



PLANNER'S REPORT

DATE: September 18, 2019
TO: Adrienne Senter
FROM: Michael Smith
RE: **Variance Application for 591 King Arnold Street**

BACKGROUND

The City of Hapeville has received five variance applications from Miller Lowry Developments, LLC for review by the Board of Appeals for their proposed townhome development to be located at 591 King Arnold Street. The requested variances consist of:

1. Increase the number of permitted townhomes in the U-V district from 12 to 18.
2. Lower the minimum floor area per dwelling unit in the U-V district from 1,400 sq. ft. to 1,200 sq. ft.
3. Allow for the development of residences without ground level non-residential uses in the A-D overlay district.
4. Allow four of the proposed townhomes to be built without pedestrian access along an adjacent street in the A-D overlay district.
5. Increase the maximum width allowed for curb breaks from 30' to 38.1'.

The proposed development would consist of 18 three-story townhomes. Twelve of the townhomes will each be approximately 1,830 sq. ft. and will front directly along King Arnold Street. An additional six townhomes will each be approximately 1,239 sq. ft. and will be built in a row behind the townhomes along King Arnold Street and will not all front along a street. The property is zoned U-V, Urban Village and is in the A-D, Arts District overlay.

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.

The powers and duties of the Board of Zoning Appeals, enumerated in Sec. 87-3-3 of the Code, provide the standards for variances by which each requested variance has been evaluated. That Code section is reprinted below:

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

- c. Such conditions are peculiar to the particular piece of property involved; and
- d. Relief, if granted, would not cause substantial detriment to the public good or impair the purpose and intent of this chapter.

Variance One – Increase the number of permitted townhomes in the U-V district from 12 to 18.

CODE

ARTICLE 11.2. - U-V ZONE (URBAN VILLAGE)

Sec. 93-11.2-3. - Permitted uses.

- (15) Single-family attached dwellings with at least two units attached, but no more than 12 and subject to the density restrictions in subsection (19) of this section.
- (23) Residential density limitations shall be as follows:
 - a. The maximum permitted residential density of a master planned development shall be 40 units per acre as calculated based on the sum of all residential uses and the total acreage of the project, including multiple parcels or city blocks, but not rail lines, public streets, or other areas not owned by the applicant;
 - b. The built residential density of individual parcels or blocks within a master planned development may be greater or less than 40 units per acre, provided the project's combined average maximum permitted residential density is not exceeded; and
 - c. Any changes to an approved site plan shall require approval of the city planning commission and shall be reviewed based on the geographic extent of the original approved site plan, shall not exceed maximum density requirements of the original application, and shall indicate all built or planned improvements.

RECOMMENDATION

The property in question is a result of an assemblage of several parcels and is 0.99 acres in size with street frontage on three sides. The density restrictions on townhomes, however, do not scale with the size of parcels to be developed. A 0.3-acre property and a 3-acre property would have the same 12 townhome limit. As such, the application of the U-V blanket density standard for townhomes to this particular parcel creates an unnecessary hardship for the applicant when compared to conditions facing potential developers working with smaller lots.

Another density standard found in the U-V district is the residential density limitation requirement of Sec. 93-11.2-3(23), which states the maximum residential density for a development in U-V is 40 dwelling units per acre. By this standard, the property at 591 King Arnold St could be developed to a density of 40 dwellings were they not proposing townhomes.

Relief, if granted, would not cause substantial detriment to the public good or impair the purpose and intent of the zoning code. Rather, relief will grant the developer the opportunity to develop at the level of density intended in the U-V district.

Staff recommendation is to approve the variance request.

Variance Two - Lower the minimum floor area per dwelling unit in the U-V district from 1,400 sq. ft. to 1,200 sq. ft.

CODE

Sec. 93-22.1-1. - Chart of dimensional requirements.

Development Type	Lot Frontage (FT)	Min. Lot Area (SF)	Lot Area/ DU (SF)	Bed/ Bath Required	Floor Area/ DU (SF)	Max. Lot Coverage (%)	Minimum Front Yard Setback		Minimum		Maximum		Min. Parking Spaces	Max. Unit/ Bldg. Lot
							Minor Col.	Maj. Arterial	Side	Rear	Stories	Feet		
Single-family Attached Patio/Townhomes and Live-Work Unit	20	1,200		2br/2bth	1,400	90	0/15	0/15	0	0	3	45	1 DU	a.

