⁴⁷ Memorandum to City Council from Liz Webb, Housing Coordinator, and Adam Fletcher, Director of Community Development, “Residential Use-Approved Development Update,” March 25, 2025, City Council Meeting

⁴⁸ Ibid, appendix, page 128

⁴⁹ CSPDC Study, pages 90-91

⁵⁰ Ibid, page 98

Harrisonburg Affordability Root Cause Analysis

There is clearly a housing affordability problem in Harrisonburg. The purpose of this report is to inform Timberwolf and the City with data, information, and analysis to answer this question: To what extent will the Link project exacerbate or relieve the affordability problem? The answer to this informs us in our efforts to determine the impact of the project and the roughly proportionate mitigation in the form of a cash proffer. However, as is often the case, answering the question is not easy and cannot be done in a vacuum. As a result, we believe that conducting a brief Root Cause Analysis will be informative. Six Sigma Company describes the analysis as follows:

*Root Cause Analysis (RCA) refers to a set of approaches leveraged to uncover the underlying explanatory factors or root causes behind problems. Essentially, RCA provides a structured investigation process for identifying the true sources from which issues emerge in systems, products, workflows or outcomes. Whereas our instinct is often to address the most visible or proximate causes behind defects, errors or negative events, root cause analysis deliberately digs deeper.*⁵¹

This technique, developed decades ago, is widely used in the health care industry and other industries such as aerospace and manufacturing where it is important to dissect a complex problem in order to find the optimum solution. Thus, it can be used to search for the causes of problems in diverse situations such as the cause of unnecessary deaths in hospitals or why equipment keeps breaking in a manufacturing plant. The RCA involves the following steps:

1. Identify the problem.
2. Gather information and data.
3. List the possible causes.
4. Determine the dominant and secondary causes.
5. Evaluate possible solutions to address the primary cause and as many secondary causes as possible.

Although not referred to as A Root Cause Analysis, EconoFact used the process at the macro level examining the U.S. housing affordability problem in an article titled *Hitting Home: Housing Availability in the U.S.*⁵² EconoFact asks the key question. “What factors are making housing unaffordable, and can policies counter them? The company describes the problem as housing affordability declining across the entire rental spectrum but declining more acutely for renters who are becoming increasingly house burdened. After reviewing the data, they identify the causes as a mix of long-term and cyclical factors including, among others:

- More Americans aging in place, increasing the length of housing “tenure” combined with an increase in household formation by millennials.
- A long-standing lack of homebuilding in the years between 2008 and 2018, lower than any period since the 1960’s.

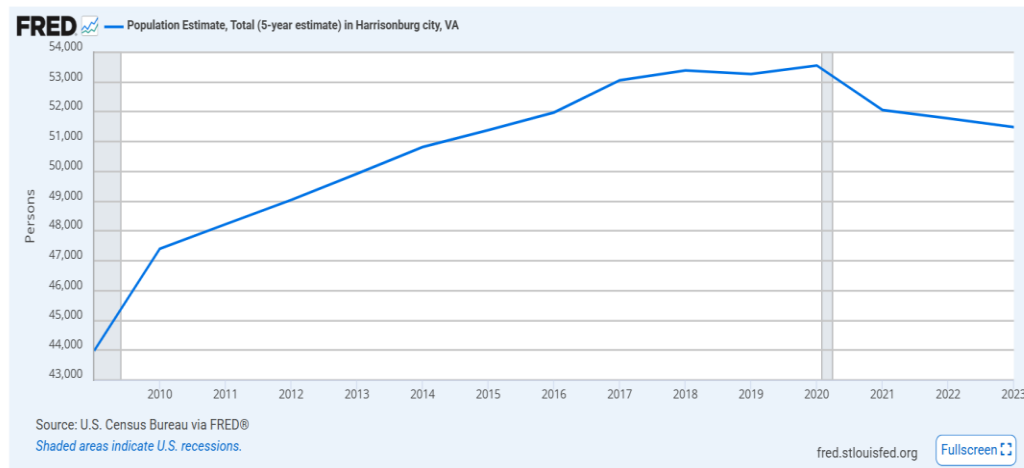
⁵¹ <https://www.6sigma.us/rca/how-to-do-root-cause-analysis/>

⁵² <https://econofact.org/hitting-home-housing-affordability-in-the-u-s>

- Zoning Regulations driven by “not in my backyard” opposition.
- High interest rates that cause people with mortgages to stay in their current homes.

