



CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

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December 29, 2025

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

SUBJECT: *Consider a request from AM Yoder & Co to amend the Zoning Ordinance to modify special use permit requirements to reduce required side yard setbacks in the R-8 district*

**EXTRACT FROM THE DRAFT MINUTES OF HARRISONBURG PLANNING
COMMISSION MEETING HELD ON: December 10, 2025**

Chair Baugh read the request and asked staff to review.

Ms. Rupkey said the R-8, Small Lot Residential District's by right residential uses include single-family detached dwellings and duplex dwellings while townhomes are permitted with an approved special use permit (SUP). Per Section 10-3-59.4 (11), a property owner may request for any residential use to have reduced side yard setbacks so long as either certain fire sprinklers are installed or exterior walls are constructed without openings and have a minimum 1-hour fire resistance rating.

As noted, if a SUP is approved allowing reduced side yard setbacks, and the owner chooses not to install a sprinkler system, then the required fire resistant wall cannot have any openings (i.e., windows) on the wall adjacent to a property line where the side yard setback is reduced. The applicant is proposing to amend Section 10-3-59.4 (11) to allow for the installation of fire-rated openings on the first floor and only when the bottom of such opening is no more than 10 feet above the exterior finished grade. If approved, note that any exterior walls along the same side of the building that meet the standard minimum setback requirements of Sec. 10-3-59.5 are exempt from fire-resistance requirements. As an example, this would allow a three-story building, where the third-story exterior walls are located 10 or more feet away from the side property line to not be fire resistant and can have a standard window that opens. While an approved SUP may alleviate the Zoning Ordinance's minimum requirement for side yard setbacks, building code regulations would still need to be met regardless of an approved SUP.

The applicant proposes the following amendment to Section 10-3-59.4 (11):

Reduced required side yard setbacks to zero (0) feet where such buildings are single-family detached dwellings, duplex dwellings, or townhomes when:

- a) National Fire Protection Association (NFPA) 13, 13R, or 13D fire sprinkler systems are installed in such buildings, or
- b) Any exterior wall(s) adjacent to facing the property line with a reduced side yard setback is constructed without openings and has with a minimum 1-hour fire resistance rating in accordance with testing standards described in the Virginia Residential Code. resistant assembly documented by a nationally recognized testing agency. Any openings shall have a minimum 1-hour fire-rating and be fixed and inoperable. Openings shall only be located on the first floor of the dwelling and the bottom of openings shall be equal to or less than 10 feet above the exterior finished grade. Walls meeting the standard setback requirements of Sec. 10-3-59.5 are exempt from these fire resistance requirements.

Where the Virginia Residential Code sets more restrictive standards, compliance with its provisions is mandatory.

The Fire Department has reviewed the proposed amendment and supports permitting inoperable, fire-rated windows on the first floor, provided that the bottom of the window opening does not exceed 10 feet above the exterior finished grade. Openings above this height introduce significant operational and safety challenges for emergency responders, as ground ladders may not be able to provide adequate access for rescue operations. During some rescues, firefighters may need to break a window to remove someone quickly or safely. If a ladder cannot be used, openings that are 10 feet or lower present a more manageable drop, reducing the risk of serious injury to the resident and the responding firefighter.

Conclusion

Staff does not have concerns regarding the proposed amendments to Section 10-3-59.4 (11) and will have the opportunity to review SUP requests on a case-by-case basis. Staff recommends approval of the ZO amendment.

Chair Baugh asked if there were any questions for staff.

Commissioner Jezior asked the way that it is written right now you cannot have any opening?

Ms. Rupkey said correct.

Councilmember Dent said that is if it is within the ten feet setback.

Ms. Rupkey said if they request the special use permit. If they put sprinklers in the building, they can have windows that open. It is an either/or. As it is written today and how it is being proposed to being written, you have the option of doing the National Fire Rated Protection Associations 13,

13R or 13D sprinkler system or doing the fire resistance with no openings. Now it is that first same section or fire resistant fixed openings as well.

