



# CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

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November 6, 2023

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

**SUBJECT: *Consider a request from Ruth Romero and Teodoro Perez to rezone 708 Northfield Court***

**EXTRACT FROM MINUTES OF HARRISONBURG PLANNING COMMISSION  
MEETING HELD ON: October 11, 2023**

Chair Finnegan read the request and asked staff to review.

Ms. Dang said the applicant is requesting to rezone a +/- 4,647 square foot parcel from R-4, Planned Unit Residential District to R-8C, Small Lot Residential District Conditional. The lot has a duplex dwelling unit and is addressed as 708 Northfield Court. The applicant is proposing to construct a 10-ft. by 13-ft. covered porch in the rear of the duplex dwelling unit. The Zoning Ordinance (ZO) requires covered porches to meet principal building setbacks. The R-4 district requires duplexes to have a 25-foot minimum rear yard setback, which the applicant's proposed covered porch would encroach into. The applicant is requesting approval to rezone the property to R-8, which requires a 15-foot minimum rear yard setback. Within the attached exhibit, the applicant illustrates the footprint of their existing building and the proposed covered porch. Know that in 2022, the applicant lawfully demolished a garage and constructed an addition to the dwelling.

### *Proffers*

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

1. More than one dwelling is prohibited.
2. The minimum front yard setback along Northfield Court shall be 30 feet.

The submitted layout is not proffered.

Regarding proffer #1, in the R-8 district, single-family detached homes and duplexes are allowed by right and given the lot area and dimensions of the property, theoretically, the existing duplex dwelling unit could be demolished and a new duplex structure (two dwelling units) could be constructed on the parcel. If the rezoning is approved, although the R-8 district dimensional regulations would allow the property to be further subdivided, since the applicant has proffered to prohibit more than one dwelling on the property, they would be restricted to having just one dwelling unit on the property.

Regarding proffer #2, the R-8 dimensional regulations allow for a 10-foot minimum front yard setback. The applicant has proffered that the front yard setback along Northfield Court shall be 30-feet, which is consistent with the R-4 district regulations.

#### *Land Use*

The Comprehensive Plan designates this site as Medium Density Residential and states:

These areas have been developed or are planned for development of a variety of housing types such as single-family detached, single-family attached (duplexes and townhomes), and in special circumstances, multi-family dwellings (apartments). Depending on the specific site characteristics, densities in these areas should be around 15 dwelling units per acre. Non-residential uses may also be appropriate.

With the submitted proffers, use and density confirms with the Medium Density Residential designation. Know also that the R-8 district's occupancy regulations are the same as the R-4 district's occupancy regulations. The occupancy regulations allow owner-occupied dwellings to be occupied by a family plus two individuals or a maximum of three individuals and nonowner-occupied dwellings can be occupied by a family plus one individual or a maximum of two individuals.

#### *Transportation and Traffic*

A traffic impact analysis (TIA) was not required for the rezoning request.

#### *Public Water and Sanitary Sewer*

Staff has no concerns with the requested rezoning regarding water and sewer matters.

#### *Housing Study*

Rezoning this property to R-8 will not impact housing because the property currently has one duplex dwelling unit, and the proffers restrict the property to having only one dwelling unit on the property.

#### *Public Schools*

Rezoning this property to R-8 with the submitted proffers will not change the estimated student generation for the property.

#### *Recommendation*

Staff recommends approval of the rezoning.

Vice Mayor Dent said I am a little confused, it is a duplex, but they are saying only one dwelling meaning in the duplex unit?

Ms. Dang said theoretically we could imagine that half of the building could be demolished and a new structure could be put into place that might have two dwelling units also subdividing. R-8 requires a subdivision so that each duplex unit...It would be a stretch, but it is a theoretical just to protect that there is only one dwelling unit here on this property.

Vice Mayor Dent said the property meaning one half of the duplex?

Ms. Dang said right, the duplex dwelling unit sits on its own parcel.

Chair Finnegan said there is one structure there but there are two dwelling units. Is the other half owned by someone else?

Ms. Dang said I believe it is owned by somebody else.

Vice Chair Byrd said the 25-foot setback is for R-4, have they usually considered that because it might be back to the side of the residence like these particular properties are? Because most properties, their rears are to each other.

Ms. Dang said they would still have the same 25-foot setback. If two R-4 properties backed up to each other, each of them would still have a 25-foot setback.

Chair Finnegan said 50 feet between the two structures.

Commissioner Baugh said R-4 is kind of a mess. R-4 was like the first stab at the planned unit type of thing. So, among other things like when that ordinance was written it was proto version of trying to think of more master development type of stuff and it never really worked and then there are sort odd spots of it here and there that have tended to develop not like that or at least a lot of them are like this, they are just another residential category of lots that just got different rules on them because they are R-4. Did I get that right?

Chair Finnegan opened the public hearing and invited the applicant or applicant's representative to speak to this request.

