



CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

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May 01, 2025

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

SUBJECT: *Consider a request from Jason Burch to rezone a property is addressed as 380 Sunrise Avenue*

**EXTRACT FROM THE DRAFT MINUTES OF HARRISONBURG PLANNING
COMMISSION MEETING HELD ON:** April 09, 2025

Chair Baugh read the request and asked staff to review.

Ms. Rupkey said the applicant is requesting to rezone a +/- 13,315-square foot property from R-1, Single-Family Residential District, to R-8C, Small Lot Residential District Conditional. The property is addressed as 380 Sunrise Avenue and is identified as tax map parcels 23-A-1 and 2. The applicant's letter states that they want to rezone the property so that the current structure and proposed addition and renovations would conform to the Zoning Ordinance (ZO). As it stands today, the property is nonconforming to setbacks along Chestnut Drive and an internal property line. The existing structure is considered legal to setbacks along the shared eastern property line since Section 10-3-110 (f) of the ZO states, "[e]xcept in the R-8 Small Lot Residential District, where a lot of record is less than sixty (60) feet in width as measured at the point of required front setback, each required side setback for internal lot lines may be reduced to not less than five (5) feet". In order for an addition to be built, the internal property line would likely need to be vacated and Section 10-3-110 (f) would no longer apply to the property.

Planned renovations are to build an additional story on the structure. The applicant has submitted a plat that shows the existing two-story structure is 7.8-feet from the neighboring property line. In the R-8 district, two story-structures must have a minimum 7-foot side yard setback and three-story structures must have a minimum 10-ft side yard setback.

The applicant has been made aware that the addition illustrated in their submittals would not be permitted. A third-story addition would require that the whole structure meets the 10-foot side yard setback, even if the third story does not occupy the entire footprint of the story below. Staff and the applicant will continue to discuss options for a future addition. This may include requesting a special use permit for reduced side yard setback up to 0-feet if certain fire protection requirements

are met. The illustrations submitted were created prior to a survey and plat having been completed and do not reflect compliance with R-8 district setbacks.

Proffers

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

- More than one dwelling is prohibited.

Regarding the proffer, in the R-8 district, single-family detached homes and duplexes are allowed by right so long as, among other things, lot area and dimensional requirements are met. The submitted proffer prevents more than a single unit on the property.

Land Use

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

These areas consist of single-family detached dwellings in and around well-established neighborhoods with a target density of around 4 dwelling units per acre. The low density residential areas are designed to maintain the character of existing neighborhoods. It should be understood that established neighborhoods in this designation could already be above 4 dwelling units per acre.

With the submitted proffer, use and density conform with the Low Density Residential designation. Know also that the R-8 district's occupancy regulations are the same as the existing R-1 district's occupancy regulations, which allow owner-occupied dwellings to be occupied by a family plus two individuals or a maximum of three individuals while nonowner-occupied dwellings may 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 single-family detached dwelling, and the proffer restricts the property to having only one dwelling unit.

Public Schools

If the rezoning is approved, no additional dwelling units would be added to the property; therefore, the student generation is zero. Based on the School Board's current adopted attendance boundaries, Keister Elementary School, Thomas Harrison Middle School, and Harrisonburg High School would serve the students residing on this property.

Recommendation

Staff recommends approval of the request.

Chair Baugh asked if there any questions for staff.

Councilmember Dent asked is part of this to vacate that central property line as you talked about?

Ms. Rupkey said they will at some point. It is not a part of their application at this time to do that. That would be a separate a minor subdivision that they could handle through us.

Councilmember Dent said I am trying to get the gist of the renovation they are talking about.

Ms. Rupkey said they are here, and they may be able to help answer some more questions about the addition.

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

Jason Burch, the applicant, came forward to speak to the request. I need to declare something on the front end to prevent a potential conflict of interest. [To Chair Baugh] your law firm serves as general and special council for an organization which I am an officer of, and I did not know where that stood.

Chair Baugh said non-profit or for profit?

Mr. Burch said not for profit.

Chair Baugh said I will look over at Mr. Russ. If my firm does represent you, then that just takes care of it, then. Alright, with that there is already in the record a statement for recusing myself. Thank you very much for bringing that to my attention because I was not aware of this. With that, I am going to recuse myself on this matter and will submit an additional written statement to the clerk.

Chair Baugh left Council Chambers

Vice Chair Finnegan invited the applicant to speak.