Several of the above causes exist in Harrisonburg as evidenced below:

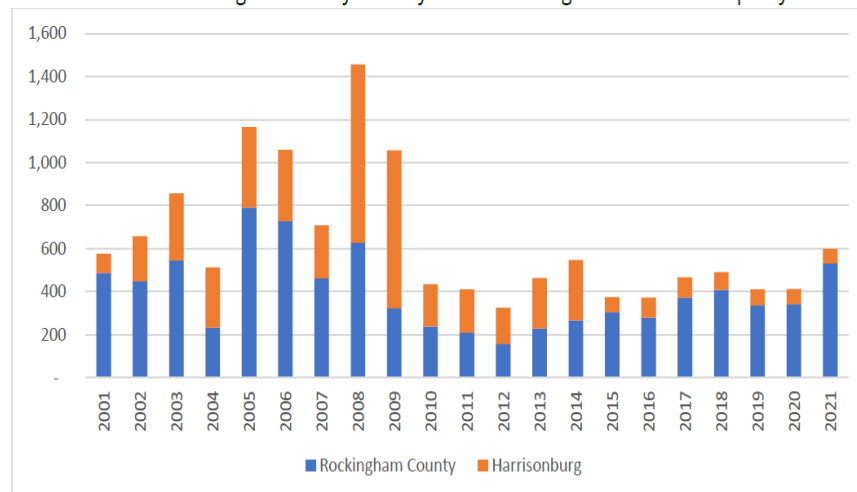
- Housing construction declined significantly while the population was increasing rapidly, particularly the student population. The data reveals the extent to which has happened in Harrisonburg where the population grew rapidly in prior years while new housing construction lagged behind surrounding jurisdictions.⁵³ The population growth is reflected in a graph from the Saint Louis Federal Reserve bank.⁵⁴



The slowdown in new housing production in the City is reflected in the following graph.

Units Created Annually

Source: 2001-2021 Rockingham County and City of Harrisonburg Certificate of Occupancy Data



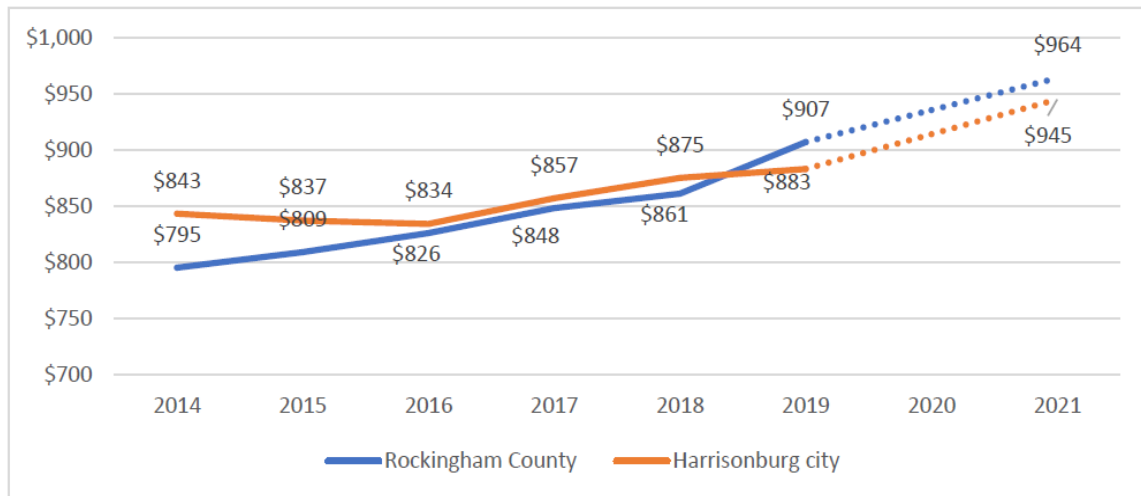
⁵³ CPSDC study, page 88, graph

⁵⁴ <https://fred.stlouisfed.org/series/B03002001e051660>

- The resulting impact on rents is obvious. (“Over the five years from 2016 to 2021 gross rents in the City have risen by approximately 13.3%.”⁵⁵ According to the CSPCD Study, “decreases in building in the MSA, particularly in the City of Harrisonburg, are followed by evidence of a tightening market...despite recent increases, building still must ‘catch up’ to demand.”⁵⁶ Later, the report states that this has led to an overall rental vacancy rate of 1.9%,⁵⁷ well below the normal ‘healthy’ range of approximately 5%.⁵⁸