Ruth Romero and Teodoro Perez, the applicants, came forward regarding the request. Ms. Romero speaking through an interpreter said I have lived seven years at 708 Northfield Court. This year I have made an addition to my house. The purpose for that addition was that I had my two elderly parents that lived in a trailer. They were going to amputate the foot of my father. Since they did not have anybody to take care of them and in my house is my husband and my son. But I had a problem, in my house there was a free room but my problem was that my father could not go up the stairs. I told my mom "Mom, I am going to buy a big house that is a one level only" and my mom said "no, my daughter, because you are already old to buy another house." So, I had them living in the living room. I thought I would remove the garage and construct a mini apartment for them. The first floor has a bedroom and a small kitchen so they would be able to make food. My father passed in March, and I only have my mom. When I applied for the permit to construct the porch on the back, they gave me the permit to build in the back, not the front. I originally wanted it on the front of the house. They told me that I could build it, but in the back, up on the second floor. Now I want to build it on the first floor, where the door is, so that my mother can go out and there is the porch with a roof and all. When I am older, I also will live there because it is one story, and I can do like a cookout or something like that. I am a hardworking person and I like to live with the law with respect. That is why I ask for the permit because I want to live within the law, and I do not see any problem with it. I am conscious that I live in a country where there are rules and laws and I try to respect them. I would like to know if I can get that permit.

Bryan Nixon, a resident at 408 Glenfield Court, came forward to speak to the request. He said I am the President of the Northfield Estates homeowner's association. The association does not necessarily have an issue with this applicant, but we are concerned with the precedent it would set going forward. We see the possibility of other properties wanting to take advantage of this R-8 reclassification and we have concerns about fire protection and stormwater runoff if they were to add onto to their properties. I will also draw attention that parking is already an issue in the neighborhood, if the properties were to expand, we are concerned that we do not have room for parking, that is something to take into consideration. Another thing that I thought of is that the property backs up to the side of another house and would shrinking the setback negatively impact that backyard neighbor since the side setback is 10 feet, does that cause an issue with fire protection?

Chair Finnegan asked if anyone else would like to speak to the request. He also said before I close the public hearing do we have any last questions for the applicant. Hearing none, he closed the public hearing.

Vice Chair Byrd said earlier the reason why I was discussing the fact that generally the back setback and the house is facing the side, it just made me more mentally aware of when two houses are side by side what are the size of those setbacks and therefore what is that distance and are we making the distance smaller than that. Since we are not, I did not have an issue with that. That we are changing the back setback to a house that is facing the side of the property. I have seen a lot of these covered porches coming and as soon as someone wants to put a cover over their porch per our ordinance it changes the footprint of the building. In R-8 we are seeing the change of the footprint of the whole building but that does not change anything else about the building per say, it is still one residence. That is why I tend to be in favor of these, and also because in another body we have been sending them to us. One that I saw before that body, they had a homeowner's association so I can see that particular type of private body being concerned about this type of thing but I would inform them that people are likely going to want that if they are going to want covered porches and so you might want to check with the members that you have with the tendency of that. Therefore, make your rules accordingly regardless of what the City Council chooses to do on this particular application. I have said enough, and I will likely be voting in favor of this.

Chair Finnegan said even if Planning Commission and City Council says yes to this, there may be additional rules that the HOA has that we do not control and that is a civil matter. I did want to make sure that is clear to the applicant. We do not have influence on the rules of the HOA. I recall, I want to say it was the same neighborhood, a daycare application. I do not remember what the outcome of that was from City Council but even if City Council had said yes, if the HOA said no, they could not do it. It gets confusing but there are layers of authority that we do not have impact on. I would also be in favor of this. These keep coming up and this is something to keep in mind when we do the Zoning Ordinance revisions. How can we make rules that keep the spirit of the neighborhood intact. The idea of the single-family housing but change some of the setback allowances by-right.

Vice Mayor Dent said likewise I would support it, I am just curious looking at the diagrams and the aerial photographs with the lines between the backyards of the opposite facing streets, it looks like there is strip of unused land and is not an alley.

Mr. Fletcher said it is a common area.

Vice Mayor Dent said that just adds to the fact that the added porch does not encroach on anybody else, possibly the neighbor to the side since it is facing the other street, but since the porch is more adjacent to the common area it does not really encroach, so that still might but a case-by-case basis. I think it is fine.

Commissioner Baugh said as a former HOA member who used to live on top of the hill in one of the duplexes on Northfield, I generally agree with the HOA's concerns and I think I would be pretty conservative about approving anything like this. In this specific instance that we keep seeing of the porches that it is the simple fact that you put a roof on them that is causing the problem, I am okay with that.

Vice Chair Byrd said I would like to make a motion to approve the rezoning.

Vice Mayor Dent seconded the motion.

Commissioner Armstrong	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 rezoning passed (7-0). The recommendation will move forward to City Council on November 14, 2023.