



# CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

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August 11, 2023

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

**SUBJECT:**

*Consider a request from Christophel Properties LLC and Abigail J. Christophel to rezone two parcels at 853 and 853-A Hillside Avenue*

*Consider a request from Christophel Properties LLC and Abigail J. Christophel for a special use permit to allow multiple-family dwellings at 853 and 853-A Hillside Avenue*

**EXTRACT FROM MINUTES OF HARRISONBURG PLANNING COMMISSION  
MEETING HELD ON: July 20, 2023**

Chair Finnegan read the request and asked staff to review.

Ms. Rupkey said the applicants, Christophel Properties LLC and Abigail J. Christophel, are requesting to rezone a +/- 14,495-square foot property from R-2, Residential District to R-3C, Medium Density Residential District Conditional. Additionally, the applicants are requesting a special use permit (SUP) per Section 10-3-48.4 (6) to allow multiple-family dwellings of up to twelve (12) units per building under conditions set forth in subsection 10-3-48.6 (e).

The applicants are aware that if the requests are approved, to create any additional dwelling unit they would be required to complete a minor subdivision to vacate the internal property line to achieve the necessary lot area to meet zoning requirements. They must also obtain proper building and sub-trade permits.

*Proffers*

The applicant has offered the following proffers (written verbatim):

1. The property shall only be used for residential dwellings, except that any allowed special use permits shall be permitted as approved by City Council.
2. Dwelling units may be occupied by a single family or no more than three (3) unrelated persons.
3. Dwelling units shall provide 1.5 parking spaces per unit.

For proffer number one, rezoning to R-3 would create the opportunity to have by right abilities for non-residential uses, including but not limited to, hospitals, convalescent or nursing homes, funeral homes, medical offices, professional offices, and charitable or benevolent institutions. The submitted proffer eliminates the non-residential uses that would be permitted by right. As proffered, any approved SUP would still be allowed. Regarding the second and third proffers, the R-3 district allows dwellings to be occupied by a family or not more than four persons. Proffer #2 reduces the allowable occupancy of dwelling units to either a family or not more than three persons. With this proffer, because the minimum off-street parking requirements of Section 10-3-25 (7) allows for reduced parking when occupancy is restricted, to be in compliance with the ZO for a multiple-family use, only one parking space per unit is required. However, with proffer #3, the applicant has proffered they will provide 1.5 parking spaces per dwelling unit. The applicant is proposing to provide four units and would be required to provide six off-street parking spaces. The applicant did not proffer a maximum number of dwelling units because the R-3 district's requirement of 3,000 square feet of lot area for each multiple-family dwelling unit would limit the property to a maximum of 4 dwelling units, which is what the applicant plans to provide.

#### *Land Use*

The Comprehensive Plan designates this site as Neighborhood Residential and states:

These areas are typically older residential neighborhoods, which contain a mixture of densities and a mixture of housing types, but should have more single-family detached homes than other types of housing. This type of land use highlights those neighborhoods in which existing conditions dictate the need for careful consideration of the types and densities of future residential development. Infill development and redevelopment must be designed so as to be compatible with the desired character of the neighborhood.

Staff believes that this proposal conforms with the Comprehensive Plan and would not cause any major adverse effects to the surrounding neighborhood as the neighborhood currently has a mix of different housing types. Currently, the site contains a side by side, subdivided duplex, where each unit has two bedrooms on the first floor and one bedroom on the second floor. The applicant proposes to create two additional dwelling units by vacating the internal lot line and separating the top and bottom floors in each unit, which would establish two, two-bedroom units on the first floor of the structure and two, one-bedroom units on the top floor of the building, which essentially adds one unit to each existing unit. The applicant does not plan to create any additional bedrooms.

As part of the requirements for obtaining a SUP for multiple-family development in the R-3, Medium Density Residential District, an applicant must substantiate that they have met several conditions to justify the development. Those conditions outlined in Section 10-3-48.6 (e) of the ZO consist of the following:

1. Existing multiple-family development, or land planned for multiple-family development according to the Land Use Guide, is located adjacent to, across the street from, or in close proximity to the proposed development;
2. The applicant has demonstrated that adequate vehicular, transit, pedestrian and bicycle facilities:
  - currently serve the site; or

- are planned to serve the site according to a city or state plan with reasonable expectation of construction within the timeframe of the need created by the development; or
  - will be provided by the applicant at the time of development; or
  - are not needed because of the circumstances of the proposal.
3. The applicant has demonstrated that the proposed multiple-family development's design is compatible with adjacent existing and planned single-family, duplex and townhouse development. Compatibility may be achieved through architectural design, site planning, landscaping and/or other measures that ensure that views from adjacent single-family, duplex and townhouse development and public streets are not dominated by large buildings, mechanical/electrical and utility equipment, service/refuse functions and parking lots or garages.
4. The applicant has shown that the site is environmentally suitable for multiple-family development. There shall be adequate area within the site, or the development shall be designed, to accommodate buildings, roads and parking areas with minimal impact on steep slopes and floodplains.

The applicant has described in their letter how they believe the four conditions are met.

Staff believes condition number one outlined in Section 10-3-48.6 (e) is met because there are existing multiple-family structures near the proposed development.

