

**STAFF PERSON:**  
**PLANNING COMMISSION:**  
**BOARD OF SUPERVISORS:**

**Andy Reitelbach**  
**October 8, 2019**  
**December 4, 2019**

**Staff Report for Special Exception to modify the minimum area required for establishment of a district for Planned Unit Development.**

**WAIVERS AND MODIFICATIONS FOR PLANNED DEVELOPMENTS**

The applicant is requesting to modify the acreage requirement for Planned Unit Development zoning district. According to Section 20.7.1 of Chapter 18 of the Zoning Ordinance, the minimum acreage required for establishment of the district is 100 acres, and the property in this proposal is 13.63 acres.

County Code § 18-8.2(b) permits any planned district regulation to be modified or waived by the Board of Supervisors as a Special Exception under County Code §§ 18-33.43 through 18-33.51. Staff analysis for County Code § 18-8.2(b)(3) is provided below:

**3. Findings. In addition to making the findings required for the granting of a waiver or modification in sections 4, 5, 21, 26, or 32, a waiver or modification may be granted only if it is also found:**

No modifications or waivers are requested under sections 4, 5, 21, 26, or 32.

- i. to be consistent with the intent and purposes of the planned development district under the particular circumstances, and satisfies all other applicable requirements of section 8;**

Staff has reviewed the intent and purposes of the Planned Unit Development District and found the proposal to be consistent with the purposes of the district, including serving as a mini-neighborhood within the designated community and urban area, providing appropriate commercial uses in addition to a variety of residential uses, and providing flexibility for a mix of residential types in this area. The proposed PUD, with commercial areas, may act as a neighborhood center for the 5<sup>th</sup> Street area south of I-64.

- ii. to be consistent with planned development design principles;**

The application has been reviewed under the Neighborhood Model Principles and has been found to meet those principles.

- iii. that the waiver or modification would not adversely affect the public health, safety or general welfare;**

Staff has found that the public health, safety, and general welfare will be maintained.

- iv. in the case of a requested modification, that the public purposes of the original regulation would be satisfied to at least an equivalent degree by the modification.**

The proposed rezoning property is on infill parcels adjacent to a designated center (County Office Building – 5<sup>th</sup> Street) within the development areas, and staff finds that the acreage requirement in this location is less important than the design of the site/development and the provision of different housing types and a mixture of uses, including commercial, for this area of the County. The development will contain a mix of uses and residential types, open space, and sidewalks and a multi-use path providing interior connections and connections with adjacent properties.

**Staff recommends approval of this request.**

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**PLANNING COMMISSION:**  
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**Staff Report for Special Exception to modify the minimum area required for open space in the residential area of any PUD.**

**WAIVERS AND MODIFICATIONS FOR PLANNED DEVELOPMENTS**

The applicant is requesting to modify the minimum area required for open space in the residential area of any PUD. Section 20.8.2 of Chapter 18 of the Zoning Ordinance, requires that not less than twenty-five (25) percent of the residential area of any PUD shall be in open space. The applicant proposes in the rezoning request that only twenty (20) percent of the residential area be in open space.

County Code § 18-8.2(b) permits any planned district regulation to be modified or waived by the Board of Supervisors as a Special Exception under County Code §§ 18-33.43 through 18-33.51. Staff analysis for County Code § 18-8.2(b)(3) is provided below:

**3. Findings. In addition to making the findings required for the granting of a waiver or modification in sections 4, 5, 21, 26, or 32, a waiver or modification may be granted only if it is also found:**

No modifications or waivers are requested under sections 4, 5, 21, 26, or 32.

- i. to be consistent with the intent and purposes of the planned development district under the particular circumstances, and satisfies all other applicable requirements of section 8;**  
Staff has reviewed the intent and purposes of the Planned Unit Development District and found the proposal to be consistent with the purposes of the district, including serving as a mini-neighborhood within the designated community and urban area, providing appropriate commercial uses in addition to a variety of residential uses, and providing flexibility for a mix of residential types in this area. The proposed PUD provides several residential types, and the application plan states that open space will be provided in the residential areas on either side of Old Lynchburg Road.
- ii. to be consistent with planned development design principles;**  
The application has been reviewed under the Neighborhood Model Principles and has been found to meet those principles.
- iii. that the waiver or modification would not adversely affect the public health, safety or general welfare;**  
Staff has found that the public health, safety, and general welfare will be maintained.
- iv. in the case of a requested modification, that the public purposes of the original regulation would be satisfied to at least an equivalent degree by the modification.**  
The PUD regulations are for properties of 100 acres, with the open space required to ensure there are recreational and outdoor opportunities for residents who live within such a large site; however, the proposed PUD for this project is only 13.63 acres, as the applicant is requesting an exception. Due to the decreased size of the proposed project, 20% open space in the residential areas will still provide space for recreational areas and public gathering spots for the residents. Because the residential areas are planned for either side of Old Lynchburg Road, the applicant has also stated in the application

plan that at least 7% of the open space will be on either side of the street, to ensure that all residents have at least some open space near their homes. Also, there are two municipal parks each within approximately one-half mile of the project – Azalea Park and Biscuit Run Park. These areas can provide additional recreational opportunities for nearby residents. In addition, the applicant is proposing to construct sidewalks and a multi-use path along the existing roadways – Mountainwood Rd., Country Green Rd., Old Lynchburg Rd., and 5<sup>th</sup> Street – which will allow for additional recreational opportunities and provide for connections to other nearby areas.