Median Gross Rent

Source: VCHR Tabulation of 2015-2021 ACS 5-year, Not Adjusted



- Eighty percent⁵⁹ of the land in Harrisonburg is not planned for the construction of multifamily units even though we believe vertical development is the most efficient use of land for housing.
- Even though a very high percentage of the housing stock is affordable (61%), the rental housing market is tight due to a lack of new units at the top and bottom of the rental scale, putting tremendous pressure on rents at the lowest level.
- The employment market in the city is shifting as lower wage jobs increase in number while higher paying jobs are decreasing, placing even more pressure on demand for affordable units.

The reasons for the affordability problem are clear. But the existing impacts from these conditions are not due to the impact of the proposed Link project and cannot legally be mitigated by proffers related to its rezoning. There are solutions for the existing problem. The CSPD study proposes several steps the city can take to address its affordability problem by addressing the lack

⁵⁵ Ibid, page 89, graph

⁵⁶ Ibid, page 88

⁵⁷ Ibid, page 90

⁵⁸ <https://www.chase.com/personal/mortgage/education/finding-a-home/vacancy-rate.html>

⁵⁹ The Housing Study, page 17

of rental units at the bottom of the spectrum. We agree that this will help temper the problem at the lower end of the rental market. However, the proposed solutions will not address the rent compression problem at the top end of the market. We believe that while the study identified the “top end” problem, solutions were not suggested for this part of the problem by the study because top tier issues can realistically only be addressed by more units being built by the apartment building industry.

We now turn to the question of whether the conditions causing the problem continues to exist. As noted above, a review of the data points to a major cause of the current availability problem stemming from the population growing relatively rapidly with a significant percentage of that growth being students without a commensurate increase in new housing units.⁶⁰ We find that the data shows the historic growth pattern is changing. Both the census data and the Weldon Cooper center show a leveling off of growth starting in 2017 although the specific population numbers differ. This is because Weldon Cooper used its 2020 population estimate of 54,810 as a 2020 base rather than the Census Bureau estimate due to the fact that students had been sent home during the Covid pandemic, resulting in an undercount of the Harrisonburg population in the census data. With this adjustment Weldon Cooper estimates the population grew by 3.8% between 2020 and 2024, or an average of less than 1% per year.⁶¹ This appears to be a much slower rate than had previously been experienced.

While a significant portion of the City’s historical population growth was caused by JMU’s student population growth, it appears that is changing as well. For example, in 1964 enrollment was just over 2,000 students. In 1972, it was slightly more than 5,000 students. In 1987, enrollment passed 10,000. In 1997, enrollment passed 13,000. In 2001, enrollment exceeded 15,000.⁶² JMU’s Planning, Analytics and Institutional Research Department estimates that the total on campus headcount is 20,483 in 2025-2026.⁶³ Official projections approved by the State Council of Higher Education for Virginia (SCHEV) in 2023 shows students taking classes on campus declining from 20,673 in 2021-22 to 20,315 in 2028-2029.⁶⁴ Thus the approved projections are that, going forward, student enrollment will remain relatively stable

