

## **Attachment VI – Revised Staff Analysis of Special Exception Request**

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

**Andy Reitelbach**  
**June 15, 2021**  
**TBD**

**Staff Report for Special Exception SE202000003 to modify the requirement for a minimum setback of 15 feet for each story that begins above 40 feet in height or for each story above the third story, whichever is less, in the Planned Residential Development zoning district, in association with ZMA202000007, RST Residences. (§ 18-4.19.5)**

### **WAIVERS AND MODIFICATIONS FOR PLANNED DEVELOPMENTS**

The applicant is requesting to modify the requirement for a minimum setback of 15 feet for each story that begins above 40 feet in height or for each story above the third story, whichever is less, in a PRD, Planned Residential Development. According to County Code § 18-4.19.5, the Zoning Ordinance, all buildings on the property must meet the requirement that each story that begins above 40 feet in height or for each story above the third story, whichever is less, the minimum setback shall be 15 feet. 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. In addition, § 18-4.19.5 specifically allows the Board of Supervisors to waive the requirement for a minimum setback of 15 feet. The applicant has provided a revised request and justification for this special exception, which can be found in Attachment V. Staff analysis for County Code § 18-8.2(b)(3) and § 18-4.19.5 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 5, 21, 26, or 32. There are no specific findings required for the granting of a waiver or modification as listed in § 18-4.19.5.)

- 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 Districts generally, and the Planned Residential Development district in particular, and found that the proposal would allow design flexibility that contributes to implementing the goals and objectives of the comprehensive plan, including the Places29 Master Plan. The master plan recommends that residential buildings in the Urban Density Residential land use designation be a maximum of four stories. Most of the structures in this development are proposed to be four stories, including the three multi-family buildings closest to Route 29, as well as most of the two-over-two townhouse structures. The end unit of each townhouse row, the ones closest to the Ashland Townhomes property line, is proposed to be three stories.

Two of the multi-family structures (the two central buildings) are proposed to be five stories, which does exceed the recommended maximum height. However, the applicant

is requesting to waive the setback requirement for these structures only for the fourth stories. The fifth stories of each building would still be subject to the setback requirement, with the setbacks proposed from Travelway A and Travelway B, the internal roads that these two structures would front on. Having setbacks on the proposed fifth stories would reduce the intensity of scale of these buildings, and a transition would be created from the tallest buildings in the center, surrounded by other shorter buildings, with the shortest buildings, the three-story townhouse units, being on the edges of the development.

**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 or mostly meet all of these principles. (See Attachment IV for a more detailed analysis of this project's consistency with the Neighborhood Model 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 generally will not be adversely affected by the modification of the requirement for a setback of at least 15 feet for buildings that exceed three stories, or 40 feet, whichever is less. Having a setback remain for the fifth story of the two central buildings would allow for the scale of these buildings to be reduced.

**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.**

A purpose of the regulation is to create buildings and spaces of human scale and to promote harmonious development both within the subject development and with the surrounding area. Modifying the setback requirement would allow for a transition of the development from the tallest buildings in the center, to shorter buildings surrounding it, while also concentrating more of the density closer to Route 29 and in the center of the property, away from the existing neighborhoods. It would allow for most of the multi-family buildings to be at the recommended maximum height found in the master plan. Although the two central buildings would be higher, the setback is proposed to remain for the fifth stories, so that the sides facing the roadways would retain the appearance and scale of the other multi-family buildings facing them opposite the roadways. Modification of the setback requirement would also not cause the development to be denser than recommended by the master plan. The density of the project would be approximately 17 units per acre, which is near the middle of the range recommended by the master plan for Urban Density Residential, of 6.01 – 34 units per acre.

**Staff recommends approval of SE202000003, a special exception request to modify the setback requirements for buildings in the development, with the following conditions:**

- 1) Development of the use must be in general accord (as determined by the Director of Planning and the Zoning Administrator) with the application plan entitled, "ZMA2020-00007 Zoning Map Amendment for RST Residences," prepared by Bohler, dated May 18, 2020, last revised June 1, 2021.

- 2) The setback requirement is waived for the fourth story of each of the six townhouse structures as shown on the plan and identified in the special exception request and narrative, entitled "RST Residences, Special Exception Application Narrative, SE2020-00003," dated May 18, 2020, last revised June 1, 2021.
- 3) The setback requirement is waived for the fourth story of each of the multi-family apartment buildings identified as Buildings 2, 3, and 4 on the plan and in the special exception request and narrative, entitled "RST Residences, Special Exception Application Narrative, SE2020-00003," dated May 18, 2020, last revised June 1, 2021.
- 4) The setback requirement is waived for the fourth story of each of the two wings of the central multi-family building identified as Building 1 on the plan and in the special exception request and narrative, entitled "RST Residences, Special Exception Application Narrative, SE2020-00003," dated May 18, 2020, last revised June 1, 2021.
- 5) The fifth story of each of the two wings of the central multi-family building, which identified as Building 1 on the plan and in the special exception request and narrative, entitled "RST Residences, Special Exception Application Narrative, SE2020-00003," dated May 18, 2020, last revised June 1, 2021, must be stepped back. For calculation of the setbacks, the frontage for the North Wing of Building 1 is Travelway A, as identified on the application plan entitled, "ZMA2020-00007 Zoning Map Amendment for RST Residences," prepared by Bohler, dated May 18, 2020, last revised June 1, 2021, and the frontage for the South Wing of Building 1 is U.S. Route 29.