RECOMMENDATION

The applicant has stated the six proposed units with fewer than 1,400 square feet of floor area each are intended to be more affordable. Per the Atlanta Regional Commission housing study, affordability is an ongoing concern in Hapeville. This does not by itself qualify as a hardship. However, the Planning Commission has recommended a text amendment to Mayor & City Council lowering the minimum square footage per dwelling unit to 1,000 square feet for all single-family dwellings in Hapeville. The requested variance is in line with the amendment. Relief, if granted, would allow the property to be developed as the proposed code intends.

Staff recommendation is to approve the variance request.

Variance Three - Allow for the development of residences without ground level non-residential uses in the A-D overlay district.

CODE

ARTICLE 28. - A-D ZONE (ARTS DISTRICT OVERLAY)

Sec. 93-28-3. - Purpose.

The purpose of the arts district overlay is to facilitate creation of an arts destination, sustain established arts and cultural uses and promote new arts and cultural uses. The arts district overlay seeks integration of the arts into the fabric of the community and is conceived as the location of art galleries and art studios forming the core of an arts district. A complementary mix of shops, restaurants and entertainment venues will support these uses. These elements are expected to generate interest in downtown Hapeville and attract arts and cultural events.

The arts district overlay features an expanded range of permitted uses focused on the arts while retaining all property rights established by the underlying zoning. The arts district overlay encourages adaptive reuse of historic buildings and new construction technologies, affording owners expanded development options. These measures will enhance the market attractiveness of the arts district.

Arts venues, community festivals, expanded arts uses and pedestrian character are expected to promote an arts district. Planned investment in public art, lighting, sidewalks and off-street parking will leverage private investment and enhance public safety. This combination of public and private investment is expected to advance Hapeville's position in regional leadership in the arts and stimulate broad economic revitalization. Importantly, the

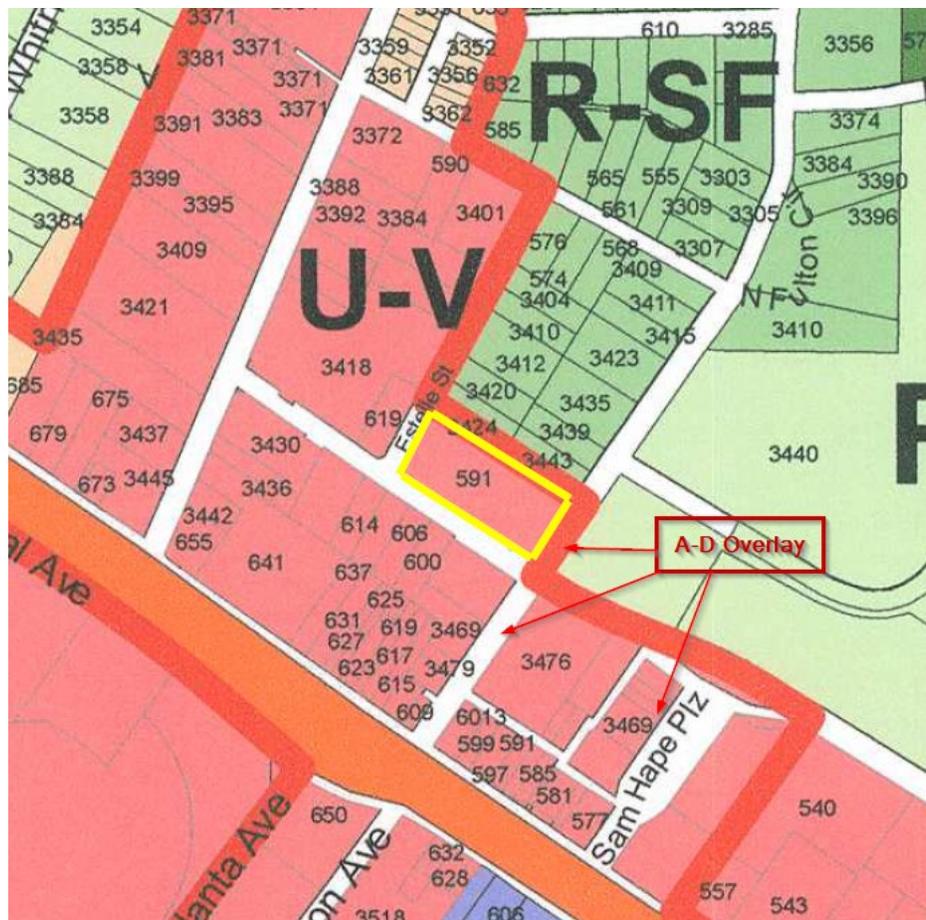
arts district overlay features walkable distances from nearby neighborhoods to small-scale establishments and live entertainment venues accommodated by the arts district overlay and compatible with the neighborhood character.