**Staff recommends approval of this request.**

**STAFF PERSON:  
PLANNING COMMISSION:  
BOARD OF SUPERVISORS:**

**Andy Reitelbach  
October 8, 2019  
December 4, 2019**

**Staff Report for Special Exception to waive the requirement that the total gross floor area of uses permitted in commercial/service areas shall not exceed twenty (20) square feet per dwelling unit approved on the application plan, within a Planned Unit Development.**

**WAIVERS AND MODIFICATIONS FOR PLANNED DEVELOPMENTS**

The applicant is requesting to waive Section 20.9.3 of Chapter 18 of the Zoning Ordinance, the requirement that the total gross floor area of uses permitted in commercial/service areas shall not exceed twenty (20) square feet per dwelling unit approved on the application plan, within a Planned Unit Development.

County Code § 18-8.2(b) permits any planned district regulation to be modified or waived by the Board of Supervisors as a Special Exception under County Code §§ 18-33.43 through 18-33.51. Staff analysis for County Code § 18-8.2(b)(3) is provided below:

**3. Findings. In addition to making the findings required for the granting of a waiver or modification in sections 4, 5, 21, 26, or 32, a waiver or modification may be granted only if it is also found:**

No modifications or waivers are requested under sections 4, 5, 21, 26, or 32.

- i. **to be consistent with the intent and purposes of the planned development district under the particular circumstances, and satisfies all other applicable requirements of section 8;**  
Staff has reviewed the intent and purposes of the Planned Unit Development District and found the proposal to be consistent with the purposes of the district, including serving as a mini-neighborhood within the designated community and urban area, providing appropriate commercial uses in addition to a variety of residential uses, and providing flexibility for a mix of residential types in this area. The request is consistent with permitting a variety of residential types and commercial uses by removing restrictions on the ratios of residential to commercial, which could allow for more flexibility.
- ii. **to be consistent with planned development design principles;**  
The application has been reviewed under the Neighborhood Model Principles and has been found to meet those principles.
- iii. **that the waiver or modification would not adversely affect the public health, safety or general welfare;**  
Staff has found that the public health, safety, and general welfare will be maintained.
- iv. **in the case of a requested modification, that the public purposes of the original regulation would be satisfied to at least an equivalent degree by the modification.**  
The proposed rezoning to PUD is for a smaller site than what is generally required, which is 100 acres. The existing PUD regulations are to ensure that there is sufficient residential areas to support the commercial portions of the PUD. With the smaller area proposed for this rezoning, of 13.63 acres, the strict ratio of residential to commercial areas allows for less flexibility than the intent of the PUD regulations. In addition, the

proposed rezoning is on an infill site within a larger developed area. There are many residential units existing in the surrounding vicinity, and few commercial areas, so the existing residential areas would help provide the necessary units to support the proposed commercial uses; however, as existing units, they would not be included in the calculation of the ratio for total gross floor area.

**Staff recommends approval of this request.**

**STAFF PERSON:  
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October 8, 2019  
December 4, 2019**

**Staff Report for Special Exception to waive the requirement that building permits for commercial/service uses shall not be issued prior to issuance of building permits for eight (80) percent of the dwelling units approved on the application plan, for Planned Unit Development.**

**WAIVERS AND MODIFICATIONS FOR PLANNED DEVELOPMENTS**

The applicant is requesting to waive Section 20.9.4 of Chapter 18 of the Zoning Ordinance, the requirement that building permits for commercial/service uses shall not be issued prior to issuance of building permits for eight (80) percent of the dwelling units approved on the application plan, for Planned Unit Development zoning district.

County Code § 18-8.2(b) permits any planned district regulation to be modified or waived by the Board of Supervisors as a Special Exception under County Code §§ 18-33.43 through 18-33.51. Staff analysis for County Code § 18-8.2(b)(3) is provided below:

**3. Findings. In addition to making the findings required for the granting of a waiver or modification in sections 4, 5, 21, 26, or 32, a waiver or modification may be granted only if it is also found:**

No modifications or waivers are requested under sections 4, 5, 21, 26, or 32.

