



# CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

409 SOUTH MAIN STREET, HARRISONBURG, VA 22801

OFFICE (540) 432-7700 • FAX (540) 432-7777

To: Ande Banks, City Manager  
From: Adam Fletcher, Director, Department of Community Development and Harrisonburg Planning Commission  
Date: November 8, 2022 (Regular Meeting)  
Re: Rezoning – 2492, 2494, 2496, and 2498 Millwood Loop (R-3C to R-8) and Special Use Permit to Allow Townhomes in the R-8 District

### **Summary:**

Public hearings to consider two requests from Mosby Opportunity Fund LLC:

1. To rezone a property from the R-3C, Medium Density Residential District Conditional to R-8, Small Lot Residential District.
2. For a special use permit per Section 10-3-59.4(1) of the Zoning Ordinance to allow attached townhomes of not more than eight units within the R-8, Small Lot Residential District.

The +/- 0.29-acre site comprises of four parcels, which are addressed as 2492, 2494, 2496, and 2498 Millwood Loop and are identified as tax map parcels 7-E-55, 56, 57, and 58.

Staff and Planning Commission recommended approval the rezoning request (7-0) and recommended approval of the special use permit request as submitted (7-0).

### **Background:**

The Comprehensive Plan designates this site as Medium Density Residential. 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.

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

**Site:** Property under construction, zoned R-3C.

**North:** Property under construction for townhomes and existing multi-family dwellings, zoned R-3C and R-3, respectively.

**East:** Multi-family dwelling units, zoned R-3.

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

**West:** Townhome development under construction, zoned R-3C.

The four subject properties together total +/- 0.29 acres of property and are part of a planned 39-unit townhome development, which is now under construction. To allow for the townhome development, the subject properties, along with the remainder of the townhome project acreage, were rezoned in August 2018 to R-3C, Medium Density Residential District Conditional. In November 2019, the property owners preliminarily platted the 39-unit townhome complex and received approval to deviate from the Subdivision Ordinance Section 10-2-42 (c) so that townhome parcels did not have to front along a public street. Four months later, in March 2020, the engineered comprehensive site plan for the project was approved. Then, in December 2021, the property owner submitted the final subdivision plat to officially create the townhome parcels.

During the review of the final plat, staff noted that the parcel for Unit 54 did not meet the depth requirements of the R-3 district and communicated to the developer that the parcel could not be created as shown. At that time, the developer chose to combine the areas of planned Units 54 and 55 so that the final plat could be approved to then move forward with construction of the other areas of the townhome community. The hope was that new Zoning and Subdivision Ordinance regulations would have been approved by the time the developer reached that section of the project and that the townhome community would have been zoned to a new district that could accommodate lesser depths for townhome parcels. Unfortunately, the regulations have not yet changed and the developers are now ready to begin construction of that section of the community.

Staff and the developer met to discuss options for them to be able to construct the five-unit row of townhomes that Unit 54 was planned to be a part of since the beginning phases of the project. It was determined that the only option to allow for the planned buildings was to rezone the site to the R-8 district, which allows for townhome parcels with lesser depths than the R-3 district. However, since townhomes are only permitted by special use permit (SUP) in the R-8 district, they would also have to apply for the SUP to allow for townhomes. The information below describes the details for the rezoning and SUP requests.

**Key Issues:**

The applicant is requesting to rezone four parcels totaling +/- 0.29 acres of property from R-3C, Medium Density Mixed Residential Conditional to R-8, Small Lot Residential District while simultaneously applying for a special use permit (SUP) per Section 10-3-59.4 (1) for the same acreage to allow for townhomes within the R-8 district. Approval of both applications would allow the developer to maintain their plan of development, which is to build a row of five townhomes within the +/- 0.29 acres of land.

As noted in the Background section of this report, the four subject properties are part of a larger townhome development and are currently zoned R-3C, Medium Density Mixed Residential District Conditional with the following proffer:

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.

If the rezoning is approved, the above noted proffer would no longer be applicable to the subject properties, however, all remaining R-3C-zoned properties of this development would continue to be regulated by that proffer. It should be understood, however, that it does not grant approval for those remaining properties to somehow find areas to create five additional units on the R-3C-zoned areas that are capped to a total of 39 units.

While four properties are part of the rezoning and SUP permit requests (tax map parcels 7-E-55, 56, 57, and 58), in reality, parcel 7-E-55 is the parcel that prompted the need for these applications. Approval of both requests would allow this parcel to be subdivided to create Unit 54 and Unit 55 as illustrated in the attached exhibit, where Unit 54 would have an average lot depth of 101.94 feet rather than 112 feet, which is what is required if the parcel were zoned R-3. The developer could have chosen to apply for the rezoning and SUP only for tax map parcel 7-E-55, but because the impacted unit is part of a five-unit building, they chose to rezone all properties associated with the five-unit structure.

