



CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

409 SOUTH MAIN STREET, HARRISONBURG, VA 22801

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

August 31, 2023

TO THE MEMBERS OF CITY COUNCIL CITY OF HARRISONBURG, VIRGINIA

SUBJECT: Consider a request from Mark Daniel Williams and Andrea Jane Williams to rezone 1205 Hillcrest Drive

EXTRACT FROM MINUTES OF HARRISONBURG PLANNING COMMISSION MEETING HELD ON: August 9, 2023

Chair Finnegan read the request and asked staff to review.

Ms. Rupkey said the applicant is requesting to rezone a +/- 8,712-square foot parcel from R-1, Single-Family Residential District to R-8C, Small Lot Residential District Conditional. The lot has a single-family detached dwelling and is addressed as 1205 Hillcrest Drive and is on the corner of Hillcrest Drive and East Fairview Avenue. The parcel is nonconforming to the R-1 district's area and dimensional regulations because the parcel is less than the required 10,000 square feet of lot area and the lot's width is less than 80 feet wide.

The applicant is proposing to build a porch that will wrap around portions of the dwelling. In a letter submitted by the applicant, the applicant explains the benefits of the new porch, including improved ingress and egress into the home, the ability to fix a drainage issue in the front yard with the porch addition, and to improve the aesthetic of the home and "allow for improved community and socialization between neighbors." To achieve this, the porch requires a footprint that encroaches into the front yard setback of the R-1 district.

Proffers

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

1. More than one dwelling is prohibited.
2. The minimum front yard setback along Hillcrest Drive shall be 20 feet.

Note that the submitted conceptual layout is not proffered.

Regarding proffer #1, in the R-8 district, duplexes are allowed by right and given the lot area and dimensions of the property, a duplex (two dwelling units) could be constructed. 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, subdividing the property would not grant permission to build another dwelling on any newly created parcel. The submitted proffer essentially limits the subject area to only contain one dwelling unit.

Regarding proffer #2, the R-8 district dimensional regulations allows for a 10-foot minimum front yard setback. Because the parcel is a corner parcel, that same setback is permissible for both public street frontages. Given the established, built environment, and the orientation of the existing structures along this side of Hillcrest Drive, staff was concerned that a 10-foot setback allowed by the R-8 district along Hillcrest Drive would allow the single-family structure to be too close to the street. In response, the applicant has proffered that the minimum setback along Hillcrest Drive shall be 20-feet. The minimum setback along East Fairview Avenue would be 10-ft. as allowed by the R-8 district.

Note that any special use permit approved by City Council would still be permissible.

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 proffers, both the allowed dwelling type (single-family detached dwelling) and density (at about 4 dwelling units per acre) conforms with the Low Density Residential designation.

Know also that the R-8 district's occupancy regulations are the same as the R-1 district's occupancy regulations. When the R-8 district was drafted, the proposed occupancy regulations were intentionally designed to mimic the R-1 and R-2 districts because the R-8 district was intended to promote family occupancy with higher unit density abilities. 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.

The existing property meets the lot depth requirements but is nonconforming to R-1 lot area requirements and is about 20 feet less in width than the minimum required 80-foot lot width. Recently, staff discussed whether it is appropriate and best practice to rezone an R-1-zoned, buildable property to the R-8 district to alleviate setbacks to construct a larger building. The R-8 district was created in 2019 to provide more flexibility for developers to create more housing opportunities by establishing smaller lots for more dwelling units. Ultimately, staff concluded that on a case-by-case basis and with appropriate proffers, rezoning a lot in an established neighborhood to R-8 should not have major adverse effects on the surrounding properties nor defeat the overall purpose and intent of the R-8 district. While not exactly the same, this request is

similar to last month's rezoning request at 361 Franklin Street, where the R-8 district was requested to assist with the buildable area and setbacks on an undeveloped R-1 parcel.

Transportation and Traffic

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

Public Water and Sanitary Sewer

Staff has no concerns regarding water and sanitary sewer service availability for the proposed development.

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

Rezoning this property to R-8 will not change the estimated student generation because the property currently has one single-family detached dwelling, and the proffers restrict the property to have only one single-family detached dwelling.

Recommendation

Staff recommends approval of the rezoning.

Chair Finnegan asked if there any questions for staff.

