



PLANNING COMMISSION

AGENDA for January 9th 2024

AGENDA

PUBLIC HEARING

- 1) Conditional Use Permit for five (5) unrelated persons to occupy 2345 Birch Avenue;
- 2) Zoning Text Amendment for Section 630 Dimensional Regulations, for the purpose of restructuring and clarifying the dimensional regulation table and allowing all dimensional regulations in the table to be modified or waived by means of a conditional use permit;
- 3) Zoning Text Amendment for Section 711 Group Homes, for the purpose of updating and clarifying language for the conditional use permit process for occupants in a dwelling unit.

REGULAR MEETING

Call to Order by Chairman and Roll Call

Public Comment on Items Not on the Agenda

Review and Adoption of Minutes

December 12th 2023

Report of Secretary

Old Business

- 1) Conditional Use Permit for five (5) unrelated persons to occupy 2345 Birch Avenue;
- 2) Zoning Text Amendment for Section 630 Dimensional Regulations, for the purpose of restructuring and clarifying the dimensional regulation table and allowing all dimensional regulations in the table to be modified or waived by means of a conditional use permit;
- 3) Zoning Text Amendment for Section 711 Group Homes, for the purpose of updating and clarifying language for the conditional use permit process for occupants in a dwelling unit.

New Business

None

Adjournment

Members and Term Expirations

Dennis Hawes, Chairman, 7/31/2024

Harold Kidd, 6/30/2026

Justin Wiseman, 8/31/2025

Marolyn Cash, 6/30/2024

Sarah Henson, 9/30/2027

Melvin Henson, City Council Representative,
9/30/2027

Kristie Gibbons, 12/31/2024

Timothy Petrie, 12/31/2024

Jason Tyree, Ex Officio member

Staff

Tom Roberts, Director of Community Development

City Hall, 2039 Sycamore Avenue, Buena Vista VA 24416

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Meetings

Members of the Buena Vista Planning Commission meet in Council Chambers, 2039 Sycamore Avenue, at 7:00 p.m. on the 2nd Tuesday of each month, unless otherwise announced. Meetings may be held and business conducted without a quorum, but no votes may be taken unless a quorum is present. A majority of members constitutes a quorum. A motion passes with a majority vote; a tie constitutes defeat of the motion.



PLANNING COMMISSION

MINUTES of December 12th 2023

Members of the Buena Vista Planning Commission met in Council Chambers at 7:00 PM on Tuesday, December 12th 2023.

Members Present:

Dennis Hawes, Chairman
Melvin Henson, City Council Representative
Sarah Henson
Justin Wiseman

Members Absent:

Marolyn Cash
Kristie Gibbons
Harold Kidd
Timothy Petrie
Jason Tyree, Ex Officio member

Staff Present:

Tom Roberts, Director of Community Development

Roll Call

Meeting is called into order and roll was called. There is not a quorum.

Minutes

Mr. Hawes noted that they cannot vote tonight. He noted a typo on the second page of the October 10th 2023 minutes where it says "Hen" instead of "He." There were no errors in the November 14th 2023 minutes.

Mr. Hawes asked whether Gunner Beverley's PUD at 352 Beverly Hollow Ln was approved, and Mr. Roberts replied that yes it was. Mr. Hawes reiterated that the property line dispute was not germane to the Planning Commission's decision.

Secretary's Report

- 1) Mr. Roberts is meeting with consultants and VDOT staff tomorrow for a site visit for the transportation small area plan up around Food Lion/Route 60.
- 2) The local timber frame group will build a timber frame pavilion at the Town Square in spring 2024.
- 3) The National Register of Historic Places nomination for Bontex is almost complete. This will allow Historic Preservation Tax Credits and improve our overall understanding about the property.

Mr. Hawes updated the Commission that he had gone to an open house event at the Virginia Innovation Accelerator.

New Business

Section 711 Zoning Text Amendment

Mr. Roberts explained that this amendment originated in the Planning Commission's request a year ago to provide guidance on parking requirements for conditional use permit applications for more than four unrelated people living in a house. After he looked at the text of Section 711 which governs these CUPs, he realized that it needed a full overhaul. The last amendments to this section in 2018 were very conservative. Mr. Roberts summarized the analysis in the staff report and walked through the draft text.

Mr. Hawes asked what the size of a parking spot is, and Mr. Roberts responded that Section 703 Off Street Parking specifies the size, which is 9' x 18' or 10' x 20' for a parallel parking space. Mr. Wiseman asked about the applicability of these parking rules, and Mr. Roberts clarified that these would only come into effect for applicants for a CUP for occupancy for more than a family. Mr. Wiseman brought up that many streets have no off-street parking spaces for houses.

Mr. Henson brought up a problem recently where tenants of a house on Orange Ave were parked on the street and a disabled resident couldn't park close to his house.

2345 Birch Ave – Conditional Use Permit for 5 unrelated persons

Mr. Hawes began by clarifying that the house already has five people in it, and asking how this came to the City's attention. Mr. Roberts explained that a neighbor had complained about the behavior of the tenants, but other than a few noise violations there have not been criminal violations. The neighbor's complaints about parking do not seem to be about parking per se but rather the cause for so many cars.

Mr. Roberts updated the Commission that he had sketched two parking layouts but had forgotten to attach them. One shows the existing conditions as the parking areas are designed, and the other shows how cars are actually parking. Vehicles appear to typically park perpendicular to the street, with their front wheels on the grass and the rear on the gravel. He opined that realistically, tenants will typically not want to be blocked in, and therefore two of the spaces (the garage and the perpendicular driveway) are not likely to be used. Additionally, the garage may be full of boxes so it is a theoretical parking space.

Mr. Henson noted that if vehicles are parked in front of the house perpendicular, this could make it harder for them to get out if it snows and the snow is plowed. Mr. Wiseman asked what the Commission could require, and Mr. Hawes responded that they could put conditions on how vehicles park if they approve the permit. Mr. Hawes also noted that the perpendicular driveway running to the garage could be widened to accommodate more vehicles.

Mr. Hawes also stated that he would prefer to see curb and gutter here, and asked if there is curb and gutter adjacent to this. There is c & g downhill to the south but not uphill to the north. Mr. Wiseman noted that even as the parking areas are designed, they have more spaces than the proposed CUP guidelines would require.