Councilmember Dent said I have a question. I do not know if it is for staff or just for general practice. I have heard I think former Chair Finnegan say, in general, if there is a townhouse row the end units do not have windows. I thought, why not? In this case they can. As I understand it, this is allowing a particular case where even if the setback is smaller, they could have one of these fixed windows, right?

Ms. Rupkey said calling it an opening may be better. It cannot open and close. It would be just a pane of fire-rated glass that would provide more natural light.

Councilmember Dent said again if it is the full setback, windows are allowed and they can open. Why do they not build them that way I wonder?

Mr. Fletcher said I am not quite sure I follow. Did I hear you say that end townhome units do not have windows?

Councilmember Dent said that is what Chair Finnegan said.

Mr. Fletcher said that is not accurate. It has everything to do with the building code and how close they might be to a property line. You kind of have to disregard zoning. This is an unusual type of amendment. Just to clarify, that is just not an accurate statement.

Councilmember Dent said not that they cannot, but that the practice was that they typically did not. That is what I was wondering.

Ms. Rupkey said if in the past in the R-8 district someone had needed to have reduced setbacks and required the special use permit, they would not have been allowed to have openings at that time.

Mr. Fletcher said there are definitely townhomes all over the City that have openings. It has to do with percentage of openings and the closer you get to the property line. Ten is the special number because then you have a lot of flexibility.

Chair Baugh said generally you are looking at townhouses in R-3 for those types of developments.

Mr. Fletcher said R-3, R-4, R-5.

Ms. Dang said now R-8 also, with special use permit.

Chair Baugh said historically it was R-3.

Vice Chair Porter said I would like to understand the motivation for the request, simply because there is usually a practical reason why people get into this arcane language. What is the applicant's intention in terms of making this request?

Ms. Rupkey said there is a bit of history with this request that we did not bring up in the staff report. Earlier this year, there was a rezoning request to R-8 at a property on Sunrise Avenue. They requested to rezone to R-8, and then they would like to build a third story addition. How their house is situated, now that it is zoned R-8, is conforming to setbacks. Once they add that third story, they would have to request a special use permit for a portion of the building that is already seven feet from the property line. They want to keep it for where the kitchen is. They would like to keep some form of natural light to be able to go through while they are in there during the day. You will see at the end of the meeting, the special use permit is coming possibly next month. They are trying to get this for this specific client, but also in general other clients that they have, to allow for the flexibility of openings on the sides of buildings.

Vice Chair Porter said you gave the perfect example to help me understand. I am familiar with that property, and I remember when it was brought before us last time. I can understand exactly why they would want that, so that makes sense to me. Thank you.

Commissioner Seitz said I think one of the reasons why I am supportive of this is, not because of the particular example, but when we as the Commission requested if you all bring this amendment to us...again, anything that wherever we can keep the zoning ordinance from treading in waters that belong to the building code, I think is probably a good way to think about it. I particularly appreciate the language in here that says where the residential code requires more restrictions that takes precedence over this.

Ms. Rupkey said the intent is that it should have done that anyway, but we wanted to make sure that it was clear to people coming in that they would still need to follow building code.

Chair Baugh asked if there were any questions for the applicant's representative. Hearing none, he 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.

Commissioner Jezior said I do not have any issue with it. I think it makes sense to be able to add more natural light.

Vice Chair Porter said I feel sometimes if I am going to make a motion about something, I should understand it. I understand it well enough I guess. I will go ahead and make a motion to recommend approval of the zoning ordinance as presented.

Commissioner Kettler seconded the motion.

Commissioner Seitz	Aye
Commissioner Jezior	Aye
Councilmember Dent	Aye
Commissioner Kettler	Aye
Vice Chair Porter	Aye
Chair Baugh	Aye

The motion to recommend approval of the Zoning Ordinance amendment passed (6-0). The recommendation will move forward to City Council on January 13, 2026.