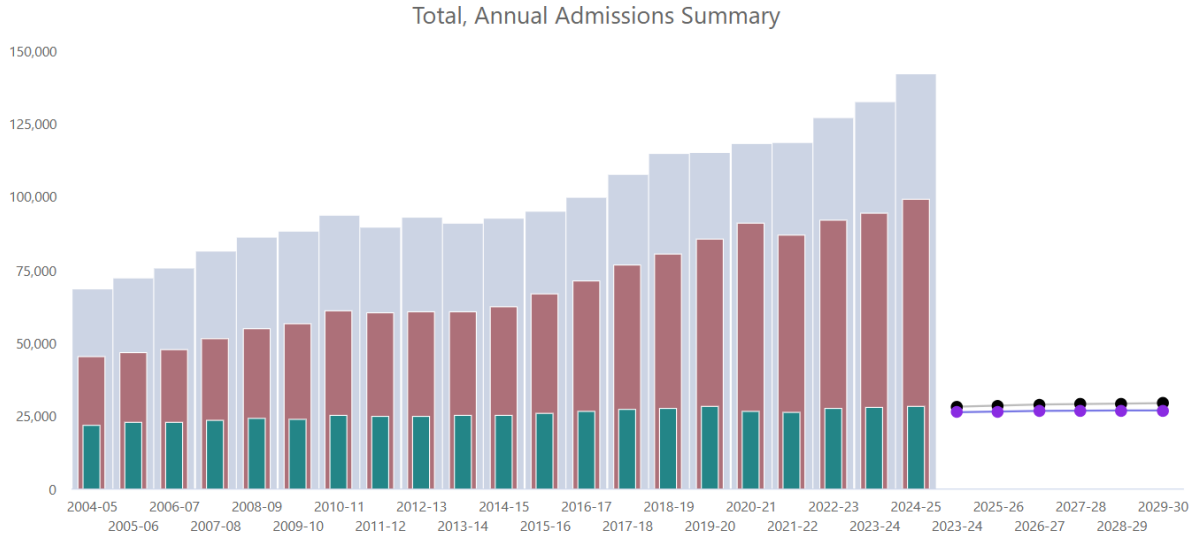
⁶⁰ Ibid, page 87

⁶¹ www.demographics.coopercenter.org, retrieved January 25, 2026

⁶² Centennial Celebration (1908-2008), JMU Historical Timeline, www.jmu.edu/centennialcelebration/timeline.shtml

⁶³ Official Enrollment Projections 2023-24 through 2028-29, JMU Planning, Analytics and Institutional Research

⁶⁴ Official Enrollment Projections 2023-2024 through 2028-2029, JMU Planning, Analytics and Institutional Research Approved by SCHEV, August 2023.



This conclusion is also reached in the James Madison University, Six-Year Plan, Part II, page 7 which states “Our 2023 enrollment projections indicated stable enrollment over the next six years.”

Based on all the above, we believe that the major cause for the affordability problem is the lack of high-end units and that the Link project will have a significant positive impact on the affordability problem. The CSPDC 2025 Study states “vacancy rates from both ACS data and CoStar data suggest that the region has a tightening rental market and that units should be added to keep up with demand. Adding more units beyond the ‘keep up’ level will give renters more options and encourage reinvestment in rental properties in order to compete for renters as well as discouraging the transition of owner-occupied single-family properties into investor-owned rental properties.”⁶⁵ This is particularly true since the population level is relatively stable and not likely to increase in the near future by additional student enrollment. That means that the project is more likely to serve existing residents, including college students, who are already creating a demand for low wage jobs. We believe that the project, based on the research we have cited, will help unfreeze the housing market by providing more supply at the top end, helping to initiate a migration chain that will help lower rents. However, with that said, we recognize that some portion of those renting units in the project may be residents that are new to the city and that may increase the overall demand for low wage jobs. But, overall, given the lack of aggressive growth, the demand effect of the project from new in -migrating residents will likely be less than the supply effect resulting from the migration chain triggered by the Project housing of existing residents.

This Root Cause Analysis informs our detailed review of the net impact of the Project and the appropriate level of mitigation by cash proffers.

⁶⁵ CSPDC Study, page 90

Application of the VPS Individualized Model to the Proposed Link Project

Population Projections for the Project:

The Project is proffered to provide up to 250 residential units with up to 555 bedrooms. However, the exact number of units and bedrooms depend upon the final structural and architectural plans. While the exact mix of units by bedroom size has not yet been determined at this point, Timberwolf currently estimates the following illustrative mix:

Type of Unit	% Units	# Units	% Bedrooms	# Bedrooms	Student %
1 BR/Studio	46.9%	112	20.7%	112	10%
2 BR	14.2%	34	12.6%	68	20%
3 BR	5.0%	12	6.7%	36	100%
4 BR	33.9%	81	60%	324	100%
Total	100%	239	100%	540	

The city's planning staff has concluded in its staff report that "staff believes that there is a high probability that college students would be interested in residing at this location."⁶⁶ This conclusion is based on the proximity to James Madison University, which is within easy walking distance from the Project, particularly since many students enjoy contributed income from other sources,⁶⁷ most likely their parents, allowing them to rent newer units. Staff also noted that 4-bedroom units are most likely to house students.⁶⁸ We agree with both of staff's conclusions and extend them to the 3-bedroom units based upon Timberwolf's estimates.