Mr. Wiseman then asked about bedrooms, and the plan stated in the staff report to move beds out of the rooms in the basement to the common area, where there are egress windows. Mr. Roberts explained that he had discussed with the applicant realistic scenarios of where tenants would sleep, and if tenants are put in double occupancy rooms but other spare rooms are vacant, eventually those tenants will find their way to sleeping in the empty rooms. The Commission members agreed with this. Mr. Hawes added that the occupancy regulations are intended to protect students from unsafe conditions.

Mr. Wiseman asked about enforcement procedures for zoning codes like this. Mr. Roberts explained how he had investigated the complaint, then contacted the owner to notify him and gave him a 90 day window to bring into compliance. In cases of occupants that need to move out, the City tries to give time and flexibility to find other accommodations because it does not benefit people kick residents out. Mr. Wiseman offered that the Commission should be careful about saying no to every application so that property owners will feel like there is a viable path, and will be more likely to be transparent.

Mr. Henson brought up fire egress. Mr. Roberts agreed that the two rooms currently used for bedrooms do not have second egress, and it would not be feasible to install windows and window wells in either room. It appears to Mr. Roberts that the basement space could be reconfigured by constructing a new wall to create one bedroom with an egress window, but he has not been in the space and has only seen a floor plan.

Mr. Roberts asked for the Commission's thoughts on this proposal and any particular questions for the applicant. Mr. Hawes stated that he wanted to make this work, but the basement bedroom configuration is a concern, and he also has concerns about mud and parking all over the front yard. Mr. Wiseman stated he sees the sleeping arrangements as a dilemma because even if another arrangement is made, what is to stop residents from moving back to the rooms down in the basement? This brings up the whole principle of how the government can force people to live a certain way. Mr. Hawes quoted Thomas Sowell, noting the danger of substituting the Commission's judgement (or more generally the government's judgement) for a citizens judgement. This can curb creativity. Mr. Henson restated his concern about snow and difficulty with cars getting out if it snows.

Certificate of Appropriateness for 2656 Chestnut Ave

Mr. Roberts explained SVU had contacted him yesterday seeking to build a garage behind the president's house. He began asking a procedural question because there is not a quorum. SVU would like to expedite this permitting so they can begin construction soon, so Mr. Roberts asked if the Commission would agree to an email or phone poll of absent members for their approval of the certificate. He added that he does not want to make a habit of breaking from the bylaws for procedure, but this is a very straightforward application and not controversial or complicated. Mr. Hawes and the other members did not have any objections to polling absent members.

The discussion of the application was brief, followed the staff report, and all stated their approval.

Adjournment 8:30 PM

Approved: _____



PLANNING COMMISSION Staff Report

Conditional Use Permit

2345 Birch Ave – Section 711 CUP for 5 Unrelated Persons

1/4/2024

Synopsis

Conditional Use Permit for up to five (5) unrelated persons in a single family dwelling at 2345 Birch Ave.

Site Information

Address/Tax Map:	2345 Birch Ave, 35- 1- 4- 4- 13	
Existing zoning:	R3 Residential Limited	
Existing land use:	Single-family dwelling	
Proposed zoning:	R3 Residential Limited	
Proposed land use:	Single-family dwelling, increased occupancy	
Surrounding zoning and land use:		
R3 Residential Limited single-family dwellings		
Size:	Parcel: 1.5 lots (9,375 sf) House: ~2,451 sf	
Tentative Timeline	Preliminary Commission Discussion	12/12/2023
	Planning Commission Public Hearing	1/9/2024
	City Council Public Hearing	1/18/2024
	City Council Adoption	2/1/2024

Analysis

Applicant Scott Thatcher (owner) seeks a Conditional Use Permit (CUP) to allow occupancy of the house by five unrelated persons. Currently, there are five persons living in the house; the owner is pursuing this CUP to bring the property into compliance with the zoning.

The surrounding neighborhood is detached single-family dwellings.

Parking

There is a garage in the basement and a driveway perpendicular to the street that is approximately 50’ from the garage door to the edge of pavement. Additionally, there is a front gravel driveway parallel to the street that is approximately 46’ long and about 10’ wide. There is no curb & gutter. The parallel driveway could be considered street parking, but because it is graveled and has a wooden edge, it looks like it is more part of an individual yard than true public street parking.

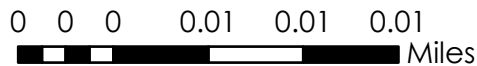
The applicant proposes to expand the gravel parking strip along the front of the property to approximately 15'-20' deep to accommodate parking perpendicular to the street. This would allow parking for seven vehicles total: one inside the garage, two in the perpendicular driveway, and four parked perpendicular in the front yard.

Interior Layout

The house is a three-bedroom 2,451 sf ranch with a full basement. The basement features a garage. Currently, there are two rooms in the basement used as bedrooms but they do not meet building code egress requirements for sleeping areas. However, the owner proposes to make master bedroom on the main level double occupancy and have one bed in the basement room with and outside door. This would satisfy fire code requirements for egress. The two rooms without windows would be used for storage.

