



City of Harrisonburg, Virginia
Department of Planning & Community Development

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Building Inspections
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August 3, 2018

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

SUBJECT: Public hearing to consider a request from Virginia Valley Homes, Inc. to rezone a 3.6 +/- acre portion of a 6.47 +/- acre parcel from R-3C, Multiple Dwelling Residential District Conditional to R-3, Medium Density Residential District. The parcel is located on West Mosby Road and Millwood Loop and is identified as tax map parcel 7-E-6. The parcel is currently split-zoned and if the request is approved, the parcel would remain split-zoned with portions zoned as R-3C, Medium Density Residential District Conditional, R-3C, Multiple Dwelling Residential District Conditional, and R-3, Multiple Dwelling Residential District.

**EXTRACT FROM MINUTES OF HARRISONBURG PLANNING COMMISSION MEETING
HELD ON: July 11, 2018**

Chair Way read the request and asked staff to review.

Ms. Dang said the Comprehensive Plan designates this area as Medium Density Residential. This designation states that these areas are designated in areas near major thoroughfares or commercial areas. Most of these areas have been developed or are approved for development of a variety of housing types such as single-family, duplex, and in special circumstances, apartments. Depending on the specific site characteristics, densities in these areas may range from 1 to 15 units per acre.

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

Site: Vacant land, zoned R-3C

North: Across West Mosby Road, undeveloped land, zoned B-2C

East: Portion of subject parcel containing multiple-family dwelling units, zoned R-3C and R-3

South: Multiple-family dwelling units, zoned R-3

West: Undeveloped land, zoned R-2 and R-3C

The applicant, Valley Virginia Homes, Inc., is requesting to rezone a 3.47 +/- acre portion of a 6.5 +/- acre parcel from R-3C, Multiple Dwelling Residential District Conditional to R-3C, Medium Density Residential District Conditional. The split-zoned parcel is located on West Mosby Road and contains a private street named Millwood Loop. In 2004, 4.6 +/- acres of this parcel was rezoned from R-2, Residential District to R-3C, Multiple Dwelling Residential District Conditional. At that time, the applicant proffered (written verbatim):

1. If rezoned to R-3 conditional, the subject property will be developed in substantial conformity to the existing property under development by contract purchaser lying directly east to the subject property along West Mosby Road for condominium units.
2. Applicant and purchaser further proffer that 4.6 acre +/- subject property will be developed for condominium units in no greater density than that shown in the "Preliminary Master Plan of

Millwood Condominium, Harrisonburg, Virginia”, dated August 18, 2004, and submitted by the contract purchaser in connection with the application.

The existing, regulating 2004 proffer letter and preliminary master plan are attached herein. The 2004 preliminary master plan illustrates a total of 61.5 units on the 4.6 +/- acre site. The half unit is explained by the split-zoning of the property and because a unit was shown on the preliminary master plan to be built directly through the zoning line. Currently, 15.5 units have been constructed on the 4.6 +/- acre site. The 4.6 +/- acre site has the remaining ability to construct up to 46 units on the site.

The applicant would like to remove existing, regulating proffers that control the development on the vacant area of the property and has submitted new proffers for the 3.47 +/- acre site so that they can build townhomes. The 2004 proffers stated that the units would be condominiums.

During staff’s review of this application, staff suggested that the applicant consider rezoning the entire 6.5 +/- acre parcel to R-3C, which would remove the split-zoning of the parcel. Staff has no opinion on the removal of the proffer related to the units being condominiums because the City does not regulate and does not get involved in the establishment or maintenance of condominiums. This is because the Zoning Ordinance makes no distinction between multiple family dwelling units (apartments) and condominiums. The applicant explained that rezoning the entire 6.5 +/- acre parcel would require the approval of a majority or possibly all owners that are part of the Millwood Condominium Unit Owners Association depending on the requirements of the owners association bylaws. However, the applicant, Virginia Valley Homes, Inc. is the sole owner of the 3.47 +/- acre site for which the rezoning is being requested. Approval of this rezoning request would result in the 6.5 +/- acre parcel being split-zoned with 1.9 +/- acres zoned as R-3, Multiple Dwelling Residential District, 1.13 +/- acres zoned as R-3C, Multiple Dwelling Residential District Conditional, and 3.47 +/- acres zoned as R-3C, Medium Density Residential District Conditional.

The applicant has submitted the following proffers for the 3.47 +/- acre site (written verbatim):

1. If rezoned to R-3, Medium Density Residential District, the 3.47 acre portion of the subject property will be developed in no greater density than 39 units, as shown on the “Rezoning Exhibit” dated June 29, 2018, and submitted in connection with the application.

The applicant is proffering to construct seven less units than the existing proffers allow.

The applicant understands that to build townhomes they will have to preliminarily plat the 3.47 +/- acre development and request variances from the subdivision regulations to allow many of the townhome lots to not have public street frontage. As part of the subdivision, the property will be required to meet the Subdivision Ordinance requirements to construct sidewalk along the West Mosby Road frontage for the entire parcel extending beyond the frontage of the 3.47 +/- acre site that will be developed.

The rezoning request conforms with the Land Use Guide and the applicant has offered assurances on the maximum number of dwelling units that can be constructed on the 3.47 +/- acre site. Therefore, staff recommends the rezoning request to R-3C, Medium Density Residential District Conditional as requested by the applicant.

Chair Way asked if there were any questions for staff. Hearing none, he opened the public hearing and asked if the applicant or their representative would like to speak in regard to this request.

Daniel Michael, Valley Engineering, said we believe it is straightforward. We are asking for less than what is allowed now and are here to answer any questions you all may have.

Chair Way asked if anyone had any questions for Mr. Michael. Hearing none, he asked if anyone else would like to speak in favor or against this request. Hearing none, he closed the public hearing and he asked Planning Commission for a motion on the request or for discussion.

Mrs. Fitzgerald moved to approve the rezoning of the Millwood Condominiums (R-3C, Multiple Dwelling Residential District Conditional to R-3C, Medium Density Residential Conditional) as presented by staff.

Mr. Finnegan seconded.

Chair Way said we have a motion and a second, any further discussion.

Mr. Baugh said the 2004 rezoning was the first contentious rezoning that I have ever had to deal with as Planning Commissioner, so I will always remember this one. It really ties in with some of those I have already talked about tonight. It was a rezoning from R-2 to R-3, we just adopted a Comprehensive Plan that said we kind of did not like those things and that our way out of it was going to be to increase its flexibility and do some things. This really was a classic of I own R-2 but is next to some R-3 that it already has some apartments on it, so I should be allowed to do this.

Of course, this was before we had R-5 or anything like this. It was while we were still in that template, people would say “why do we have these apartments that look the same,” because that was the maximum that everybody was allowed to build and this was back when we were first trying to address that and go a different direction. It was interesting because my recollection is that staff recommended against it, we clearly had some opposition, I believe it got tabled and then the applicant worked with staff and came up with what you got and I actually believe what got approved was with staff recommending in favor.

Chair Way called for a voice vote on the motion.

All voted in favor (7-0) to approve the rezoning of the Millwood Condominiums (R-3C, Multiple Dwelling Residential District Conditional to R-3C, Medium Density Residential Conditional) as presented by staff.

Chair Way said this item will move forward to City Council on August 14, 2018.

Respectfully Submitted,

Alison Banks

Alison Banks

Senior Planner