Type of Unit	# Units	# Occupants	Student %	# Students*	# Non-Students*
1 BR/Studio	112	112	10%	11	101
2 BR	34	68	20%	14	54
3 BR	12	36	100%	36	0
4 BR	81	324	100%	324	0
	239	540		385	155

**Numbers of occupants have been rounded to a whole number.*

***Large apartments are particularly attractive to students because the rent can be divided among the occupants, while families with children are typically looking for housing in single-family or townhouse units that normally provide more outdoor space and amenities geared toward children.*

⁶⁶ Staff Report for the July 9, 2025, Planning Commission Meeting by Thanh Dang, Community Development

⁶⁷ CSPDC Study, page 79

⁶⁸ Staff Report for the Link Apartments to the Planning Commission dated July 9, 2025 by Thanh Dang, Community Development

Impact of Students

The data reveals that the University will not in the near future be a primary cause of population increase in Harrisonburg as it was in the past, but the student population will remain relatively stable per the official projections. Based on the aforesaid data, we conclude that the student population at the Project will not come from a net increase of students at JMU, but rather from the existing student population as it rotates in and out. This results in two subsequent conclusions: First, the supposition in the traditional nexus analysis relies on the assumption that there will be a net increase in the population for new residents that in turn require more low-income employees, exacerbating the affordability shortage. However, the Link Project presents a unique case because the student occupants will most likely come from the stable existing student base rather than from an increasing student population. As a result, we conclude that the underlying nexus premise is not applicable in this case. Second, since the units will be occupied by the existing student population that is currently creating a demand for low wage jobs, some of which are filled by the students themselves, there will be no additional low wage job demand generated by students. Rather, the Project will free up units that are currently occupied by students for occupancy by others, initiating a migration chain which should alleviate rent compression currently caused by students. Therefore, we find that it is unlikely that there will be a net detrimental impact from students residing at the Project on housing affordability in the City of Harrisonburg, and that it is likely there will be a positive impact. Under these circumstances and the applicable law as we understand it, a proffer for this segment of the Project's residents would not be appropriate.

Non-Student Residents:

While the City experienced a significant rate of growth for several years, as discussed above, that trend is not continuing. Based on information from the Weldon Cooper Center, net migration into the city between 2020 and 2024 equaled 1,090 people, or an average of 273 people per year. Thus, inward migration accounted for less than 1% of the population growth.⁶⁹

As a result, while the City is experiencing job growth,⁷⁰ the migration into the City is relatively low. This data, together with current economic conditions and the recent drop in foreign immigration leads us to conclude that the City population is likely to remain relatively stable in the near future. Thus, it is our opinion that the Project will be primarily populated by existing residents. This is especially true given the significant number of residents who are currently “buying down” housing due to a lack of rental units at the top of the housing continuum.

It is likely that approximately one third of the 155 non-student residents will be new residents to the city, while the remaining two thirds will be existing residents that “move up” to

⁶⁹ July 1, 2024, Components of Population Change for Virginia and Its Counties and Cities published, January 27, 2025, *University of Virginia Weldon Cooper Center for Public Service, Demographics Research Group (2025)*. Retrieved from <https://demographics.coopercenter.org>

⁷⁰ According to Brian Shull, Executive Director of Economic Development for Harrisonburg, in an article published by WHSV.com on April 29, 2025, “Harrisonburg Is Enjoying an ‘all-time’ high of 25,000 works in the city.”

the new multi-family units. In the seminal study conducted by Evan Mast of the Effects of the Migration Chain Resulting from New Residential Development, he reports that, on average, 67% of residents in new residential units come from the existing area while 33% are from external migration.⁷¹ Applying these percentages to the non-student population at The Link, we believe 33% of the non-student residents (51 people) could possibly be from external migration. These 51 residents could, if the population does increase, result in the need for additional goods and services beyond the demand that exists today and we turn to calculating that impact.