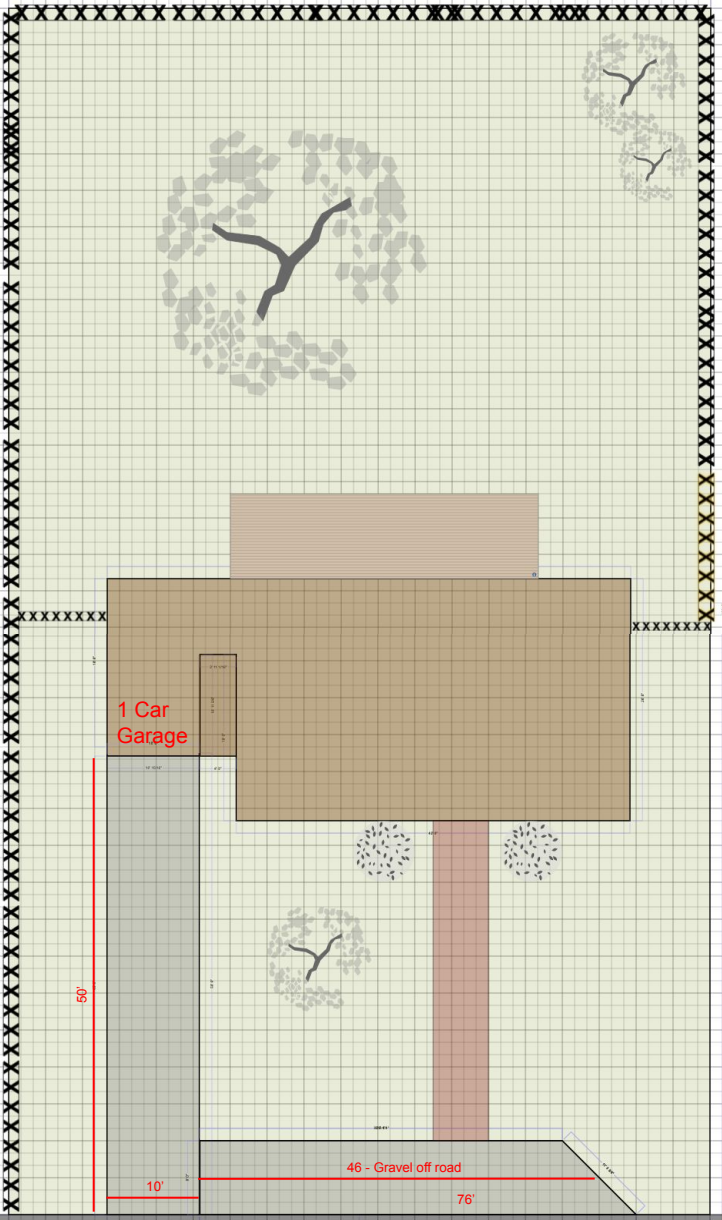
Other items

Trash pickup is in the rear of the house on the alley.



