



CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

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February 5, 2024

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

SUBJECT: Consider a request from EP Harrisonburg Owner LLC to preliminarily subdivide three parcels totaling a +/- 62.5-acres addressed as 1010 Garbers Church Road and 1645 Erickson Avenue

**EXTRACT FROM THE DRAFT MINUTES OF HARRISONBURG PLANNING
COMMISSION MEETING HELD ON: January 10, 2024**

Chair Finnegan read the request and asked staff to review.

Ms. Dang said in February 2023, City Council approved a rezoning of +/- 99.75-acres from R-1, Single-Family Residential District, R-3, Medium Density Residential District, and B-2, General Business District to R-7, Medium Density Mixed Residential Planned Community District. The rezoning included the submission of a required master plan regulating text and an associated master plan layout, which together with the submitted proffers are the “zoning” by which the development must abide. A copy of the master plan and proffers are attached herein.

Note that the acreage impacted is 63.65 acres, however this preliminary plat request is to plat +/- 28.31-acres of the total +/- 99.75-acres of the master planned development.

The applicant is requesting to preliminarily subdivide +/- 28.31-acres of property by dedicating public street right-of-way for new public streets and by creating 106 townhome lots, 38 single-family detached/manufactured home lots, two multi-family lots, five common area lots, three lots for stormwater management ponds, and one lot for a private street. The applicant plans to construct 83 multifamily dwelling units on lot 145 and 63 multifamily dwelling units, which are planned to be senior housing, on lot 146. The applicant intends to construct the multifamily buildings after construction of the for-sale housing (single-family detached/manufactured homes and townhomes) begins.

The preliminary plat also includes requests for variances to deviate from requirements of the Subdivision Ordinance.

Note that the proposed street names are preliminary. As part of the administrative final platting process, staff will ensure compliance with street naming and addressing standards. The applicant is also aware that the name of the development will likely not be able to be “Bluestone Town Center” due to other streets and developments in the City having similar names. The applicant is working to propose a new name for the development.

Land Use

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

These areas have been developed or are planned for residential development containing a mix of large and small-lot single-family detached dwellings, where commercial and service uses might be finely mixed within residential uses or located nearby along collector and arterial streets. Duplexes may be appropriate in certain circumstances. Mixed use buildings containing residential and non-residential uses might be appropriate with residential dwelling units limited to one or two dwelling units per building. Attractive green and open spaces are important for these areas and should be incorporated. Open space development (also known as cluster development) is encouraged, which provides for grouping of residential properties on a development site to use the extra land for open space or recreation. The intent is to have innovative residential building types and allow creative subdivision designs that promote neighborhood cohesiveness, walkability, connected street grids, community green spaces, and the protection of environmental resources or sensitive areas (i.e. trees and floodplains). Residential building types such as zero lot-line development should be considered as well as other new single-family residential forms. The gross density of development in these areas should be around 7 dwelling units per acre and commercial uses would be expected to have an intensity equivalent to a Floor Area Ratio of at least 0.4, although the City does not measure commercial intensity in that way.

The preliminary plat complies with the general layout of public streets and housing areas illustrated in the development’s master plan.

The development’s master plan requires that parcels containing single-family detached homes, manufactured homes, duplexes, townhomes, and multifamily units shall have a minimum of one (1) parking space per dwelling unit. For multifamily dwellings designated as senior housing, the master plan requires a minimum of one half (0.5) of a parking space per dwelling unit. Off-street parking requirements for the proposed multifamily dwellings will be reviewed more closely during the engineered comprehensive site plan review.

The applicant has explained that they plan to have the front facades of most dwellings face public and private streets. The exceptions would be for townhome lots 1-10 and 61-91, which will have the front facades of the dwellings oriented towards the parking lots located in Common Areas 1, 2, and 5. Staff has no concerns with the front facades of lots 61-91 being oriented towards parking lots. However, staff believes lots 1-10 should orient toward the public street.

Staff acknowledges that the townhomes would be between four to nine feet above the grade of the Blazing Star public street and believes that despite the grade difference, the community would be better served if the front facades of lots 1-10 are oriented toward the public street. As discussed below, staff is recommending a condition to require the units on those lots to front a public street.

Transportation and Traffic

A Traffic Impact Analysis (TIA) for this development was performed during the rezoning process. The subject property's existing regulating proffers, a Street Improvement Agreement with the City, and the Master Plan – Public Road Layout document, together provide for the necessary mitigations to address the development's impact on the existing streets, as well as, to create a network of connected streets within the development to distribute traffic. The necessary transportation improvements will be constructed as the development progresses.