Vice Mayor Dent said again, not exactly a question but the same comment I made about the similar 361 Franklin Street, that it is really bizarre that we keep using R-8, which is intended for higher density, just to establish smaller setbacks for R-1. We need to address that in the zoning rewrite. To me it seems like the wrong tool, using a hammer when you needed a screwdriver. We will address that when the time comes.

Chair Finnegan said we just saw this last month. Is it fair to say that it is increasing the density? It is reducing the requirements for setbacks.

Ms. Rupkey said depending on the proffers that they provide. For this one, it is keeping it a single-family residence, but as it is kind of described the R-1 lot size is 10,000 square feet whereas the R-8 is smaller than that at 2,800 square feet. It could in theory have more density off of it.

Mr. Fletcher said can you ask your question again? What was your specific question?

Chair Finnegan said Adam, you like splitting hairs on this language. When we talk about density per acre, yes if they are all zoned R-1 it is a lower density per acre, but R-8 is still intended for single family, duplexes not high density.

Mr. Fletcher said R-1 is your most standard Euclidean suburban, residential zoning. 10,000 square foot of lot size, 30-foot setback in the front, 25 in the rear and 10 on both sides. That is four units max and sometimes you do not even get four units an acre based upon that infrastructure and those things. R-8 was designed with the intent to create flexibility. So, you are going to increase density if you go to a straight R-8 because you immediately get significant decrease in required lot size from 10,000 to 2,800. You are immediately getting flexibility in dimensional requirements. So, you do not have to have 80 feet of lot width. You do not have to have 100 feet of lot depth. It is not entirely unheard of to rezone properties to take advantage of other districts' guidelines. Over the years, and I know Mr. Baugh has been around for a number of years and experienced this, where people rezone properties from R-1 to either R-2 or R-3 because they specifically want the density abilities that the lot allows but then they are still meeting setback regulations. You could look all over the City and find these. I would agree that I was not anticipating that this would be an outcome. I do not think it is something that gives us any ill feelings towards because I think as we continue to analyze our future ordinance, we may be heading in this direction if you all approve it. There are always surprising things that people can find ways to take advantage of the new zoning districts but when you think back at all the R-8 rezonings, yes we have had recent smaller ones, we have had multiple R-8 rezonings that have taken advantage of the reduced size for townhomes, I mean we have Pleasant Hill Townhomes that is going through the Engineered Comprehensive Site Plan, the one on Vine Street. They are out there. I can think of developments that have said "we want the R-3 density, but we are only going to build single family homes" and somebody might say "well, why are you doing that? Just build R-1." Well, it is because you can increase density and I think there is even some setback related to that.

Chair Finnegan said there are a lot of these that we see that increases the number of units per building. These are the things worth considering. You could make the same argument to Vice Mayor's point about using the screwdriver when you need a hammer, we have done a lot of residential rezonings recently to...on paper it does not make sense to zone something as residential as business, but it does if you are after certain kinds of setbacks.

Mr. Fletcher said even when the new Zoning Ordinance is completed, you are still going to be looking at rezonings and special use permits. I mean, it is going to happen because people are going to want to do things on the property that the zoning does not currently allow. It is not like all of these issues are going to disappear because if we do these proactive rezonings and we preemptively rezone the whole city, someone is going to have an idea with a property that is not the zoning that they have.

Commissioner Baugh said the other category I think of that has had some of this is R-5. We have a lot of R-5 properties were developed a certain number of those over the years

that are not high density properties. They are R-5's because the property owners wanted to do something and that was the only zoning category that we had that would make it work. Again, since we are all looking at the zoning rewrite, I think that is the point here which is not that you are going to eliminate it, but the striped down version is when you take a quick look at R-8 what you are thinking of was how do we get an extra dwelling in the space kind of thing. Now, we are looking at two in a row where it has been used for not that. We are able to decide if we like that or not, but I agree with the Vice Mayor it is certainly at least worth noting as we go forward with the Zoning Ordinance rewrite that you can just deal with some of these setback issues and flexibility as part of your zoning categories, but maybe not. Maybe there is somewhere in there that we can deal with this because I think that is a part of it. If it feels like people are coming in having issues with setbacks, in some respects, just saying can we find a zoning category that they fit in whether in terms of the big picture that fits in with what is around it. May not be the most elegant solution. I also say I think that with R-1's and the R-2's it would be hard to make an argument that R-8 is not consistent with that. The B-2 maybe be a little different.