Regarding condition number two, staff would typically expect for the applicant to construct street frontage improvements of curb, gutter, sidewalk, and any other necessary improvements at the time of development to meet the condition of adequate pedestrian facilities. However, the applicant proposes only to convert the current duplex in to four units within an existing structure and will not be disturbing more property, which brings into question whether the circumstances of the proposal negate the need for such improvements to be made as is allowed in the last bullet of condition number two. In this particular situation, staff believes the circumstances of the proposal do not warrant such improvements.

Regarding condition number three, as proposed, and with staff's recommended condition that the SUP is only applicable to the existing building, we believe the condition is met.

Lastly, regarding condition number four, the proposed conversion of the two current units into four units will not impact the physical environment as the work will be limited to the interior of a building. Additionally, the property does not require additional parking areas to meet off-street parking requirements, the spaces will however need to be delineated.

#### *Transportation and Traffic*

A traffic impact analysis (TIA) was not required for the rezoning and SUP applications. Staff does not have any concerns related to traffic to and from this site.

#### *Public Water and Sanitary Sewer*

Staff has no concerns regarding water and sanitary sewer service availability for the proposed development.

### *Housing Study*

The City's Comprehensive Housing Assessment and Market Study (Housing Study) places the subject site within Market Type A. Among other things, this Market Type is characterized by high population growth. The study notes that Market Type A has "above median overall access to amenities such as public transit within walking distance, full-service grocery stores, and multiple parks and recreation facilities." The study also notes that "policies that are appropriate to Market type A areas include an emphasis on increasing density through zoning changes, infill development and housing rehabilitation to maintain the quality of housing."

### *Public Schools*

The student generation attributed to the proposed two new residential units is estimated to be one student. Based on the School Board's current adopted attendance boundaries, Bluestone Elementary School, Thomas Harrison 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.

### *Recommendation*

Staff is recommending approval of both rezoning and special use permit. Staff recommends the following condition be attached to the SUP:

1. The SUP shall be limited to the existing structure with no more than four multiple family dwelling units. (Note: Small additions to the existing structure for housing improvements may be allowed at the discretion of the Zoning Administrator.)

Chair Finnegan asked if there any questions for staff.

Commissioner Washington said could you just clarify for me the "vacate the internal property line"?

Ms. Rupkey said there is a property line that goes through the middle of the property. For apartments they would be required to remove the property line for us [zoning] and building code.

Ms. Dang said in doing so they would go through what we call a minor subdivision process. An application that would be dropped off in our office and reviewed by our staff. It is relatively straight forward.

Ms. Fletcher said is your question why they have to do it?

Commissioner Washington said I mean sure. I just wanted to make sure that visually I knew.

Mr. Fletcher said it has to do with lot area and how the structures...I guess basically you currently have a duplex property line through the middle, you have to vacate the property line to account for all of the lot area to the three units. One lot is bigger than the other. You cannot create two units on one parcel in that zoning district. Does that make sense?

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

Abigail J. Christophel, the applicant, came forward to speak to this request. She said thank you for your time and consideration. I do not have a whole lot to say. We are not going to be expanding or changing the number of bedrooms. As it has already been mentioned, we are limiting it to three people per unit or a family of three and increasing the required number of parking spaces.

Chair Finnegan asked if there were any questions for the applicant. Hearing none, he closed the public hearing and opened the matter for discussion.

Chair Finnegan said it is not often that we get requests...this is kind of unlikely that we are getting two requests tonight for things that do not expand the footprint of the building. We are adding density without expanding the footprint.

Vice Chair Byrd said because of that I see no issue with the proffers. I also see no issue with what staff is suggesting for the special use permit to be added as a condition. I will give others a chance, but I would be in favor of the rezoning and the special use permit.

Chair Finnegan said this will be two separate motions and two separate votes. Any other thoughts on this request? After going to the site tour, the road is aptly named. It is on a hillside.

Vice Chair Byrd said in light of that comment, I would like to make a motion to approve the rezoning.

Commissioner Baugh seconded the motion.

Commissioner Baugh continued I will just add that historically I have been skeptical of some similar type of proposals over the years. It is usually because the ones I have voted against are the ones that I felt were more just blatant attempts to increase density. The property owner would just like to increase density. It does not necessarily fit with the planning or what is going on. The concern that I think has been worn out over the years is that you do not have to say yes to too many of those and you will expect to see a whole lot more. This one just seems to make sense. I think particularly when you actually go to the location and look at the building, I am guessing that it would be pretty low impact with the neighborhood. Neighbors would never know any difference between what is there or not, and it allows for a more efficient use of the space given the type of building that is already there.

Chair Finnegan said just as a footnote onto what you are saying there about historically, this part of the City as it was annexed, there is no curb or no gutter there, and there are a lot of nonconforming basement apartment housing there in that neighborhood because of the way it was annexed. Any other discussion before we do roll call?

Chair Finnegan called for a roll call vote.

Commissioner Baugh	Aye
Vice Chair Byrd	Aye
Commissioner Alsindi	Aye

Commissioner Washington    Aye  
Chair Finnegan                Aye

The motion to recommend approval of the rezoning passed (5-0).

Vice Chair Byrd said I would like to make a motion to approve the special use permit with the condition.

Commissioner Baugh seconded the motion.

Commissioner Baugh         Aye  
Vice Chair Byrd                Aye  
Commissioner Alsindi        Aye  
Commissioner Washington    Aye  
Chair Finnegan                Aye

The motion to recommend approval of the special use permit passed (5-0). The recommendations will move forward to City Council on August 22, 2023.