For all intents and purposes, if both requests are approved, physically there is little that will actually change when compared to what has been approved for construction. There are, however, a few regulatory differences that should be understood. One is regarding dimensional lot and setback requirements. In the table below, one can view the dimensional differences for townhomes in R-3 and R-8.

| Zoning District | Lot Area Sq. Ft./Unit | Lot Width (ft.) | Lot Depth (ft.) | Front Yard Setback (ft.) | Side Yard Setback (ft.)*                   | Rear Yard Setback (ft.) | Maximum Stories | Maximum Height (ft.) |
|-----------------|-----------------------|-----------------|-----------------|--------------------------|--|-------------------------|-----------------|----------------------|
| R-3             | 2,000                 | 18              | 112             | 30                       | 10   | 25                      | 3               | 40                   |
| R-8             | 1,800                 | 18              | 60              | 10                       | 7 or 10 (depending upon number of stories) | 20                      | 3               | 40                   |

\*Shared walls have zero-foot setbacks; structures with more than four units have 15-foot side yard setbacks.

Minimum off-street parking requirements are also different for townhomes in the two districts. In R-3, off-street parking is based upon the number of bedrooms per dwelling—1.5 spaces for one bedroom, 2.5 spaces for two and three bedrooms, and 3.5 spaces for each unit with four or more bedrooms. Whereas the requirements for R-8-zoned townhomes is one parking space per unit.

Another difference is occupancy regulations. The R-3 district allows a family or not more than four persons per unit, whereas the R-8 occupancy regulations are the same as R-1, which is associated with whether the unit is owner- or non-owner occupied. Owner-occupied units may be occupied by a family plus two persons, while non-owner-occupied units may be occupied by a family plus one person. The developer is aware of this situation and was not concerned that occupancy of the proposed five unit R-8-zoned properties would have different occupancy regulations than the remainder of the townhome development.

Given the narrow circumstances of this situation, staff has no concerns with either of the requested applications and recommends approving rezoning the property from R-3C to R-8 and to approve the SUP to allow for townhomes.

**Environmental Impact:**

N/A

**Fiscal Impact:**

N/A

**Prior Actions:**

N/A

**Alternatives:**

- (a) Approve the rezoning request and the SUP request as submitted;
- (b) Approve the rezoning request and the SUP request with conditions;
- (c) Approve the rezoning request and deny of the SUP request; or
- (d) Deny both the rezoning and SUP request.

**Community Engagement:**

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

***Rezoning – 2492, 2494, 2496 and 2498 Millwood Loop (R-3C to R-8)***

Public hearing to consider a request from Mosby Opportunity Fund LLC to rezone four parcels totaling +/- 0.29-acres from R-3C, Medium Density Residential District Conditional to R-8, Small Lot Residential District. The R-3, Medium Density Residential District is intended for medium density residential development and other uses intended to respect the residential character, which are aesthetically compatible within the district by means of architectural expression, landscaping, and restrained traffic flow. The R-8, Small Lot Residential District is intended for medium- to high-density residential development that includes single-family detached, duplex, and in special circumstances townhouse development. The residential density ranges for R-8 are single-family, 2,800 sq. ft. minimum; duplex, 1,800 sq. ft. minimum/unit; townhouses, 1,800 sq. ft. minimum/unit; and other uses, 6,000 sq. ft. minimum. The Comprehensive Plan designates this site as Medium Density Residential. These areas have been developed or are planned for development of a variety of housing types which in special circumstances may include multi-family dwellings (apartments). Densities in these areas should be around 15 dwelling units per acre. Non-residential uses may also be appropriate. The parcels are addressed as 2492, 2494, 2496, and 2498 Millwood Loop and are identified as tax map parcels 7-E-55, 56, 57, and 58.

***Special Use Permit – 2492, 2494, 2496 and 2498 Millwood Loop (To Allow Townhomes in the R-8 District)***

Public hearing to consider a request from Mosby Opportunity Fund LLC for a special use permit per Section 10-3-59.4(1) of the Zoning Ordinance to allow attached townhomes of not more than eight units within the R-8, Small Lot Residential District. The site includes four parcels totaling +/- 0.29-acres and is addressed as 2492, 2494, 2496, and 2498 Millwood Loop and is identified as tax map parcels 7-E-55, 56, 57, and 58.

In addition, adjoining property owners were notified of the public hearing; the property was posted with signage advertising the request; and a notice was provided on the City’s website at <https://www.harrisonburgva.gov/public-hearings>.

**Recommendation:**

Staff recommends alternative (a) to recommend approval of the rezoning and SUP requests as submitted.

**Attachments:**

1. Extract from Planning Commission
2. Site map
3. Application and supporting documents

**Review:**

Planning Commission recommended approval the rezoning request (7-0) and recommended approval of the special use permit request as submitted (7-0).