2345 Birch Ave

11/10/2023



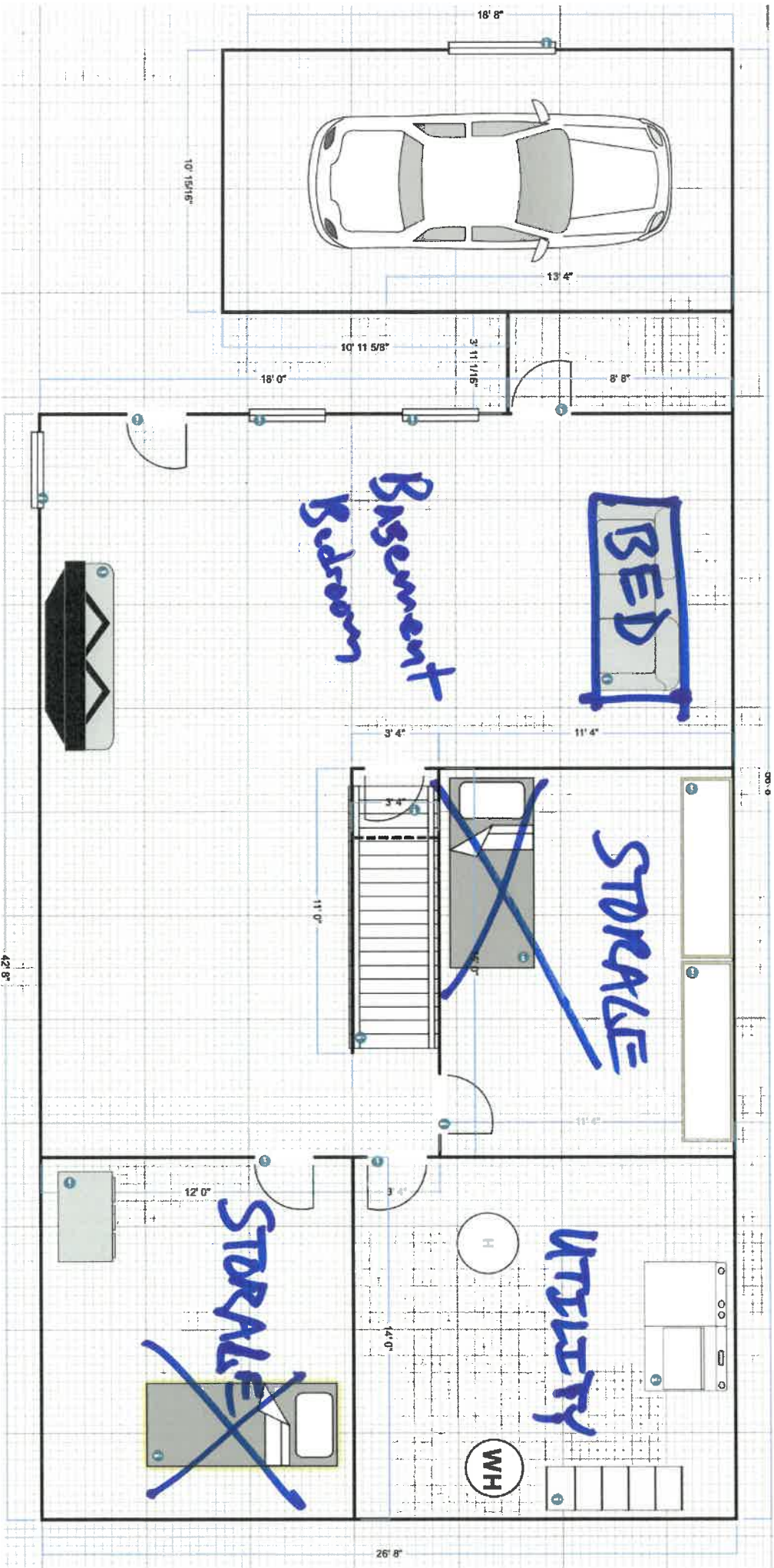
1 Car
Garage

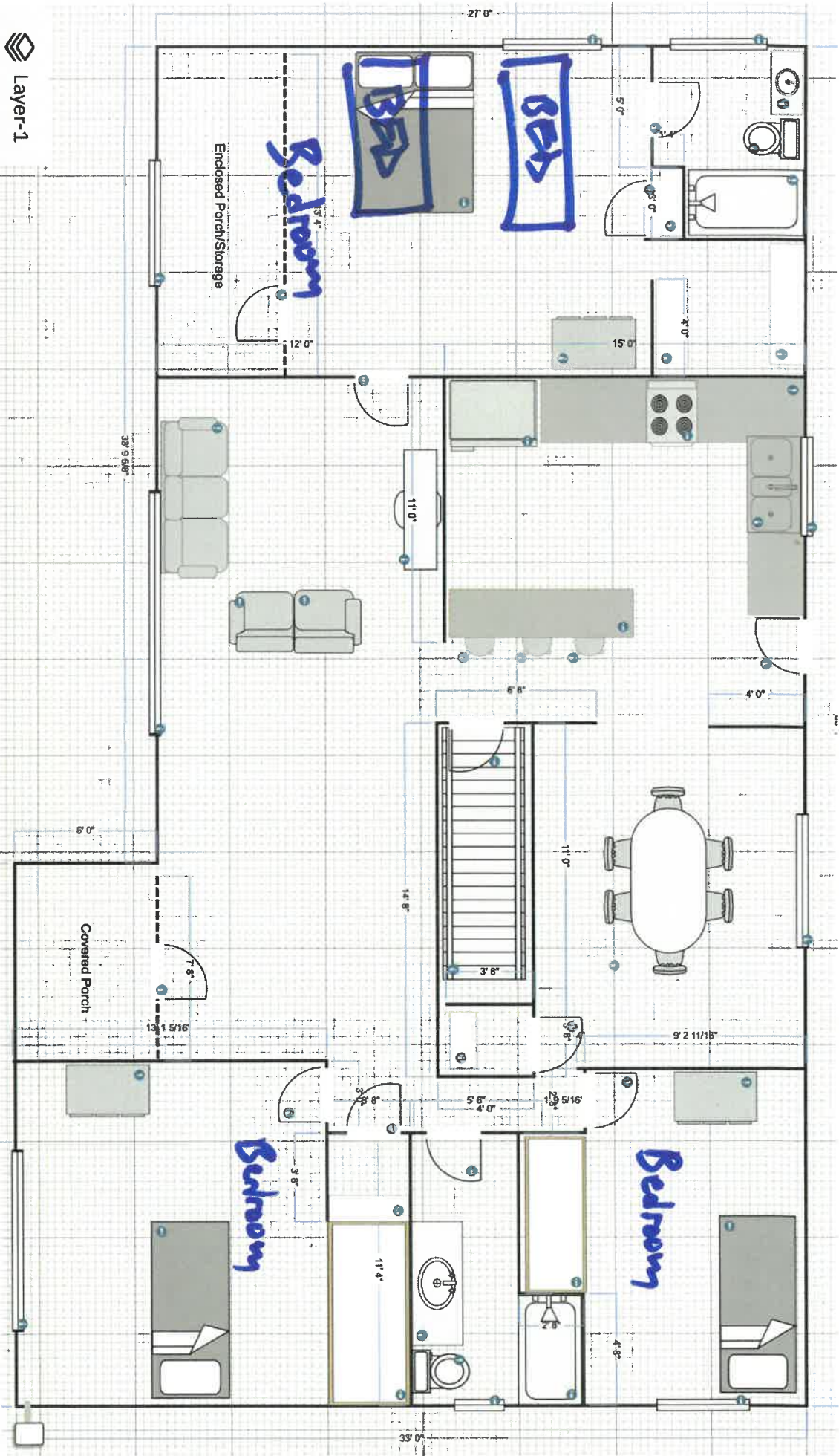
46 - Gravel off road

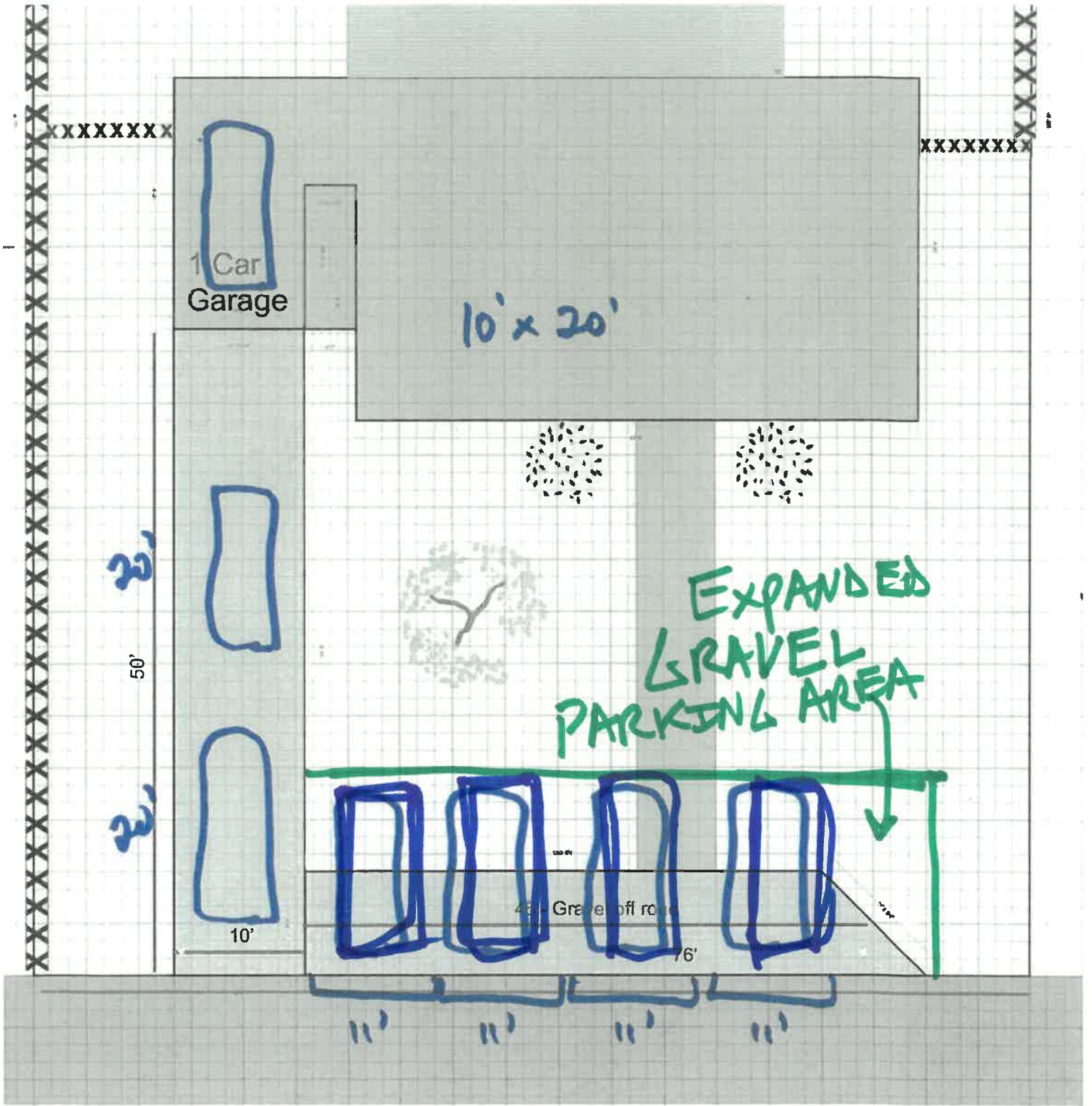
50'