On sheet 3 of the preliminary plat, while not a requirement of the master plan, the applicant shows a 10 to 20-foot wide public sidewalk easement between the private street identified as Larkspur to Garbers Church Road. Should the need arise in the future for sidewalks at this location, the City could build a sidewalk here. The applicant has also illustrated that they will dedicate public access easements over the Larkspur private street and on Lot 145, which are privately owned and maintained streets, travelways, and sidewalks that will be open for the public to use.

Public Water and Sanitary Sewer

As required, all lots would be served by public water and public sanitary sewer. The preliminary plat illustrates where water and sanitary sewer lines would be provided so that each new lot would have access to public water and sewer.

Subdivision Ordinance Variance Requests

Section 10-2-42 (c) of the Subdivision Ordinance requires all parcels to have public street frontage. The applicant is requesting a variance from Section 10-2-42 (c) to allow townhome lots 1-10 and 34-91 to not have public street frontage. This deviation from the Subdivision Ordinance has been approved multiple times throughout the City for many existing townhome communities and staff has no concerns for this project. The same variance is also needed to allow the creation of common area lot 153.

The second variance request is to Section 10-2-43 of the Subdivision Ordinance, which requires a 10-foot-wide public general utility easement along front lot lines and any lot adjacent to public right-of-way and requires at least a 10-foot-wide public general utility easement centered on the sides or rear of lot lines. Sheet 3 of the preliminary plat illustrates the proposed locations of 10-foot-wide public general utility easements, where some of the locations are modified. Public general utility easements are provided for utilities, including water, sanitary sewer, storm sewer, electric, natural gas, television cable, telephone cable, and others deemed a utility by the City. The proposed public general utility easements would not preclude utility companies from negotiating alternative easements with the property owner(s). The requirements, as specified in Section 10-2-43, are intended to ensure that necessary areas are reserved for the needed utilities in traditional subdivisions. Staff does not have concern with the proposed development deviating from this section of the Subdivision Ordinance.

The final two variances being requested are from Sections 10-2-41 (a) and 10-2-61 (a), which are associated with public street design standards. Specifically, Section 10-2-41 (a) states that “[p]roposed streets shall conform to the standards and specifications outlined in the Design and Construction Standards Manual (DCSM) except that variances to the standards for streets, alleys, blocks, easements, sidewalks, and all such related features may be approved on a case-by-case basis by the city council when” particular objectives are met. Section 10-2-61 (a) states that “[t]he subdivider is required to make all such improvements to streets, including grading, subgrade, surface, and curbs and gutters, in accord with the requirements of the city's DCSM.” In particular, the applicant is requesting to deviate from DCSM Sections 3.10.2.3 and 3.6.4.1. The applicant has submitted supporting documentation explaining the reasons for the requested variances. Staff supports all of the variances that have been requested.

Housing Study

The City’s Comprehensive Housing Assessment and Market Study (Housing Study) places the subject site within Market Type B, which has “neighborhoods [that] are characterized by high income earning households, large volumes of housing sales and lower population growth.” The Housing Study further notes that houses in these markets are quick to sell and that “[p]riorities and policies that are appropriate to Market Type B areas include the preservation of existing affordable housing while at the same time working to increase access to amenities.”

Public Schools

The student generation attributed to the proposed residential units is estimated to be 100 students. 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 three of the six elementary schools. Note that the City has been planning for

the purchase of land for a 7th elementary school for a number of years as such a project continues to be listed in the City's Capital Improvement Program.

Recommendation

Aside from the variance requests as described herein, the preliminary plat meets all other requirements of the Subdivision Ordinance. Staff supports the variance requests and recommends approval of the preliminary plat with the following condition attached to the variance from Section 10-2-42 (c):

- Units 1-10 shall have their front façade facing the public street.

Ms. Dang explained that this the condition above is a modification to what was originally included in the staff report.

Chair Finnegan asked if there were any questions for staff. This is not a public hearing, are we okay with inviting the applicant to speak to this?

Ed Blackwell, applicant's representative, came forward to speak to the request.