Vice Chair Byrd said the BZA is not being kind to anyone in R-1 thinking about changing their variances therefore changing their setbacks to account for any exterior changes to their housing. If they want to cover their porches or anything like that, we have seen multiple of those. We do not see hardships, but in the requirements, we do see that the City is pointing out that sometimes some of the conditions are met. So, I just want to make sure that you all were aware that the BZA would be sending all of these R-1 residents who want these changes to their setbacks away from us [referring to the BZA] and back to us [referring to the Planning Commission]. You might see the rezoning anyway because they just cannot get them through an appeal.

Mr. Fletcher said I would add too that R-8 is extremely flexible. If you build in R-1, let us say you want to build a rear addition, in the setback in R-1 on the rear of the single family dwelling it is 25 feet, but in R-2 it is 20 and maybe you only needed the extra five feet. You are not going to get a BZA variance for that, you should not. So, then you could say I will just rezone to R-2 get the extra five feet, well now, no I will rezone to R-8 because now I will get an extra 10 feet.

Commissioner Baugh said as long as you are on that axis, I think the rezonings to R-8 from R-1 or R-2, I have arguably been consistent with R-8 whereas the back and forth between one and two, maybe not so much. That I think is starting to look like spot zoning if you start doing that.

Chair Finnegan said another way to address it is to reduce the setbacks for R-1 in the zoning ordinance. Make that more flexible.

Vice Chair Byrd said on that though, are you going to keep the 10,000? That just makes the house bigger if you reduce the setbacks for R-1.

Ms. Dang said sorry, I do not understand.

Chair Finnegan said you are saying if we reduce the setbacks for R-1...

Mr. Fletcher said the buildable area just gets bigger.

Chair Finnegan said which is what we heard last month was wanting to increase the footprint of a house, but still keep it a single-family house.

Chair Finnegan asked if there were any more questions for staff. Hearing none, he opened the public hearing.

Mark Daniel Williams, applicant and resident at 1205 Hillcrest Drive, came forward regarding the request. He said thank you guys for your time. Thank you for your consideration in this matter. Thank you, Thanh and Meg, for all you have done, meeting with me and dealing with me. There is a lot less proffers in this proffer statement than the last, so it is a little easier to read. So, my wife and I moved here less than two years ago. I took a job at the hospital and we kind of bought a house on Facetime in a neighborhood we did not know and lucked out, we love the neighborhood. The house, we have put a lot of work in it. The City has been amazing to us. It has become home very quickly. We have poured our heart and soul into this house. Lived in it for the last two years while having our first child. Part of that when we were meeting with our contractors, we had drainage issues in the basement. We brought it up with our immediate neighbors, talking about a porch addition and just kind of getting back to that porch-front neighborhood where you all spend time on the front porches while kids play in the front yards. Come to find out with the uniqueness of our lot with sitting on the very constricted corner that we do sit on that you could not even build our house as it is today in a sense. That led to many meetings and that is where we are now. My wife and I really believe wholeheartedly in this and it is something that would allow us flexibility with our home. It would allow us to fix multiple issues. We have a friend that is in a wheelchair full time. Also, on top of that, we have a child now and getting in and out is not easy with a child. If you park on any side of our home, either Hillcrest, Fairview, or even our driveway you will have steps going into our home in any of those ways. Part of the goal with this project is to eliminate steps in at least one direction so that we can be able to go directly into the home. That is one advantage to this major advantage of this projects. I think that is really all I have got to say.

Chair Finnegan asked if there were any questions for the applicant. Hearing none he asked if there was anyone that would like to speak to this request. Hearing none, he closed the public hearing and opened the request for discussion.

Vice Chair Byrd said I would definitely be in favor of this because I hate having to send people away at the BZA. Since this avenue exists, I think we should give the citizens the opportunity to take advantage of it.

Vice Mayor Dent said I agree. The applicant had to be subjected to our very wonky discussion about R-8's and zoning requirements and such. In general, yes, we support this. Just trying to find the cleaner way to make it more feasible.

Commissioner Armstrong said I make a motion to approve with the proffers.

Vice Chair Byrd seconded the motion.

Chair Finnegan called for a roll call vote.

Commissioner Armstrong	Aye
Commissioner Baugh	Aye
Vice Chair Byrd	Aye
Vice Mayor Dent	Aye
Commissioner Alsindi	Aye
Chair Finnegan	Aye

The motion to recommend approval of rezoning request passed (6-0). The recommendation will move forward to City Council on September 12, 2023.