

# ***The Heritage on Rio***

## ***Special Exception Application Narrative***

### ***SE 2021--041***

In connection with the zoning map amendment application ZMA 2021-011 (the “ZMA Application”), originally submitted by GW Real Estate Partners, Inc. on September 20, 2021 (the “Applicant”), revised June 6, 2022, this Application for a Special Exception respectfully requests a waiver of the setback requirements of Section 4.19 of the Albemarle County Zoning Ordinance that would otherwise apply to the four-story apartment buildings proposed by the Application.

If approved, the Application would permit the parcels subject to the Application (the “Property”), to be developed as a multifamily residential community known as “The Heritage on Rio” (the “Project”). The Project proposes a maximum of 250 residential units. The Application Plan submitted with the ZMA Application shows the arrangement of the apartment building envelopes within the Project.

Some of the apartment buildings within the Project are proposed as four-story structures. Accordingly, each of the four-story buildings is subject to the County’s front setback requirement, which provides that for each story beginning above 40 feet in height, or for each story above the third story, whichever is less, the minimum setback shall be 15 feet unless reduced by special exception. Zoning Ordinance § 4.19.5. There is no minimum setback for the side and rear of structures under this rule.

The apartment buildings are proposed to be built on the portion of the Project toward the rear of the Property, away from Rio Road West. The buildings that will be located adjacent to Rio Road West will not exceed three stories. The Project’s two entrances will be on Rio Road West as well. Because Rio Road West is the nearest public road to the apartment buildings, and because the Project’s entrance is served by Rio Road West, the facades of the apartment buildings that face Rio Road West are considered the front of the buildings for purposes of the front setback requirement.

For each of the apartment buildings that are proposed to be four stories, shown as Building Envelopes #5, #6 and #7 on the Application Plan, the Applicant requests a special exception to waive the front setback requirement that would otherwise apply to each of these buildings. The requested special exception will not result in the undesired “canyon” effect along public roads that Section 4.19 is designed to prevent.<sup>1</sup> The four-story apartment buildings are set back at a generous distance from Rio Road West, and behind a row of three story buildings that will be located adjacent to the road, such that the “canyon effect” is not even applicable in the situation. In addition, the Project’s design allows sufficient space and light between the buildings to avoid the “canyon” effect. Moreover, A 10-foot wide asphalt multi-use pathway is proposed to be

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<sup>1</sup> The purpose of the setback rules was discussed during the public hearing at which the Board of Supervisors added Section 4.19 to the Zoning Ordinance. County Staff noted that Section 4.19 “avoids a ‘canyon’ effect.” Statement of Ron Higgins, Deputy Zoning Administrator, Minutes of the Board of Supervisors Hearing, June 3, 2015, at page 99.

constructed along the entire frontage of the parcel, and would replace the existing narrower concrete sidewalk. This new pathway would also include a separation zone at least six feet in width between the curb and the new ten-foot wide multi-use path. This proposal will provide a significant enhancement to the pedestrian experience along the Project frontage, which further reduces the need for the setback to be enforced on the buildings in the back of the Property. On side sidewalks and green space will also promote a welcoming pedestrian experience for residents walking between and around the apartment buildings.

Another site specific element of the Project that supports the waiver of the setback request has to do with the way the natural property grade gently slopes down and away from Rio Road West. As such, the four story buildings, which will be located to the rear of the Property, will not appear to be as tall relative to the elevation of the roadbed and the pedestrian/bike path, nor will they appear to be an entire floor taller than the three story buildings that will be at a slightly higher grade and adjacent to Rio Road West.

In addition, if it were enforced, the front setback requirement would significantly eliminate living space in the four story apartment buildings. The requested special exception therefore preserves living space in the apartment buildings, which will enhance the residential experience by providing more spacious accommodations to residents. As noted in more detail in the Rezoning Application Narrative, the proposed community would offer needed housing options for County residents and employees of nearby business and employment centers, and would significantly contribute to the urban redevelopment of the surrounding area envisioned by the Rio29 Small Area Plan, including by adding more residents who will support the implementation of the Rio29 Small Area Plan. Given that strict enforcement of the setback requirement would not further the purpose of that regulation, it is appropriate to waive the requirement in light of the far greater public benefit that the Project would provide in the form of needed housing options at a high density level in a strategic location in close proximity to the Rio29 area, as contemplated by the Comprehensive Plan generally as well as the Place29 Master Plan and the Rio29 Small Area Plan.

Taken as a whole, the Project's design implements the Neighborhood Model Principle that recommends Buildings and Spaces of Human Scale. The building design will incorporate different materials, textures, and features to prevent massing that is inconsistent with that goal, pursuant to a proffered statement on the Application Plan. In addition, the buildings will be subject to the review of the Architectural Review Board since the Project is located along an Entrance Corridor. The proposed design is also meant to foster a walkable and interactive residential environment to support a strong sense of community among residents.

#### The Proposed Special Exceptions Supports the Goals of the Comprehensive Plan

Modifying the front setback requirement is consistent with the recommended future land use of the Property under the Comprehensive Plan. The Project is located in the Development Area and is designated for Urban Density Residential uses, with between 6.01 and 34 dwelling units per acre. The Places29 Master Plan supports buildings up to four stories. When placed in the context of the existing development in the surrounding area, the Project's proposal of four-story buildings in the "back row" of the project, behind three story buildings, and at a density within the recommendations of the Comprehensive Plan, would efficiently use this Urban Density Residential land in a manner consistent with the Master Plan's guidelines.

The Applicant estimates that strict application of a 15-foot setback to the apartment buildings would result in the loss of residential units. As a reduction in the number of residential units is contrary to the Comprehensive Plan's recommendation for the Property, a special exception from the setback is warranted. If the number of units were reduced as a result of the setback requirement, the Project would be far less effective in meeting the County's density and affordable housing goals. It would also not be financially viable to construct the Project.

As noted above, Section 4.19 does not apply setback requirements to the sides or rear of any structures in a residential zoning district. Therefore, the remaining sides of the apartment buildings are not subject to the setback rules.

For these reasons, the Applicant requests a special exception from Section 4.19 as applied to the fronts from the proposed four-story apartment buildings. The proposed height is consistent with the Master Plan's guidelines for this area of the County. Granting the requested special exception will further the goals of the Comprehensive Plan without creating any adverse impacts.

Thank you for your consideration of this request.