10'

76'













PLANNING COMMISSION Staff Report

Zoning Text Amendment

CUP for Dimensional Regulations in Multiple Zones

1/4/2024

Synopsis

Amend the Table of Setbacks to allow modification of dimensional regulations by means of a Conditional Use Permit, and to simplify and clarify the table and additional provisions.

No changes since initial presentation

Summary

- Add new text addressing the applicability of the table, and allowing flexibility in dimensional regulations by CUP
- Streamlined minimum square footage for efficiency apartments to a single minimum, rather than scaled by number of bedrooms
- Did not make any other meaningful changes to any dimensional regulations (other than the CUP flexibility)
- Reformatted the footnotes of the table into standalone text
- Removed several zones from the table that the table did not control dimensional regulations
- Reformatted other columns for simplicity

Analysis

The substantive change in this proposal is to allow dimensional regulations to be adjusted or even waived by means of a conditional use permit. Staff took this opportunity to make a number of non-substantive housekeeping changes.

Background

A couple months ago staff discussed the setback challenges of several recent proposed developments using the R4 zone. The R4 zone requires a 30' front setback and 25' rear setbacks, and when that is applied to 125' deep standard lots, it significantly limits site design options for apartment buildings. The R4 zone is the only medium or high density residential zone the City has; other zones that allow multifamily also allow commercial uses (e.g. Mixed Use, Mixed Business, Institutional, etc.).

Conditional Use Permit

Although this challenge is acute in the R4 zone, it could arise in other zones such as General or Light Manufacturing. Staff propose to allow flexibility for dimensional regulations with a conditional use permit. Through this process, the Planning Commission and City Council would be able to review shallower setbacks or height limits on a case by case basis for suitability in R1, R2, R3, R4, B1, LM, and GM. This process is already in place for height limits in the Mixed Use,

Mixed Business, Mixed Use Corridor, and Institutional zones: the by-right height of buildings is capped, but can be exceeded with a Conditional Use Permit.

Adding this flexibility will make the City more development-friendly without having to analyze the various dimensional regulations for each zone to determine optimal parameters and change each zone individually. For example, currently in the Light and General Manufacturing zone there is a 25' minimum side setback. The theory was probably to prevent industrial uses from being too close to adjacent properties, but in some cases this deep setback may cause site design obstacles. As the regulations stand, this setback is firm and cannot be altered except through the modification or variance process, each of which has specific statutory criteria and requires action by the Board of Zoning Appeals. The CUP process will allow relaxed setbacks to be reviewed on a case-by-case basis and allowed for any reason, not certain specific ones only.

Detailed Analysis of Other Proposed Changes

1. Applicability section added
 - This section gives the table of dimensional regulations more context. It also clarifies that if something in a zone's text conflicts with the table, then the zone's text controls.
 - This section lays out the process and criteria to be considered for dimensional regulation change CUPs.
2. Streamlined minimum square footage for efficiency apartments to a single minimum, rather than scaled by number of bedrooms
 - Current text specifies 320 for 1 bedroom, 390 for 2 bedroom, and 460 for 3 bedroom. This scaling and specificity is unnecessary. For units this small, building code minimum room sizes will govern.
3. Reformatted the footnotes of the table into standalone text
 - Currently, there are twelve footnotes to the table labeled a through l. Structuring as footnotes is somewhat confusing. I reworded these as separate text sections listing additional provisions for height and for lot area and setbacks.
 - Footnote e was repetitive of footnote c so was removed.
 - Footnote f was no longer needed because zones requiring a Plan of Development were removed from the table.
4. Table formatting changes
 - Removed the column for Permitted Use. This column is unnecessary because permitted uses are listed in the zone text. Additionally, it seems to indicate that the specified dimensional regulations only apply to the specific uses listed, which would be problematic—it would mean that non-residential buildings in the B1 zone have no height or setback requirements.
 - Removed the column for Other minimum lot requirements. This minimum lot size would apply for developments not on public water or sewer. These

developments are very rare. When public water and sewer connections are available, they are required. Therefore by definition well and septic development will be on large lots at the outskirts of the City and these lot sizes will be moot. Additionally, most of the land where public water and sewer is not available is zoned in such a way as to require a Plan of Development or rezoning in order to develop, during which process Planning Commission and City Council could review the proposed lot size, density, etc.

- Combined the columns for Accessory Building Rear Lot Line setback and Side Lot Line setback. The side and rear setbacks for accessory buildings are exactly the same for all zones except for B1, which had a larger rear setback. The proposed accessory building rear setback for B1 would be 15', the same as the side setback. This reduced setback is consistent with the small property sizes in the B1 zone (29th St corridor from Brook Street to Beech Ave).
- Removed the C1 and REC zones because they list "N/A" across all columns.
- Removed the R5, R6, and B2 zones because each of those requires a Plan of Development approved by Planning Commission and City Council. R5 and R6 have dimensional regulations within their zone text.

Sec. 630.00. - Table of setbacks.