Vice Mayor Dent said I was just scanning through, I have not read word for word, the articles of the covenant and Bluestone Town Center Homeowners Association and what got my attention here is condition...page 8 article 5 Use Restrictions section 5.12 Conditions. I do not know if you are the one to answer this. "Lot improvements shall be kept at all times in a neat attractive safe and structurally sound condition some leeway during periods of construction. Weeds, grass and dead trees shall be routinely cut and building exterior should be routinely painted provided that any change of exterior colors shall require prior approval." What I am concerned about is allowing for natural gardens. I know that in Maryland there was some kerfuffle with a neighbor not liking somebody's pollinator garden. So, it escalated to the point where Maryland passed a law that a homeowners association cannot prohibit natural gardens. Now we do not have that in Virginia, but I would hate to see a covenant prohibit rain gardens, pollinator gardens deliberately. I mean however it is worded in our tall grass and weeds ordinance that if there is a deliberate intentional natural garden, not just nuisance or neglect, that is maybe a subjective opinion, but I want to be sure that gardens are allowed.

Mr. Blackwell said we can definitely circle back. We came up with a homeowners association document, our attorney got it to staff and there were some comments. Right now, it is still a draft, it is not final until the final plat, so we would be more than happy to look at that and work with Wesley, Adam, and Thanh. That is getting into the weeds that we would be more than happy to...I do not want to exclude somebody. There are some nice water gardens and stuff that can be done but I think both of us would be open to making sure the attorney addresses that to the City staff's satisfaction.

Vice Mayor Dent said noxious or offensive activities, now this is the covenant of the homeowners association, right? So, if a neighbor reports a nuisance, then that is an issue for the homeowner's association and even if it does not escalate to the police, I mean I do not know how those things work.

Mr. Blackwell said the homeowners association has some legal rights that are binding based on the restrictive covenant, the homeowners association documents. That is all they can legally enforce, those documents, which protects all homeowners in the subdivision that they agree to these documents when they buy the home.

Vice Mayor Dent said is there a noise ordinance? Well, we have a noise ordinance.

Mr. Blackwell said there are all types of things and Richard can speak in more detail. You can get a homeowners association really restrictive. I think we are trying to get that middle of the road but there are sometimes where you have a homeowner who kind does more than they are allowed by the homeowners association and City staff cannot do anything about it. It is not a civil problem. When I say civil, it is not a zoning problem or a criminal problem so then the homeowners have the civil right to enforce that covenant. That is getting into the weeds as far as me as the engineer, but we would to look at the pollinator and rain gardens and making sure some of those things are addressed.

Vice Mayor Dent said the final thing, 5.19 on the next page, “clothes lines in public view is prohibited it has to be in a fenced area screened from view,” but that would mean somebody would have to build a fence in order to put up a clothesline. That kind of seems overly restrictive.

Mr. Blackwell said we can look at that. I think the goal there is not to have it sitting out, you cannot put a clothesline in the front yard.

Vice Mayor Dent said maybe that is a distinction, not in your front yard but maybe in your back yard.

Mr. Blackwell said it is to have it around, so it is just not in the general public view. You are right, if somebody has it in their backyard, even if the yards are fenced and the street is up a little bit, you can maybe still see it.

Vice Mayor Dent said those are very picky, but I just wanted to make sure you are not overly restrictive to the owners, because after all clotheslines are ecologically more efficient.

Mr. Blackwell said I do want to speak on the ten lots that I think we have worked with staff over the last while and we have this thing pretty tight with this plan. The ten lots when you first come in off of Garbers Church Road on the left, we are coming through some cut and then we get up to a driveway. The first four lots, we have a 15-foot buffer strip between the City right of way in the back of those lots. Then you go in, and you have the house, but the house because of the rock, it is not going to have a basement, especially any of those ten. It has been set back off the road and up anywhere from eight to twelve feet above the street. So, we just want to get those off the road and have those front on the parking lot behind it. I understand staff’s concerns because we have had sometimes where the lot line was nearly a foot from the...or even the unit did not front on a public street and did not face the public street. In this case, we have a big grade change, especially those first four. If I have a rear door, it is ten or twelve feet above the road for the first four. As you go up the hill, the units are staying flat, and road is coming up so the next six are about five or six feet to about three feet above the street. So, as they get closer up the street...units 8, 9, and 10 in that

packet, I am getting closer to grade. Our thought was we just had the units off the road and with this 15-foot common area buffer we have our tree plantings in there. That was our thought process because of the grade change on the first four we did not want to front those units on the street that is literally right there because you are not getting in those units from the street, you are getting into those units from the back. We went back and forth with City staff about that, and our client would like to keep those units open to fronting on the parking lot with that buffer strip. We had 10 feet at one point, and we made it 15 but there are some grade changes coming from the first four that are probably significant.

