



PLANNER'S REPORT

TO: Adrienne Senter
FROM: Lynn Patterson
RE: Variance Application for Willingham Drive & Colville Avenue - The Village Walk at Hapeville
DATE: May 20, 2019

BACKGROUND

The City of Hapeville has received a variance application from Miller Lowry Developments to allow for two variances for review to the Board of Appeals for their proposed multi-use development to be located at Willingham and Colville (Parcel IDs 14 012700020429 and 14 012700020379). Variances originally included (1) decreasing the required distance between multifamily buildings from 24' to 10'; and, (2) decreasing the required parking spaces for the commercial portion of the development from 36 spaces to 32 spaces, while allowing three of those spaces to be located in the residential parking area (potentially behind a residential gate as shown on the plans). The applicant has modified the site plan to accommodate all residential parking spaces.

The applicant is also requesting an increase in the number of parking spaces in the residential area from 4 visitor spaces to 13.

The proposed development would consist of 20 2.5 story townhomes located adjacent to 7,132 SF of commercial space. The site is currently vacant. The property is zoned V, Village and is in the Arts District overlay.

The Planning Commission reviewed the site plan and recommended approval for both the reduced distance between buildings and the additional parking.

NOTE: A hardship is created when the zoning ordinance create a condition that unfairly burdens the property owner. The Applicant cannot create a hardship nor can the hardship be for increased financial gain. The Applicant must demonstrate the hardship and show how the variance is consistent with the intent of the ordinance, will result in increased public safety and substantial justice.

Variance One – Decrease the Required Distance Between Multifamily Buildings/Attached Single Family Dwellings to 10'.

CODE

Sec. 93-11.1-6. - Area, placement, and buffering requirements.

All buildings or structures erected, converted or structurally altered shall hereafter comply with the following lot area, yard, and building coverage requirements:

- (4) *Distance between buildings.* The minimum distance between two multiple family buildings on a single lot or on contiguous property under the same ownership shall be 20 feet, plus four additional feet for every story or fraction thereof that the building exceeds two stories, or such distance determined necessary by the planning commission to enhance the aesthetics of development.

FINDINGS

Sec. 87-3-3. - Powers and duties.

(2) Variances. To authorize, upon appeal in specific cases, those variances from the provisions of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter will, in an individual case, result in unnecessary hardship, so that the spirit of this chapter shall be observed, public safety and welfare secured and substantial justice done. A variance may be granted in any individual cases of practical difficulty or unnecessary hardship only upon a finding by the board of appeals that:

- a. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography;

There are no extraordinary or exceptional conditions because of shape, size or topography of the parcel. The property is approximately 3.255 acres in size, is generally rectangular in shape and is fairly flat with the south end of the parcel dropping approximately 5' in grade.



Parcel as proposed after subdivision.

The Applicant states they are aiming to preserve trees by placing the townhome buildings a minimum of 10' apart. This is not a function of size, topography or shape. No hardship can be determined.

- b. The application of this chapter to this particular piece of property would create an unnecessary hardship;

The requirement to place townhomes 20' + 4 feet for every story above two stories is not a hardship for this property. The site is over 3 acres in size and can accommodate separation with a different layout and/or number of townhomes.

The Applicant states the hardship is based upon the desire to preserve mature trees. The tree inventory provided saves 39 out of 71 trees onsite. Of these trees, 5 are landmark trees (17 landmark trees are destroyed).

- c. Such conditions are peculiar to the particular piece of property involved; and

The parcel contains a large number of mature trees, particularly along its southern border. A hardship cannot be determined with information provided.

d. Relief, if granted, would not cause substantial detriment to the public good or impair the purpose and intent of this chapter.

Safety is a crucial element of all developments, and the Fire Chief has been consulted and found the reduced distance between multifamily buildings will not create a fire hazard. The requirement for the 24' is based upon "distance determined necessary by the planning commission to enhance the aesthetics of development." The Planning Commission approved the site plan with minor modifications and has recommended the reduced distance between buildings be approved by the Board of Appeals.

RECOMMENDATION

No hardship has not been established by the Applicant.

The Planning Commission has recommended the approval of the request to reduce the distance between buildings.

Variance Two – Increase in off-street parking requirements

Sec. 93-23-7. - Mixed uses.

In the case of mixed uses, the total requirements for off-street parking and off-street loading space shall be the sum of the requirements of the various uses computed separately as specified herein. Off-street parking and off-street loading space for one use shall not be considered as providing the required off-street parking or off-street loading space for any other use.

Sec. 93-23-10. - Off-street parking requirements according to district and uses.

At the time of the erection of any building or structure hereinafter listed, or at the time any such building or structure is enlarged or increased in capacity by adding dwelling units, guestrooms, floor area, seats, beds, members or employees, there shall be provided for such new construction, enlargement or increased capacity only, off-street automobile parking space and off-street loading spaces in accordance with the minimum requirements established for each zone. The maximum number of off-street automobile parking spaces shall be 110 percent of the requirement for uses proposed at the time of development approval.

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a. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography;

Not applicable.



Parcel as proposed after subdivision.

b. The application of this chapter to this particular piece of property would create an unnecessary hardship;

Two parking spaces per unit and 110 percent of total parking would allow for only 4 visitor spots to the townhomes.

c. Such conditions are peculiar to the particular piece of property involved; and

There are no on-street or public parking lots within close proximity to the proposed project. Visitors to the townhomes would likely park in the commercial parking lot, which would adversely impact the commercial businesses.

d. Relief, if granted, would not cause substantial detriment to the public good or impair the purpose and intent of this chapter.

The caution issued from the Chief of Police indicate the potential for criminal activity and conflict should the commercial visitors be allowed to park in the residential area. A separation of the parking is recommended.

There is no substantial detriment to the public good or impairment of the purpose of this chapter should additional parking be allowed for residential use only.

RECOMMENDATION

The requested variance to allow for additional residential parking on the site is recommended for approval.