Occupants that spend more than 30% of their wages on housing and utility costs are deemed to be “housing burdened.” According to the CSPDC Study, the median rent in Harrisonburg is \$819.00 and utility costs are \$126.00 a month for a total of \$945 per month in housing expenses.⁷² That means that a salary of \$37,800.00 is necessary to support these expenses calculated as follows: $\$945 \times 12 = \$11,340.00$ annual rent/.30 = \$37,800.00.

Stacker, a content distribution platform, utilized data from the Bureau of Labor Statistics to compile a list of the 50 lowest paying jobs in Harrisonburg.⁷³ We selected those jobs where the total number of employees in the community exceeds 100 (since the impact of these types of jobs would be de minimis) but, having said that, we included jobs at that level that would typically be utilized by the residents of The Link such as hairdressers or manicurists. We excluded jobs such as meat packing because the residents of the Project are unlikely to require services from this sector.

⁷¹ See the UCLA Study referencing the Mast Report

⁷² CSPDC Study, page 90

⁷³ <https://stacker.com/stories/virginia/harrisonburg/lowest-paying-jobs-harrisonburg>

Impact of New Non-Student Residents in The Link Project on Low Wage Jobs

Job A	# Employees B	Workers per Capita C	*New Demand D	Annual Wages E	Wage Shortfall F	Total Shortfall from \$37,800 Attributable to New Demand G
Waiter/Waitress	1,270	0.022	1.139	\$36,970	\$830	\$945.15
Customer Service	690	0.012	0.619	\$36,440	\$1,360	\$841.41
Restaurant Cook	790	0.014	0.708	\$36,170	\$1,630	\$1,154.60
Manicurist	70	0.001	0.063	\$35,940	\$1,860	\$116.74
Vehicle Cleaner	130	0.002	0.117	\$34,900	\$2,900	\$338.03
Exercise Trainer	140	0.002	0.126	\$33,630	\$4,170	\$523.46
Hairdresser	90	0.002	0.081	\$32,730	\$5,070	\$409.14
Dishwasher	260	0.005	0.233	\$30,510	\$7,290	\$1,699.49
Food Prep	200	0.004	0.179	\$30,490	\$7,310	\$1,310.89
Retail Sales	1,840	0.032	1.650	\$30,210	\$7,590	\$12,522.12
Animal Caretaker	110	0.002	0.099	\$29,310	\$8,490	\$837.37
Cashier	1,480	0.026	1.327	\$28,820	\$8,980	\$11,916.71
Fast Food Cook	270	0.005	0.242	\$28,420	\$9,380	\$2,270.83
Total						\$34,885.94

**New demand = workers per capita x projected new residents (51)*

- Column A represents selected low wage jobs in Harrisonburg.
- Column B represents the total number of employees in the city of Harrisonburg for each job according to the Stacker Report titled “Lowest Paying Jobs in Harrisonburg.”
- Column C represents the number of workers divided by the population of the city (56,879), according to City of Harrisonburg Department of Economic Development.
- Column D was derived by multiplying the total number of non-student residents (155) by .33 (=51) representing the net increase from external inward migration, non-student residents.
- Column E is sourced from the U.S. Bureau of Labor Statistics.
- Column F represents the difference between the wage necessary to support a median-rate rental unit and the salary for each job
- Column G represents the cumulative shortfall due to new non-student residents

Reductions in the Impact of the Project Due to the Migration Chain, Relief of Rent Compression, and Filtering

While the table above reflects the gross impact of residents on the Project for one year as \$34,886.00, that number does not take into consideration the positive impact that the Link Project has on affordability due to the migration chain, relief of rent compression and filtering referred to previously. According to the Mast Study, that reduction will occur over five years as residents move into the Link Project and free up units that are occupied at a lower cost. In addition to the positive impacts the new building will have due to the migration chain, Mast and other researchers concluded that overall rents in nearby units decrease. We believe this is due to the easing of rent compression as residents who have chosen the opportunity to live in new units reduce the demand on nearby existing units.