Sec. 93-28-7.5. - Residential uses.

No residential use shall front on a public street, sidewalk or alley at the ground floor or street level. All ground level uses fronting on a public street, sidewalk or alley shall be non-residential uses.

Sec. 93-28-5. - Geography.

Generally, the arts district overlay radiates from downtown Hapeville running along North Central and South Central Avenues, Dogwood Drive, the two-lane segment of Virginia Avenue (i.e. from South Central Avenue to Doug Davis Drive) and North and South Fulton Avenues. The District is more specifically identified in Exhibit A entitled "Hapeville Arts District Overlay Zone."



RECOMMENDATION

The intent of the A-D overlay is to foster a walkable downtown district promoting artistic uses, bolstered by a mix of retail, restaurants, and entertainment venues. The property in question is positioned at the edge of the A-D overlay, adjacent to a neighborhood to the northeast, and is located next to the City's recreation center and City Hall. The density of the townhomes provides a residential intensity of use to support the walkable downtown district. The entry level of the townhomes may be used for home office occupations, but not for commercial use exclusively. Residents at the Planning Commission meeting expressed concern over a strain on parking and ground floor retail; without additional on-site parking and/or the expansion of public parking, expanded commercial

development in this area could strain the adjacent residential neighborhood with related on-street parking. Furthermore, use of the property for townhomes acts as a buffer between the City's actively developing downtown and adjacent single-family residential neighborhoods. Relief, if granted, would not cause substantial detriment to the public good, would protect existing single-family development from future downtown development, and would still preserve the pedestrian-focus of the A-D overlay.

Staff recommendation is to approve the variance request.

Variance Four - Allow four of the proposed townhomes to be built without pedestrian access along an adjacent street in the A-D overlay district.

CODE

Sec. 93-28-10.2. - Site design.

- (c) Pedestrian and main entrances shall be located on the primary street serving the property. Curb cuts should be located on a side street where possible.

RECOMMENDATION

The property is shaped like a shallow rectangle. The proposed site design places the townhomes into two rows of dwellings. The first row contains 12 townhomes directly on King Arnold, as required. The second row containing six townhomes is in the rear, and as such only places two additional townhomes on the street. Separating those two rows is a shared alley providing access to off-street parking, also required by the city. The application of this requirement to this particular piece of property would prohibit the development of any structures beyond the perimeter of the lot, which, due to the presence of the required shared alley, would only allow for two of the proposed six rear townhomes to be developed. Relief, if granted, would not cause substantial detriment to the public good or impair the purpose and intent of this chapter, as the proximity of the four townhomes to the adjacent developed sidewalk and nearby historic downtown will nonetheless promote the pedestrian-friendly character sought by the A-D overlay.

Staff recommendation is to approve the variance request.

Variance Five - Increase the maximum width allowed for curb breaks from 30' to 38.1'.

CODE

ARTICLE 23. - OFF-STREET PARKING AND LOADING

Sec. 93-23-2. - Entrance and exit points.

Except in districts zoned R-0, R-1, R-2 and R-3, curb breaks shall not be more than 30 feet in width, nor less than 25 feet in width. In no case shall there be less than 50 feet from the closest sides of any two-driveway curblines. Curb breaks shall be located at least 25 feet from the nearest intersection of two curblines as measured along one of the curblines. Business establishments on contiguous lots are encouraged to consolidate entrance and exit points. Suitable provisions, including a five-foot-wide planted buffer strip between the right-of-way and parking area shall be made to prevent entrance or exit from other than at designated entrance or exit points.

RECOMMENDATION

The width of the shared alley has been set by the fire marshal at 24'. According to the applicant, having a flair on either side of the alley of only 3' is possible but that "proper" flairs will necessitate a width over 30'. The intent of narrow curb break requirements is to promote pedestrian safety. However, the shared alley will have the low

volume of traffic associated with residential development and granting relief will not likely cause a substantial detriment to the public good or impair the purpose and intent of the chapter.

Staff recommendation is to approve the variance request.



Location Map – 591 King Arnold Street.