



CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

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November 4, 2024

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

SUBJECT: Consider a request from Waterman Investments, LLC to amend Zoning Ordinance to modify regulations associated with minimum principal building setbacks for townhomes within the R-8 district

EXTRACT FROM THE DRAFT MINUTES OF HARRISONBURG PLANNING COMMISSION MEETING HELD ON: October 9, 2024

Chair Finnegan read the request and asked staff to review.

Ms. Dang said the proposed Zoning Ordinance (ZO) amendments are associated with a special use permit application for the development known as Quarry Heights. The information contained in this report is only related to the ZO amendments. All information regarding the rezoning for Quarry Heights is addressed in a separate staff report.

On June 25, 2019, City Council approved the creation of the R-8, Small Lot Residential District. In this district the by right residential uses include single-family detached dwellings and duplex dwellings. Townhomes of not more than eight units are allowed with an approved special use permit (SUP). The R-8 district also includes the ability for property owners to request a SUP to allow single-family detached and duplex dwellings to have a reduced side yard setback to zero feet when sprinklers or fire rated walls are installed. The staff memorandum and details for when the R-8 district was created in 2019 are available at the following link: <https://harrisonburg-va.legistar.com/LegislationDetail.aspx?ID=3974286&GUID=4119C092-94F2-4162-95A5-8040DC7898EE&Options=&Search=>.

The applicant is requesting to amend sections of the Zoning Ordinance (ZO) to allow townhomes in the R-8 district to have reduced side yard setbacks with an approved special use permit (SUP). The applicant proposes the following amendment to Section 10-3-59.4 (11):

Reduced required side yard setbacks to zero (0) feet where such buildings are single-family detached, or duplex dwellings, or townhomes when National Fire Protection Association (NFPA) 13, 13R, or 13D fire sprinkler systems are installed in such buildings or exterior wall(s) adjacent

to reduced side yard setback is constructed without openings and has a minimum 1-hour fire resistance rating in accordance with testing standards described in the Virginia Residential Code.

While finalizing the staff report, staff believed additional amendments should be made to the text. Staff recommends the following amendments, which do not cause substantive change to what the applicant is requesting:

Reduced required side yard setbacks to zero (0) feet where such buildings are single-family detached dwellings, or duplex dwellings, or townhomes when National Fire Protection Association (NFPA) 13, 13R, or 13D fire sprinkler systems are installed in such buildings or exterior wall(s) adjacent to reduced side yard setback is constructed without openings and has a minimum 1-hour fire resistance rating in accordance with testing standards described in the Virginia Residential Code.

Staff has discussed this with the applicant, and the applicant agrees with staff's recommended changes.

This amendment would allow property owners and developers to request approval of a SUP to allow townhomes to have reduced side yard setbacks up to zero feet by agreeing to install sprinkler systems within each dwelling, or to install 1-hour fire resistance rated exterior walls with no openings (including, but not limited to windows) adjacent to the side yard setback that is less than the by right minimum requirements.

The ZO has additional setback requirements associated with townhomes that is regulated within Article T. Modifications and Adjustments, thus, to allow for proper implementation of the side yard setback flexibility in the R-8 district, additional amendments are needed within Article T. The applicant is proposing to modify Sections 10-3-113 (1) and (2) as shown below:

1. Each townhouse group of more than four (4) attached units shall have a minimum side yard setback of fifteen (15) feet for each end unit. Groups of four (4) or less attached units shall comply with minimum side yard setback regulations for end units as otherwise required for the zoning district in which they are built; except in the R-8, Small Lot Residential District the minimum side yard setback may be reduced when there is an approved special use permit per Section 10-3-59.4 (11).
2. End lots created by the planning of end units for a group of more than four (4) attached units, but end lots that are not considered corner lots, shall be planned to ensure a minimum separation of thirty (30) feet between the townhouse group and all other buildings on adjoining lots; except in the R-8, Small Lot Residential District the minimum separation between the townhouse group and other buildings on adjoining lots may be reduced when there is an approved special use permit per Section 10-3-59.4 (11).