Failure to account for these positive attributes would result in an overstating of the net impacts the new building will have on affordability and therefore the roughly proportionate share potentially attributable to the Project. We have chosen to reflect the positive impacts of the migration chain by reducing the income deficits over the course of five years, representing both the affordability provided by the migration chain and the easing of rent compression. As a result, we propose that a reasonable proffer can be calculated by reducing the amount of the annual mitigation pro rata for each year during which the five-year mitigation chain and the reduction in rent compression occur. This leads to the following calculation:

Cumulative Adverse Impact Reduced by Offsetting Benefits of New Construction

Years	Mitigation Amount
First	\$27,885.00*
Second	\$22,308.00
Third	\$17,846.00
Fourth	\$14,277.00
Fifth	\$11,422.00
Total	\$93,738.00

**The initial impact is \$34,886.00. In the first year, based on a five year migration chain, the migration chain will result in a reduction of \$7,001.00 resulting in a net impact of \$27,885.00.*

As a result, in our opinion, the maximum reasonable proffer is \$93,738.00.

We now turn to the bottom potential range of a proffer in this case. This number is driven by two factors; one based on causation theory and the second by Harrisonburg data. As noted above, a key consideration in the enforceability of a proffer is the causation which is often described as a nexus. This springs from the Fifth Amendment jurisprudence under Federal Law and Article I of the Virginia Constitution. These limitations mean that a developer should only bear the burden of mitigating the harm its project causes. For example, a developer who seeks to damage wetlands can be required to mitigate this damage by paying for the creation of new wetlands but not for damage to wetlands caused by others. However, as stated previously, the causation for the lack of affordable housing may not be the construction of new housing, as

suggested by the traditional nexus theory. As the Plaintiff in the *Yu* case argued, it appears that new housing may not be the true cause of inward migration in specific situations. The fact that the *Yu* case was settled indicates that its allegation that new housing is not detrimental in any way to affordable housing must be taken seriously. We expect that there will be further challenges to ADU exactions based on the theories used in the *Yu* case, particularly since the attorneys for Mr. Yu are based in Virginia.

In addition, we noticed an anomaly in the Harrisonburg data. Employment in the city hit an all-time high while the population was growing slowly. We believe the explanation for this is that as workers move to the area for jobs in Harrisonburg, they choose to live in other jurisdictions. Data from the CSPDC Study shows that large numbers of employees commute into the city every day: 38% of the workforce in Harrisonburg lives in Rockingham County and 7% commute from Augusta County, representing inward commuting of 45%⁷⁴ of the City's workforce. What this all means is that there is a possibility that the existing trends—employment in Harrisonburg with residents living elsewhere—will not produce or will severely limit the number of new residents coming to the city, further weakening the key underpinning of the traditional nexus theory. This does not mean that new residential projects will be unsuccessful, particularly given the low vacancy rates but rather the new units will house existing residents, which does not justify a proffer.

Finally, we consider the possibility that our assumptions and projections could be wrong in light of the fact that there are several multi-family projects in the approval pipeline. However, only four of these are under construction, and one of the other projects in the pipeline has an expired special use permit. As explained by the City's Housing Coordinator, Liz Webb, in her March 25, 2025, memorandum to the City Council, "Use approval is not a guarantee of development. Some use approved projects have been completed, some are in construction, and others exist only on paper."⁷⁵ In addition, the Links Project is ideally located to house JMU students who are a major cause of rent compression. As a result, it is our opinion that the Links Project is highly likely to set off a significant migration chain that will help relieve the current pressures on rents by providing additional housing in close proximity to the University. Even if other projects are in the process of approval or construction, having sufficient future capacity in the form of approved projects is, in our opinion, healthy because it allows the marketplace to respond to demand more quickly, preventing the City from experiencing exaggeration of the current shortage or from developing a future shortage of housing. Logic dictates this is important to any city that is seeking a balanced housing stock with a healthy vacancy rate while also recognizing that land use decisions must be made on conditions that exist as of the time of approval as noted in section 15.2-2303.4 of the Code of Virginia which speaks to capacity as of the date of the rezoning.

⁷⁴ CSPDC Study, Page 95

⁷⁵ Memorandum for the March 25, 2025, City Council Meeting, "Residential Use-Approved Development Update," from Liz Webb, Housing Coordinator and Adam Fletcher, Director of Community Development.

Conclusion

Based on our understanding of the applicable law, the research we have referred to and the facts and data specific to Harrisonburg, it is our opinion as analysts that the range of a possible affordability proffer for The Link Project in Harrisonburg based on current conditions ranges from a low of \$0 (in light of the *Cupp* and *Yu* cases) up to \$93,738.00 based on our calculations. However, as the law specifically states, the decision as to whether to offer a proffer in this case, and if so, in what amount, is to be determined solely by the applicant.