District	Permitted Use	Minimum Structure Requirement Dwelling Unit Area (see k below)	Minimum Lot Requirements				Minimum Yard Requirements (see below)				Accessory Buildings				Other Requirements
			Public Water and Sewer	Other	Setback (see i below)	Frontage at the Setback Line	On Side	Two Sides	Rear	Max. Height	Main Building	Side and Rear Lot Line	Height (a,b,c,d,e)		
C-1 Conservation	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
R-1 Low Density Residential	Single-family residential	1,200 sf single-family	12,500	21,780	35	100	15	30	35	35	10	5	5	35	N/A
R-2 Residential	Single-, two-family residential	1,200 sf single-family	9,375 sf	20,000	30	75	15	30	25	35	10	5	5	35	N/A
		2,400 sf two-family (1,200 each)	6,250 sf for each additional unit												
R-3 Residential Limited	Single-, two and four family residential (960 sf per unit)	960 sf single-family	6,250 sf	20,000	30	50	5	15	25	35	5	1	±	35	N/A
		960 sf per dwelling 2-4 family dwelling	3,125 sf for each additional unit												
R-4 Medium Density Residential	Single-family, multifamily	960 sf single-family	6,250 sf	20,000	30	50' for single-and	10	20	25	35	20	10	10	35	Maximum density 15

District	Permitted Use	Minimum Structure Requirement Dwelling Unit Area (see k below)	Minimum Lot Requirements				Minimum Yard Requirements (see l below)				Accessory Buildings				Other Requirements
			Public Water and Sewer	Other	Setback (see i below)	Frontage at the Setback Line	One Side	Two Sides	Rear	Max. Height	Main Building	Side and Rear Lot Line	Rear Lot Line	Height (a,b,c,d,e)	
						two-family									units per acre
		1,920 sf two-family (960 sf per unit)	3,125 sf for each additional unit			75' for three-family and greater									
		(see j below for efficiencies) 320 sf for efficiencies													
R-5 Residential	Mobile home parks and subdivision	N/A	See table 2												
R-6 Planned Unit Development	Residential	N/A	Detailed plan required (see f below)												
B-1 General Business	N/A except for res. structures which are	None	g	N/A	N/A	h	h	N/A	35'	20'	20'	15'	35'	N/A	

District	Permitted Use	Minimum Structure Requirement Dwelling Unit Area (see k below)	Minimum Lot Requirements				Minimum Yard Requirements (see l below)				Accessory Buildings				Other Requirements
			Public Water and Sewer	Other	Setback (see i below)	Frontage at the Setback Line	One Side	Two Sides	Rear	Max. Height	Main Building	Side and Rear Lot Line	Rear Lot Line	Height (a,b,c,d,e)	
	as shown for R-4														
B-2 Planned Business	Commercial + development	See B-1	None	g	N/A	N/A	h	h	N/A	35'	20'	20'	15'	35'	Detailed plan required (see f below)
LM Light Manufacturing	Light industrial	N/A	None	g	N/A	N/A	25'	50'	N/A	45'	40'	20'	20'	45'	N/A
GM General Manufacturing	Industrial	N/A	None	g	N/A	N/A	25'	50'	N/A	45'	40'	20'	20'	45'	N/A
REC Recreational	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

630.01 Applicability

630.01-1 The dimensional regulations found in the table herein shall apply to the specified zoning districts listed in this table.

630.01-2 For zoning districts not listed in this table, the text of the respective zoning district shall control dimensional regulations. In cases where the text of the respective zoning district conflicts with the table herein, the text of the zoning district shall control.

630.01-3 All dimensional regulations listed in the table herein may be modified by a conditional use permit. Dimensional regulations not listed in this table may not be modified by conditional use permit, unless otherwise specified. Planning Commission shall consider the following factors when making a recommendation on granting a conditional use permit to modify dimensional regulations:

630.01-3.1 Impact of the development on the health and safety of the subject and surrounding properties

630.01-3.2 Adequate pedestrian and vehicular circulation, and provision of parking if required

630.01-3.3 Density and intensity in reference to infrastructure, pedestrian and vehicular access, provision of emergency services, and other factors.

630.01-3.4 The intent of the given zoning district

630.01-3.5 The impact of the development on surrounding property uses and surrounding property values, and on economic impact to the City as a whole.

630.01-3.6 Well ordered and harmonious urban design

630.02 Additional regulations for height of structures

630.02-1 a. The height limit for ~~dwelling-residential structures~~ may be increased ~~by~~ up to 45 feet and ~~by~~ up to three stories provided each side yard is 20 feet, plus one foot or more of side yard for each additional foot of building height over 35 feet.

630.02-2b. A public or semi-public building such as a school, church, or library may be erected to a height of 60 feet from grade provided that required front, side, and rear yards shall be increased one foot for each foot in height over 35 feet.

630.02-3 c. Church spires, belfries, cupolas, municipal water towers, chimneys, flues, flagpoles, television antenna and radio aerials are exempt. Parapet walls may be up to four feet above height of the building on which the walls rest.

~~d. 630.02-4~~ Accessory buildings over one story in height shall be at least ten feet from any lot line, and ~~All~~ accessory buildings shall not exceed the main building in height, ~~unless either of these provisions is modified by a conditional use permit pursuant to Section 630.01-3.-~~

~~e. For buildings over 45 feet in height, approval shall be obtained from the administration. Chimneys, flues, cooling towers, flagpoles, radio or communication towers, or their accessory facilities, not normally occupied by workmen are excluded from this limitation. Parapet walls are permitted up to four feet above the limited height of the building on which the walls rest.~~

~~f. Densities and use variations are approvable based upon the plan submitted for the proposed development.~~

630.03 Additional regulations for lot area and setbacks

630.03-1g. Minimum dwelling unit area shall be considered the heated living area, excluding garages, cellars, patios, porches, etc.

~~For permitted uses utilizing individual sewage disposal systems, the required area for any such use shall be approved by the health official. The administrator shall require greater area as considered necessary by the health official.~~

~~h. Property located in a business district, which adjoins any residential district, or is separated from any residential district only by a public street or way, shall have a ten-foot side yard on the side or sides adjoining or adjacent to the residential district.~~

~~i. 630.03-2 Minimum setback requirements of this ordinance, for yards facing streets, shall not apply to any lot where the average setback on developed lots within the same block and zoning district and fronting on the same street is less than the minimum. In such cases, the setback on such lot may be less than the required setback, but not less than the average of the existing setbacks on the existing developed lots.~~

~~j. 630.03-3 For permitted uses utilizing individual sewage disposal systems, the required area for any such use shall be approved by the health official. The administrator shall require greater area as considered necessary by the health official. Multifamily efficiencies: 1-bedroom—320 square feet; 2-bedroom—390 square feet; 3-bedroom—460 square feet.~~

~~k. 630.03-4 Heated living area, excludes garages, basements, patios, porches, etc.~~

~~l. On lots with frontage on two or more streets, the minimum setback on any side with street frontage is 10 feet for all primary and accessory buildings. This shall not apply to master planned developments in B2 Planned Business, MUC Mixed Use Corridor, and R6 Residential Planned Unit Development.~~



PLANNING COMMISSION Staff Report

Zoning Text Amendment
Section 711 Group Homes
12/27/2023

Synopsis

Revise section for conditional use permits for dwelling occupancy beyond the zoning definition of a family, and adopt guidance on parking requirements for such CUPs.