- i. **to be consistent with the intent and purposes of the planned development district under the particular circumstances, and satisfies all other applicable requirements of section 8;**  
Staff has reviewed the intent and purposes of the Planned Unit Development District and found the proposal to be consistent with the purposes of the district, including serving as a mini-neighborhood within the designated community and urban area, providing appropriate commercial uses in addition to a variety of residential uses, and providing flexibility for a mix of residential types in this area. The waiver of this requirement will assist in providing better flexibility of commercial uses and appropriate commercial uses with the residential areas.
- ii. **to be consistent with planned development design principles;**  
The application has been reviewed under the Neighborhood Model Principles and has been found to meet those principles.
- iii. **that the waiver or modification would not adversely affect the public health, safety or general welfare;**  
Staff has found that the public health, safety, and general welfare will be maintained.
- iv. **in the case of a requested modification, that the public purposes of the original regulation would be satisfied to at least an equivalent degree by the modification.**  
The proposed rezoning is for a smaller property than what the PUD ordinance generally regulates, 13.63 acres of infill development rather than 100 acres. Because this proposed project is smaller than what is generally required by the PUD ordinance, there is less flexibility for providing a mixture of residential versus commercial development, as intended for Planned Development districts. The existing requirement helps to ensure

that there is a sufficient number of residential units to support the proposed commercial areas in the PUD. Because the proposed project is infill, there is less of a need for ensuring a strict ratio in the number of building permits issued for residences versus commercial areas. There is already residential development in the vicinity of this project to support the proposed commercial development, and there are few commercial opportunities along 5<sup>th</sup> Street south of I-64. By waiving the regulation on the ratio of residential to commercial building permits in this area, it could help to better ensure the presence of a Community Mixed-Use area as designated in the master plan for site, by providing greater flexibility in the types of residential and commercial uses that could locate at this site.

**Staff recommends approval of this request.**

**STAFF PERSON:  
PLANNING COMMISSION:  
BOARD OF SUPERVISORS:**

**Andy Reitelbach  
October 8, 2019  
December 4, 2019**

**Staff Report for Special Exception to waive the requirement that building permits for shopping center uses shall not be issued prior to issuance of building permits for eight (80) percent of the dwelling units approved on the application plan, for Planned Unit Development.**

**WAIVERS AND MODIFICATIONS FOR PLANNED DEVELOPMENTS**

The applicant is requesting to waive Section 20.10.3 of Chapter 18 of the Zoning Ordinance, the requirement that building permits for shopping center uses shall not be issued prior to issuance of building permits for eight (80) percent of the dwelling units approved on the application plan, for Planned Unit Development zoning district.

County Code § 18-8.2(b) permits any planned district regulation to be modified or waived by the Board of Supervisors as a Special Exception under County Code §§ 18-33.43 through 18-33.51. Staff analysis for County Code § 18-8.2(b)(3) is provided below:

**3. Findings. In addition to making the findings required for the granting of a waiver or modification in sections 4, 5, 21, 26, or 32, a waiver or modification may be granted only if it is also found:**

No modifications or waivers are requested under sections 4, 5, 21, 26, or 32.

- i. **to be consistent with the intent and purposes of the planned development district under the particular circumstances, and satisfies all other applicable requirements of section 8;**  
Staff has reviewed the intent and purposes of the Planned Unit Development District and found the proposal to be consistent with the purposes of the district, including serving as a mini-neighborhood within the designated community and urban area, providing appropriate commercial uses in addition to a variety of residential uses, and providing flexibility for a mix of residential types in this area. The waiver of this requirement will assist in providing better flexibility of shopping center commercial uses and appropriate shopping center commercial uses with the residential areas.
- ii. **to be consistent with planned development design principles;**  
The application has been reviewed under the Neighborhood Model Principles and has been found to meet those principles.
- iii. **that the waiver or modification would not adversely affect the public health, safety or general welfare;**  
Staff has found that the public health, safety, and general welfare will be maintained.
- iv. **in the case of a requested modification, that the public purposes of the original regulation would be satisfied to at least an equivalent degree by the modification.**  
The proposed rezoning is for a smaller property than what the PUD ordinance generally regulates, 13.63 acres of infill development rather than 100 acres. Because this proposed project is smaller than what is generally required by the PUD ordinance, there is less flexibility for providing a mixture of residential versus commercial development, as intended for Planned Development districts. The existing requirement helps to ensure



that there is a sufficient number of residential units to support the proposed shopping center commercial areas in the PUD. Because the proposed project is infill, there is less of a need for ensuring a strict ratio in the number of building permits issued for residences versus commercial areas. There is already residential development in the vicinity of this project to support the proposed commercial development, and there are few commercial opportunities along 5<sup>th</sup> Street south of I-64. By waiving the regulation on the ratio of residential to shopping center use building permits in this area, it could help to better ensure the presence of a Community Mixed-Use area as designated in the master plan for site, by providing greater flexibility in the types of residential and shopping center commercial uses that could locate at this site.

**Staff recommends approval of this request.**