



CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

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To: Planning Commission
From: Department of Community Development
Date: March 10, 2021 (Regular Meeting)
Re: Zoning Ordinance Amendment – To Modify or Remove Conditions Associated with Multiple-Family Development Special Use Permits in the R-5, High Density Residential District

Summary:

Public hearing to consider amendments to the Zoning Ordinance by modifying or removing the regulations contained in Section 10-3-55.6 (e) within the R-5, High Density Residential District. Section 10-3-55.6 (e) states that multi-family development special use permits may be approved if four conditions as determined by City Council are met.

Background:

In the R-5 residential district, among other available special uses that can be applied for, the Zoning Ordinance allows for property owners to receive a special use permit (SUP) to construct multi-family buildings containing more than the by-right maximum of 12 units per building. Another SUP allows for multi-family structures to be taller than 52 feet in height and/or have more than four stories. Approval of either SUP requires that City Council evaluate and determine that specific criteria has been met to decide whether either of those SUPs should be approved. The criteria are listed within Section 10-3-55.6 (e).

The Zoning Ordinance amendments proposed herein originate from a project proposal that was presented to City Council on February 9, 2021. The proposal was for properties addressed at 161 and 241 Blue Ridge Drive and included two separate applications. The first request was to rezone two parcels from R-1, Single-Family Residential District to R-5C, High Density Residential District Conditional. Because the applicant's plan was to construct buildings with more than 12 multi-family units per building, the second request was a SUP per Section 10-3-55.4 (1), which allows for multi-family dwellings of more than 12 units per building in the R-5 district. Both of those requests were presented to Planning Commission on December 9, 2020. Staff and Planning Commission (4-2) recommended denial of the rezoning and the special use permit.

The staff memorandum prepared for the rezoning and SUP stated that staff believed the applicant had adequately addressed conditions #2 and #4 within Section 10-3-55.6 (e), but found it difficult to believe that conditions #1 and #3 were met. Staff also stated that "consideration should be given to whether or not the regulatory controls within Section 10-3-55.6 (e) should be alleviated or removed. These regulations were created in 2007 and could no longer be relevant or needed. Additionally, if Planning Commission desires, staff can also review the Land Use Guide and evaluate whether amendments should be made for this site. This may be appropriate to do after the housing study is completed in January 2021."

During the February City Council meeting, the rezoning and SUP requests were tabled and referred back to the Planning Commission for review noting that the applicant had offered a new proffer and because the Comprehensive Housing Study & Market Assessment was completed since Planning Commission's December 9th review. In addition, City Council directed staff to draft Zoning Ordinance amendments to remove conditions (1) and (3) and to draft any alternative recommendation staff might believe is necessary for Section 10-3-55.6 (e). Staff's review and recommendation of the Zoning Ordinance amendment is explained below.

Key Issues:

The R-5, High Density Residential District was drafted after approval of the 2004 Comprehensive Plan and ultimately approved and added to the Zoning Ordinance in 2007. The only residential housing types permitted in the R-5 district are townhomes and multi-family units. As noted above, the R-5 district allows for property owners to receive a SUP to construct multi-family buildings containing more than the by-right maximum of 12 units per building while a separate SUP allows for multi-family structures to be taller than 52 feet in height and/or have more than four stories. Both SUPs, however, require that conditions listed in Section 10-3-55.6 (e) be met as determined by City Council. The conditions outlined in Section 10-3-55.6 (e) consist of the following:

- 1) Existing multiple-family development, or land planned for multiple-family development according to the Land Use Guide in the Comprehensive Plan, is located adjacent to, across the street from, or in close proximity to the proposed multiple-family 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.

Staff has drafted two amendment options for consideration. The first option (Option #1) removes conditions (1) and (3), which was the option directed by City Council to draft. Option #2 removes all of regulatory controls of Section 10-3-55.6 (e). In other words, Option #2 removes all four conditions and amends Section 10-3-55.4 (1) and (2) to remove the references to Section 10-3-55.6 (e) because they would no longer apply. After much consideration and review of 10-3-55.6 (e), staff recommends approving Option #2 for the following reasons:

- 1) Regarding the application of all four conditions, staff questions why these conditions are only triggered when special use permits are requested for multi-family dwellings of more than 12 units per building and for multi-family buildings greater than four stories and/or 52 feet in height. For example, a developer could build a 60 dwelling unit complex with five buildings at four-stories in height by right and the four conditions of Section 10-3-55.6 (e) would not be triggered or relevant as to whether such a development should occur. But if a developer wanted to build one building with 60 dwelling units at four-stories, then these conditions must be considered. At this time, staff does not believe that there should be additional scrutiny for such differences in development types.
- 2) Concerning the recommended removal of conditions (1) and (3), with any rezoning or special use permit request, staff, Planning Commission, and City Council should consider existing conditions, surrounding land uses, and any planned future uses as envisioned in the Comprehensive Plan. These considerations are not limited to special use permits that are requested for multi-family dwellings of more than 12 units per building and for multi-family buildings greater than four stories and/or 52 feet in height.
- 3) With regard to condition (2), consideration whether a proposed project demonstrates adequate vehicular, transit, pedestrian, and bicycle facilities should not be limited to when special use permits are requested for multi-family dwellings of more than 12 units per building and for multi-family buildings greater than four stories and/or 52 feet in height. Staff, Planning Commission, and City Council should consider this with any rezoning or special use permit request, or could consider changes to other regulations (i.e. City Code and design standards) to support or require vehicular, transit, pedestrian, and bicycle facilities for all development proposals.
- 4) Regarding condition (4), there are minimum regulatory requirements to meet erosion and sediment control, stormwater management, and floodplain regulations that all development must comply with that would not rely on this condition.

Environmental Impact:

N/A

Fiscal Impact:

N/A

Prior Actions:

N/A

Alternatives:

- (a) Recommend approval of the ordinance amendments presented in Option 1; or
- (b) Recommend approval of the ordinance amendments presented in Option 2; or
- (c) Recommend denial of the Ordinance amendments.

Community Engagement:

As required, the request was published in the local newspaper twice advertising for Planning Commission’s public hearing. The advertisement was published as shown below:

Zoning Ordinance Amendment – To Modify or Remove Conditions Associated with Multiple-Family Development Special Use Permits in the R-5, High Density Residential District

Public hearing to consider amendments to the Zoning Ordinance by modifying or removing the regulations contained in Section 10-3-55.6 (e) within the R-5, High Density Residential District. Section 10-3-55.6 (e) states that multi-family development special use permits may be approved if four conditions as determined by City Council are met. The four conditions are summarized as (1) existing multiple-family development, or land planned for multiple-family development according to the Comprehensive Plan is located in close proximity to the proposed multiple-family development; (2) the applicant has demonstrated that adequate vehicular, transit, pedestrian and bicycle facilities currently serve the site, are planned to serve the site with reasonable expectation of construction within the timeframe of need created by the development, 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; and (4) the applicant has shown that the site is environmentally suitable for multiple-family development.

In addition, a notice was provided on the City’s website at <https://www.harrisonburgva.gov/public-hearings>.

Recommendation:

Staff recommends (b) approval the Ordinance Amendments presented in Option 2.

Attachments:

- 1. Option 1 – Zoning Ordinance Amendment - To amend Sections 10-3-55.6 of the R-5, High Residential Density District
- 2. Option 2 – Zoning Ordinance Amendment - To amend Sections 10-3-55.4 and 10-3-55.6 of the R-5, High Residential Density District

Review:

N/A