Vice Chair Byrd said so you are saying that coming from the street towards those units...

Mr. Blackwell said [pointing to image on screen] the street would be here, and our units would be here. So, if I put a front door on the street side, I am going to be 10 to 12 feet above the street 15 feet over. We thought there is enough gap there in elevation that we did not need to have the front of those units fronting on the street because it is not really accessible to the street.

Vice Chair Byrd said right, because then they would end up with having to have a stairway.

Mr. Blackwell said well, we can make a false front door, but it is somebody's back of their house because they really have to get into it from the parking lot. We have talked with our client and the owners who voiced that they would prefer those units to front on the parking lot and maybe have a little patio there in the back. We would make a front door facing the street, then it would not be able to be used as a front door. I understand where the City's concern is, but it is a way to get some separation to put a 15-foot common area to help... that separation between the street and the houses.

Vice Chair Byrd said so what I am asking is you do not foresee any legitimate exit from the residence onto that street? If I was living in there and I walked out a door, I am not walking straight...?

Mr. Blackwell said I am going to say for the first four. I cannot say units 8, 9 and 10 because the grades are starting to get closer that someone could come out their door and get to the street.

Chair Finnegan asked if there were any questions for the applicant's representative.

Mr. Blackwell asked any questions on the street variance? We worked through that with staff and before I came to a common agreement. I did want to mention that some of the street variance request we are doing came from the City, therefore the traffic calming should really be in the City's DCSM, it has not really caught up to the City traffic calming in residential neighborhoods has proven to be drastically safer for the kids in neighborhoods. I mean we are talking a 50 percent reduction in deaths or serious injuries in neighborhoods with traffic calming. So, we started putting the streets together, the first thing the City said was "hey, we would like some traffic calming even though it is not quite in our DCSM." I do think there are plans to adjust that DCSM. We were more than happy to work with the City because I did not realize how helpful it really was for [inaudible].

Vice Chair Byrd said can staff remind me again, is it just an aesthetic reason or any other reason for the frontage?

Ms. Dang said I would say that it is for the aesthetic reason so that on a public street you are not looking at people backyards as well as the back of [inaudible].

Mr. Fletcher said but really like the sense of place when you are driving into it. Just to give you a real-world experience, in the City of Harrisonburg if you travel Lucy Drive often you will notice that all of those units have the rear of those units facing the public street. So, some other experiences of what that sense of place is in that area. It is just making sure that those units feel like part of a community.

Chair Finnegan said there also is the one that comes to mind across from Thomas Harrison [Middle School] those townhouses, they do kind of have false fronts that face [Route] 33. Trying to reimagine those being flipped, I think it would be disorienting from 33 to kind of see those.

Mr. Fletcher said I do not know if I would call them false fronts, those are literally the fronts of the units. It is just that they have those really long front yards because it is probably the right of way width of Route 33. When you drive in the back of those, you are just looking at the back of the home, it is like their main entry for their building style.

Chair Finnegan said I guess I bring that up as an example of very few people probably use those front doors, but they seem to function fine. I would be okay with keeping the condition as staff suggested even with what we know about the grade, and we have seen it elsewhere and I agree with staff.

Vice Mayor Dent said I would too, partly for consistency's sake. I mean it is a part of the aesthetics if you have say units 5 through 10 facing the front and then units 1 through 4 are facing the back, then it looks out of kilter. If they were not right side by side, I would be a little bit more lenient with it, but I would say let's keep them facing the public.

Mr. Fletcher said I suspect that the applicant would face all of the units inward even when they could make it work for their own consistency. I presume that they have a particular product that they want to build as a style, and this might make them rethink the style of unit they may put there. I do not know, but we hope that is the outcome.

Vice Chair Byrd said when I was in Winchester, a friend of mine his house fronted a common street and he lived close to a school so it made sense that everything looked like it was a neighborhood but since he lived there and I would visit there often, the back door was basically the practical front door of the house and I was like "do all of neighbors act that way?" and he was like "yeah why would anyone go out of the front door if you are just walking to the street. Everyone's cars are in the back" See that those residences, in my limited experience, they were not really concerned with the architecture in which way the building is fronting. I do not think it would hurt the developers with that slight architectural concern in making sure they were able to sell the houses. I will make a motion to approve the preliminary plat and variances with staff's conditions.

Vice Mayor Dent seconded the motion.

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 preliminary plat request passed (6-0). The recommendation will move forward to City Council on February 13, 2024.