Summary:

- Drastically simplify text to focus on essential components
- Recommend one parking space for each person in excess of four unrelated
- Recommend that once minimum off-street spaces for single-family (two spaces) is met, on-street parking be included in total count

Analysis

Section 711 has been in place for about 15 years and is intended to regulate the occupancy of dwelling units and provide a path for property owners to house larger numbers of unrelated persons that would otherwise be prohibited. Prior to 2018, this section was the only part of the Land Development Regulations setting an occupancy limit on structures. The 2018 amendment added a new definition of “family” applicable to all dwelling units, and amended Section 711 to provide for the conditional use permit for more than four unrelated persons.

Planning Commission has recently expressed desire for more guidance in the regulations on provision of parking spaces at dwellings applying for such a CUP. Staff reviewed the text of Section 711 and found it to be unnecessarily specific and complicated, and recommend repealing and replacing with new text.

Structure of new text

The new text will pare back many of the conditions listed in the current text, and remove the detailed lists of requirements for such dwellings and requirements for submittals.

Currently, this CUP is only applicable to occupancies where one or more residents is leasing. In practice, this would almost always be the case, because it is rare that more than four unrelated individuals legally co-own a dwelling. Thus this condition is unnecessary and could cause confusion or a loophole. This condition is a legacy of the original text of the section, which was focused solely on rental housing.

The current text specifies various requirements for dwellings permitted with this CUP, such as that sleeping may only be in bedrooms, parking requirements must be followed, and that the CUP may be revoked for excess noise or nuisance complaints. These requirements are superfluous because they can easily be enforced using other existing code sections. Their inclusion only serves to remind applicants of rules that already apply.

Finally, the current text lists 33 items that must be included in a submittal for such a CUP, as well as some miscellaneous additional regulations (even a duplicate requirement about

parking). Most of the items are simply not necessary for staff or Planning Commission to make an informed decision about whether to recommend approval. Additionally, the site plan submittal requirements listed in Article 15 would apply to these CUPs so this list is a duplicate. Lastly, staff can request whatever details they deem necessary on a site plan.

The new text will be structured more directly and clearly, applying to all dwelling units.

Definitions

Definitions of key words should always be reviewed for clarity and alignment with the rest of the zoning text. Staff reviewed definitions related to dwellings and propose three changes:

- 1) Simplify the definition of apartments – current text includes provisions about how access is provided to each unit and what the configuration is. These extra provisions complicate review of proposed development, and create opportunity for ambiguous loopholes—is a building allowed if it has multiple dwelling units but they do not meet the definition of an apartment? What are those called? Additionally, the draft text clarifies that “efficiencies” are a synonym for apartments in Buena Vista’s zoning code. This is how the term is used in multiple places in the code, even though common English has a more specific definition of the term efficiency.
- 2) Consolidate the definitions of “dwelling” and “dwelling unit” – these words mean functionally the same thing and do not need separate definitions. Again, this causes confusion as to which would apply to a given development.
- 3) Add to the definition of dwelling that it is for occupancy by only one family. Currently, the definitions of single-, two-, and multi-family dwellings include language about occupancy by a family. This removes any ambiguity that the occupancy of any dwelling unit, regardless of type, is limited to a family.

Parking guidelines

The text will add language to guide parking requirements for such CUPs, which is one of the most scrutinized elements of these applications. These will be guidelines and not requirements for issuance of these CUPs, because CUPs are designed for flexibility and discretion for the Commission and Council. Because this is a somewhat unusual use (more than a typical family in a house), there are few examples in other zoning codes for equivalent parking minimums. Typically parking requirements are based on dwelling units, not on number of people in a unit. Additionally, the current trend is to reduce or eliminate parking requirements. Although the primary cases for reducing parking requirements are commercial districts and areas offering public transportation, some cities are reducing or eliminating for residential uses also. As a result there are fewer current resources on setting parking minimums.

Draft Text

711.00 Findings and Intent.

711.00-1 Regulating the occupancy of dwelling units can prevent or mitigate negative impacts of high residential density on individual properties and neighborhoods.

711.01 City Council may allow by a conditional use permit the occupancy of a dwelling unit by a combination of persons other than a family, as herein defined.

711.01-1 Exceptions. No conditional use permit shall be required for dwelling units governed by Section 714 Residential Transient Occupancy. No conditional use permit shall be required for residential facilities identified in Code of Virginia, § 15.2-2291.

711.02 Dimensional regulations and parking requirements

711.02-1 In granting such a conditional use permit City Council may waive or modify any dimensional regulation of the underlying zoning district.

711.02-2 In granting such a conditional use permit, City Council may waive or modify any off-street parking requirement of the underlying zoning district. The following guidelines are recommended for determination of adequate parking:

711.02-2.1 At a minimum, two off-street parking spaces should be provided.

711.02-2.2 One parking space should be provided for each person in excess of the zoning definition of family.

711.02-2.3 Once the minimum of two off-street parking spaces is provided, on-street parking spaces should be considered in the total spaces available to the dwelling unit.

302.01-10 Apartment means a dwelling unit in a multifamily dwelling providing living quarters for a single family. Efficiencies are apartments.

302.04-5 Dwelling (or Dwelling Unit) means any building or portion thereof which is designed for or used primarily for residential purposes by one family as herein defined, except hotels, dormitories, and automobile trailers. Dwellings may be used for transient occupancy pursuant to section 714.00 Residential transient occupancy.

302.04-6 Dwelling, multifamily, means a building designed for, or occupied exclusively by, three or more families living independently of each other; the term includes condominiums of similar physical appearance, character, and structure.