Staff does not have concerns with allowing townhomes in the R-8 district to have reduced setbacks when sprinkler systems or fire rated walls are installed to the parameters described in Section 10-3-59.4 (11). Staff recommends approval of the ZO amendments.

Chair Finnegan asked if there any questions for staff.

Vice Mayor Dent said not exactly a question, just a better understanding. At first, I saw this and thought what a bummer not to be able to have windows on the end lots; but you said they can either do the sprinklers or a wall without windows and fire rating and such. It is up to the developer which they want to do.

Ms. Dang said that is right.

Chair Finnegan said if you look at a lot of the duplexes and townhomes actually do not have any side windows.

Vice Mayor Dent said I think that would be one of the appeals of an end lot, but I do not know.

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

Todd Rhea, applicant's representative, came forward to speak to the request. He said this is one of those quirks in the Zoning Ordinance that had some inconsistencies as we were studying the Quarry Heights project. It allows some benefits in order to cluster townhomes to create more open space and there really was not much objective reason to treat a townhome differently than a duplex or a single family home. It is still walls between two structures. We consulted with the public safety officials just to make sure they did not have concerns, they were comfortable with the fire rating and sprinkler language. Again, this just brings townhomes into line with other types of structures and it still required a special use permit and City control over those requests.

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

Panayotis Giannakouros, a city resident, called in to speak to the request. He said this applicant should not be allowed to jump the queue in our Zoning [Ordinance] rewrite process. This should be subjected to full public input that will be hopefully conducted for the Zoning [Ordinance] rewrite. This application is to facilitate a very large project coming up and we should keep that in mind that project is going to be a problem. Before hearing the presentation, potentially a bigger ecological hit to the City...

Chair Finnegan said if you have questions or comments about specifically the Zoning Ordinance [amendment], we will get to items 3.e. through 3.i.

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

Vice Chair Byrd said in concern to this Zoning Ordinance amendment, it is simply adding townhouses and then because their presence the special use permit request which means any time there are going to be townhouses we are going to have to see it again. Announce to the public to put their input in anytime anywhere in the City that the R-8 has... just like we had earlier it was a

corner lot so it was like oh I am going to do a townhouse there, no. Not only because they specifically stated it will [unintelligible] one unit because they did not have that and we had approved it for some strange reason and we changed it to this. To enable them to have townhouses, they would still have to come back and go I want to have a townhouse publicly I have an opportunity to comment on that. Therefore, because of that addition I find it acceptable, and I would be favor of it.

Chair Finnegan said Zoning Ordinance amendments come up on this body all the time frequently requested by staff, requested by applicants, that is not uncommon.

Vice Chair Byrd said I would like to make a motion to approve the [Zoning] Ordinance amendment request.

Vice Mayor Dent seconded the motion.

Chair Finnegan said I am in favor of reducing setbacks whenever possible to make better use of the land. Particularly for residential buildings like townhomes when you are trying to make use of limited land we know that we need...so much of the Zoning Ordinance has setback requirements that push houses further apart and make sure the lot sizes are bigger. I would generally in favor of reducing lot size requirements and setbacks. Particularly when the concerns of the Fire Department were addressed through fire walls and sprinklers.

Commissioner Baugh said my support for that maybe is not as absolute as yours, I think it is an important factor. This is really more of a tweak to deal with a real world circumstance which is something we do all the time.

Chair Finnegan called for a roll call vote.

Commissioner Nardi	Aye
Commissioner Baugh	Aye
Vice Chair Byrd	Aye
Vice Mayor Dent	Aye
Commissioner Alsindi	Aye
Commissioner Washington	Aye
Chair Finnegan	Aye

The motion to recommend approval of the Zoning Ordinance amendment request passed (7-0). The recommendation will move forward to City Council on November 26, 2024.