Mr. Burch said I have nothing additional to add to the staff's comments. I have been represented well, position stated, and drawings confirmed. I am here to serve at the pleasure of the Commission and answer any questions that you have.

Councilmember Dent said I am just trying to get the gist of the renovation from your drawings here. Is it adding the story to what is now a first story dormer?

Mr. Burch said that is correct.

Vice Chair Finnegan asked if there were any questions for the applicant's representative. Hearing none, he opened the public hearing and asked if there was anyone in the room or on the phone wishing to speak to the request.

Vice Chair Finnegan said I do have a question that came up on the site tour yesterday. The applicant has been made aware that any new construction shall be a minimum of ten foot... although the proposed addition cannot be built as presented staff and the applicant will continue to discuss options. The proposed addition cannot be built as presented.

Ms. Rupkey said as it is presented a three-story structure would require a ten-foot side yard setback. If this were approved by City Council next month, they would not be able to build it there. They would have to come back and request a special use permit for a reduced side yard setback.

Vice Chair Finnegan said asked if there was anyone in the room or on the phone wishing to speak to the request. Hearing none, he closed the public hearing and opened the matter for discussion.

Mr. Fletcher said I would also add (to Ms. Rupkey's response) "or other solutions that we may be able to brainstorm." That (SUP for reduced side yard setbacks) is just one that is an option.

Vice Chair Finnegan said I think Councilmember Dent's comment about, this is the plan, this cannot be built. Correct me if I am wrong but this is to bring this into conformance with the setbacks. Like R-8, it would conform, if they do not raise it?

Ms. Rupkey said yes.

Councilmember Dent said now I am confused.

Vice Chair Finnegan said it is currently nonconforming. R-8 would bring this into conformance with R-8, the current setbacks.

Councilmember Dent said then their additional whatever takes another round.

Ms. Dang said or some other alternative that we will work with them on.

Vice Chair Finnegan said increasing the height is not what we are voting on tonight. I just wanted to make sure that we are all on the same page there. I will say, we talk about nonconforming properties a lot and then we talk about the character of the neighborhood. They get talked about interchangeably. I live in a nonconforming house in an R-2 neighborhood. We are not voting on this tonight. I will say that where there are neighborhoods where people can agree this is the character of the neighborhood and it does not meet the current setbacks, I would suggest that the setbacks are wrong.

Commissioner Washington asked are the other properties also nonconforming?

Ms. Rupkey said personally I have not gone out and measured, but it is presumed that they are nonconforming. If you notice on the plat that was submitted a 30-foot setback is required to be on Sunrise [Avenue] and Chestnut [Drive]. They are 26 feet along the frontage right now and they are conforming due to a portion of our code where they can take averages of existing homes on the street and get an average to get a lesser setback in the front. With that number already being

less and being conforming in the front, it is likely that there are a number of other nonconforming houses to setbacks.

Vice Chair Finnegan said diagonally across the street there is an apartment building.

Commissioner Washington said my question would be, is R-1 appropriate? If it is not appropriate for this particular space, would it be appropriate for the rest of the spaces depending on their nonconforming status?

Mr. Fletcher said I would say that it is possible that other lots are conforming. The subject site actually is a little bit wider than some of the other properties along the street. Our Zoning Ordinance allows for the reduction of side yard setbacks when lots are less than 60 feet in width, and you have a lot of 50 foot in width lots there. I am just roughly measuring that some of them are like 7 feet off of the property line. It could be that they are conforming to setbacks but without seeing a survey, I do not know. I am just eyeballing it and looking at how wide those lots are.

Vice Chair Finnegan said it looks like that apartment diagonally across the street is also pretty close to the street.

Commissioner Porter said I live a couple of blocks from here, and I walk down this street almost every day. This house does not stand out to me as being any different in character than anything else around it. It is an attractive and well-maintained home. At one time my family owned a property on the corner of Neyland [Drive] and Chestnut [Drive] a similar distance from the street and probably nonconforming.

Commissioner Nardi said I do not have any issue with it.

Commissioner Porter said I make a motion to accept the applicant's request for a rezoning.

Commissioner Nardi seconded the motion.

Vice Chair Finnegan called for a roll call vote.

Commissioner Nardi	Aye
Councilmember Dent	Aye
Commissioner Washington	Aye
Commissioner Porter	Aye
Vice Chair Finnegan	Aye

The motion to recommend approval of the rezoning request passed (5-0). The recommendation will move forward to City Council on May 13, 2025.

Chair Baugh returned to Council Chambers.