



City of Harrisonburg, Virginia

Department of Planning & Community Development

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Building Inspections

Engineering

Planning & Zoning

To: Eric Campbell, City Manager
From: Adam Fletcher, Director - Department of Planning and Community Development; and
Harrisonburg Planning Commission
Date: June 11, 2019 (Regular Meeting)
Re: Rezoning 706, 710, and 714 Greenbriar Drive (R-1 to R-3C)

Summary:

Public hearing to consider a request from Delaware Bay, LLC, Robert L. and Carolyn W. Frank, and Johann Vargas with representatives Johann Vargas and Julian Pena to rezone three parcels together totaling 1.06 +/- acres from R-1, Single-Family Residential District to R-3C, Medium Density Residential District Conditional. The first parcel containing 17,975 +/- sq. ft. is owned by Delaware Bay, LLC, is addressed as 706 Greenbriar Drive, and is identified as tax map parcel 12-I-1. The second parcel containing 13,736 +/- sq. ft. is owned by Robert L. and Carolyn W. Frank, is addressed as 710 Greenbriar Drive, and identified as tax map parcel 12-I-2. The third parcel containing 14,258 +/- sq. ft. is owned by Johann Vargas, is addressed as 714 Greenbriar Drive, and is identified as tax map parcel 12-I-3.

Background:

Greenbriar Drive was annexed into the City of Harrisonburg from Rockingham County in 1983. Greenbriar Drive was part of a master planned community and the zoning in the County at that time was R-5, Planned Residential District. The intent of the R-5 zoning in the County was *"to permit greater flexibility and consequently, more creative and imaginative designs."* The district served *"to create residential environments with a diversity of housing types, amenities, and services; more usable tracts of open space for recreation, conservation; preservation of the natural landscape features and amenities; and to attain more efficient development by grouping buildings, thereby resulting in smaller networks of streets and utilities."* In 1983, the R-5 County zoning most closely resembled the City of Harrisonburg's R-4, Planned Unit Residential District. Therefore, when the area was annexed into the City, it was designated as R-4.

At the time of annexation, the master planned community was comprised of 35 +/- acres and included parcels along Port Republic Road, Forest Hill Drive, Greenbriar Drive, and Devon Lane. The master plan for the development consisted of single-family detached dwellings, townhomes, multi-family dwelling units, a commercial component, and open area. The City's R-4 zoning designation allows for single-family detached dwellings, duplexes, multi-family dwelling units, and townhouses with occupancy by a family or not more than four persons per unit.

On June 10, 1986, the City of Harrisonburg's City Council reviewed an eight-parcel subdivision request for the Greenbriar Drive area. During the discussion the developer was asked about the possibility of changing the zoning from the R-4 designation to R-1. At that time, the developer declined the idea to rezone to R-1 and instead submitted a letter stating that he would deed restrict the properties to single-family [detached dwellings]. Deed restrictions are private agreements between property owners and the City has no authority to enforce them. Conflicts must be handled privately between property owners or through the court system.

In September 2000, residents of Greenbriar Drive submitted to Planning Commission a petition to rezone the properties along Greenbriar Drive from R-4 to R-1. The signed petition to rezone consisted of sixty-one percent of the property owners along Greenbriar Drive (excluding the six townhomes at the end of the street, which were not part of the rezoning request). The letter submitted with the petition to rezone noted that *“this change in status from R-4 to R-1 fits within the same comprehensive plan that is now in effect for these properties.”* (The 1998 Comprehensive Plan Land Use Guide in effect at the time, designated Greenbriar Drive as Low Density Residential.) In addition, the Forest Hills Neighborhood, which is zoned R-1 and directly abuts Greenbriar Drive submitted a support petition with twelve signatures from eight properties along Oak Hill Drive. In October 2000, staff supported the approval of, and Planning Commission recommended approval of the rezoning request for Greenbriar Drive from R-4, Planned Unit Residential District to R-1, Single Family Residential District. City Council unanimously approved the rezoning in November 2000.

Prior to rezoning the properties along Greenbriar Drive to the R-1 district, two single-family dwellings were legally occupied by four unrelated persons – 706 and 973 Greenbriar Drive. Additionally, 942 Greenbriar Drive had previously legally converted to a duplex with four unrelated persons residing in each unit. These dwellings continue to be occupied as such and are nonconforming. Nonconforming uses are defined in Section 10-3-24 of the Zoning Ordinance as “[a]ny lawful use existing at the time of the enactment or subsequent amendment of the Zoning Ordinance which does not conform to the current zoning regulations prescribed in the district in which it is situated.” Prior legally existing uses may continue so long as the then existing or more restricted use is not discontinued for more than two years. Therefore, when the zoning was changed from R-4 to R-1, the duplex and two single-family detached dwellings became nonconforming uses within the R-1 District.

The current Comprehensive Plan designates this area as Low Density Residential. 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.

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

- Site: Single-family dwellings, zoned R-1
- North: Across University Boulevard and Oak Hill Drive, single-family dwellings, zoned R-1
- East: Single-family dwellings, zoned R-1
- South: Across Greenbriar Drive, townhomes, zoned R-4 and single-family dwellings, zoned R-1
- West: Across Forest Hill Road, a hotel, zoned B-2

Key Issues:

The applicants are requesting to rezone three parcels totaling 1.06 +/- acres from R-1, Single-Family Residential District to R-3C, Medium Density Residential District Conditional. The properties are located along the northeastern side of Greenbriar Drive at the intersection of Greenbriar Drive and Forest Hill Road. Each parcel contains a single-family detached dwelling. The applicants’ letter describes the use of each dwelling and states that:

- “706 Greenbriar Drive is currently a nonowner-occupied residence by not more than four unrelated adults. [Note: This is a nonconforming use as described above.]
- 710 Greenbriar Drive is currently a nonowner-occupied residence by a family of five -parents and three college children [Note: This unit would also allow rental of space for occupancy by not more than one (1) unrelated tenant.]
- 714 Greenbriar Drive is owner-occupied residence with rental of space for occupancy by two unrelated tenants.”

If approved the applicants desire to rent each dwelling to four unrelated individuals. This would be an increase in occupancy for 710 and 714 Greenbriar Drive and would bring 706 Greenbriar Drive into conformance with zoning regulations.

With the requested rezoning the applicants have submitted the following proffers, written verbatim:

Prohibited Uses:

- Duplex dwelling units with limitations as required by area and dimensional regulations.
- Attached townhouses of not more than eight (8) units.
- Hospitals, convalescent or nursing homes, funeral homes, medical offices and professional offices as defined by article F.
- Child day care.
- Adult day care.
- Cemeteries.
- Small cell facilities. Wireless telecommunications facilities are further regulated by Article CC.
- Community buildings for associated townhouse and multiple-family developments.

Uses Permitted by Special Use Permit:

- Special use permits shall be permitted as approved by the City Council.

Screening/Buffer

- A fence that is a minimum of 4 feet tall shall be installed and maintained along the northeast property line adjacent to Oak Hill (See Appendix A). The fence shall be installed within 120 days of rezoning approval. (706 and 710 Greenbriar Drive only)
- A fence that is a minimum of 4 feet tall OR trees that are 4-feet in height at planting and spaced 2-feet apart shall be installed and maintained along the northeast property line adjacent to Oak Hill (See Appendix A). The fence or trees shall be installed within 120 days of rezoning approval. (714 Greenbriar Drive only)
- There will be no entrances for vehicular access permitted from Oak Hill Drive onto the subject property.

Easement Path for Forest Hills Drive (706 Greenbriar Drive only)

- Easement dedication, from tax map parcel 12-I-1, to extend 30-feet to the east of the double yellow painted centerline on forest Hills Road, shall be dedicated for a future shared use path. As depicted on Appendix B (green line)
- In addition, a 15-foot temporary construction easement, as measured from east of the new right-of-way line, shall be dedicated for future shared use path construction. As depicted on Appendix B (red line).

- Such dedications shall be completed and recorded within 90 days of approval.

Note: Each property owner has submitted separate proffer letters.

As previously stated, the Comprehensive Plan designates this area as Low Density Residential. These are areas that consist of single-family detached dwellings in and around well-established neighborhoods with a target density of around four dwelling units per acre. The low density residential areas are designed to maintain the character of existing neighborhoods. In this particular situation, the existing neighborhoods are zoned R-1, which allows for only single-family detached dwellings and has limits on occupancy.

This designation extends not only along Greenbriar Drive, but into the Forest Hills Neighborhood, which is directly adjacent to Greenbriar Drive. The properties along Greenbriar Drive are located along one boundary of a larger neighborhood area, including the Forest Hills Neighborhood, and which are all currently zoned R-1 and designated in the Land Use Guide as Low Density Residential.

Staff does not believe that the proposed higher occupancy is compatible with the adjacent residential neighborhood along Greenbriar Drive and the Forest Hills Neighborhood. Moreover, the request for higher occupancy is not supported by the Comprehensive Plan, which designates this area as Low Density Residential. To consider rezoning the subject properties to R-3C because they are located in close proximity to other properties that are nonconforming with higher occupancy and/or that are zoned and have higher occupancy, would set a precedent to allow other property owners along Greenbriar Drive to request the same rezoning for the same reasons.

Staff recommends denying the requested rezoning from R-1, Single-Family Residential District to R-3C, Medium Density Residential District Conditional.

Environmental Impact:

N/A

Fiscal Impact:

N/A

Prior Actions:

N/A

Alternatives:

- (a) Recommend approval of the rezoning request as submitted; or
- (b) Recommend denial of the rezoning 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 – 706, 710, and 714 Greenbrier Drive (R-1 to R-3)

Public hearing to consider a request from Delaware Bay, LLC, Robert L. and Carolyn W. Frank, and Johann Vargas with representatives Johann Vargas and Julian Pena to rezone 1.06 +/- acres from R-1, Single-Family Residential District to R-3, Medium Density Residential District. The Zoning Ordinance states that the R-1, Single-Family Residential District is intended for low-density, relatively spacious single-family residential development. The residential density ranges from 1 to 4 units per acre, with a minimum lot size of 10,000 sq. ft. 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 density ranges for R-3 are single-family, 6,000 sq. ft. minimum; duplex, 4,000 sq. ft. minimum/unit; townhouses, 2,000 sq. ft. minimum/unit; other uses, 6,000 sq. ft. minimum and by special use permit multi-family, 3,000 sq. ft. minimum/unit. The Comprehensive Plan designates this area as Low Density Residential. 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. The first parcel containing 17,975 +/- sq. ft. is owned by Delaware Bay, LLC, is addressed as 706 Greenbrier Drive, and is identified as tax map parcel 12-I-1. The second parcel containing 13,736 +/- sq. ft. is owned by Robert L. and Carolyn W. Frank, is addressed as 710 Greenbrier Drive, and identified as tax map parcel 12-I-2. The third parcel containing 14,258 +/- sq. ft. is owned by Johann Vargas, is addressed as 714 Greenbrier Drive, and is identified as tax map parcel 12-I-3.

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 (b) denial of the rezoning request.

Attachments:

1. Extract (11 pages)
2. Site maps (2 pages)
3. Application, applicant letter, and supporting documents (19 pages)
4. Public comments received by staff as of May 20, 2019 (17 pages)

Review:

Planning Commission recommended denial (6-1) of the rezoning request.