302.04-7 Dwelling, single-family, means a building designed for, or occupied exclusively by, one family.

302.04-8 Dwelling, two-family (duplex) means a residential building designed for, or occupied exclusively by, two families living independently of each other.

CURRENT TEXT



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City of Buena Vista Zoning Code Group Homes §711

Sec. 711. Group homes; conditional use permit required.

711.00 Property owners are required to obtain a conditional use permit when any dwelling is altered, constructed, or used for residential occupancy by any person or combination of persons other than a family, as herein defined, and any occupant is a lessee of any portion of the same property.

711.00.1 The term *lessee* means a person or entity who has entered into agreement, written or otherwise, for the use of land, a building, or part of a building for any period of time in exchange for compensation. Such compensation may be monetary or otherwise.

711.00.2 This requirement shall not apply to dwelling units governed by Article 14 Bed and Breakfast Establishments which are properly licensed by the City.

711.00.3 This requirement shall not apply to residential facilities identified in Code of Virginia, § 15.2-2291.

711.01 Repealed

711.02 Repealed

711.03 Requirements for rentals dwelling type properties:

711.03-1 The basement area cannot be calculated in the floor area.

711.03-2 Each dwelling unit must contain at least one bathroom and one kitchen and one bedroom.

711.03-3 Sleeping will only be allowed in bedrooms.

711.03-4 Off-street parking shall conform to the requirements of article 7.

711.03-5 Dwellings covered under this article shall be inspected and approved by the building inspector as being in compliance with the latest minimum requirements of the International Building Code, the International Residential Code or the International Property Maintenance Code, whichever is applicable before occupancy shall be granted.

711.03-6 Three substantiated nuisance or noise complaints or any one violation of conditions required by city council will be grounds for revocation of the conditional use permit. Substantiation shall be accomplished pursuant to a complaint heard before the General District or Circuit Court for the City of Buena Vista pursuant to the nuisance and noise control ordinance of the city. Substantiation shall exist when there has been a finding of guilt.

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711.03-7 Each dwelling is subject to an annual inspection by the city to ensure Code compliance.

711.04 Submission requirements.

711.04-1 All applicants for a conditional use permit for must submit:

711.04-1.1 The site plan shall be submitted to the building inspector for his approval prior to the site plan being submitted to the office of planning and zoning.

711.04-1.2 Building inspector shall only sign the site plan with his signature and the date only after the plan has met the appropriate building code requirements.

711.04-1.3 The site plan may be required to be submitted to any city department for their respective approval prior to this being submitted to the office of planning and zoning if applicable.

711.04-1.4 The office of planning and zoning may waive a department head's signature and date should such not be applicable.

711.04-1.5 All submittals shall be uniform in scale.

711.04-1.6 A copy of the plat.

711.04-1.7 A sketch of the general development is required for each rental covered under this article.

711.04-1.8 Address and location(s) of the existing or proposed rental unit(s) or efficiency(ies).

711.04-1.9 All existing and proposed streets.

711.04-1.10 The distances to all lot lines and public rights-of-way.

711.04-1.11 The location of all existing and proposed structures on the lot.

711.04-1.12 Number of floors, floor area, height and location of each building and proposed general use for each building. If a multifamily residential building, the number, size and type of dwelling units.

711.04-1.13 Location of rental unit(s) or efficiencies: is it at the rear of building, first floor, second floor, etc.

711.04-1.14 Location of proposed fencing.

711.04-1.15 Number of rental units or efficiencies.

711.04-1.16 Label each building and/or rooms as apartment, efficiency or otherwise.

711.04-1.17 Show the size (length and width) of each room, including ceiling height of each room, and location of access to the unit(s) or efficiencies.

711.04-1.18 Length and width of each room to be rented.

711.04-1.19 Each room on the site plan shall be designated as a kitchen and location of sink, stove and cupboards, bedroom #1, bedroom #2, living room, hallway bathroom(s) and location of sink, bath and stool in each, and identify each additional room.

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- 711.04-1.20 Ceiling heights in each room.
 - 711.04-1.21 Door entrances to each room within the rental.
 - 711.04-1.22 Exterior entrance and location on floor plan.
 - 711.04-1.23 Location of any driveways.
 - 711.04-1.24 Dumpster location on lot and/or trash handling to be addressed with site plan for each tenant.
 - 711.04-1.25 All off-street parking shall be shown with size and width of each parking spot and its location (rear, side, front of building, elsewhere).
 - 711.04-1.26 If parking space(s) provided is not in the rear or side of the property, please show on site plan approximate location of parking spaces and distance from parking space(s) to the dwelling units or efficiencies. If owner is leasing this property, please provide name and phone number on site plan.
 - 711.04-1.27 Any additional items as deemed necessary by the office of planning and zoning and the planning commission.
 - 711.04-1.28 Conversion - Site plan shall be submitted to the office of planning and zoning and in turn be submitted to the planning commission for their approval.
 - 711.04-1.29 Existing structures may be converted for single unit or multi-unit residential rental uses, multifamily rental use, and shall meet the minimum requirements as set forth in this section and shall meet all for buffer zones, off-street parking, rental sizes and height.
 - 711.04-1.30 Any conversion which involves an existing nonresidential or multifamily use rental, or one which would result in the creation of a combination of nonresidential rental and residential rental use, or which would result in the creation of a multi-unit rental dwelling shall meet the minimum requirements as set forth in this section and shall meet all for buffer zones, off-street parking, rental sizes and height limitations.
 - 711.04-1.31 Parking shall be meet the requirements of section 703 of the Buena Vista Land Use Regulations.
 - 711.04-1.32 It shall be the responsibility of the landlord to show on the application the location and size of each parking space for all rental property.
 - 711.04-1.33 Failure to observe any regulation shall result in penalties as allowed by the Land Use Regulations in article 11, Violation and Penalty.
- 711.05 Items to be considered prior to granting a conditional use permit.
- 711.05-1 The impact on property values.
 - 711.05-2 Traffic generation.
 - 711.05-3 Parking.
 - 711.05-4 The population density of the neighborhood.
 - 711.05-5 The effect on the existing infrastructure.

CURRENT TEXT

711.05-6 Number of occupants of the each dwelling unit.

711.06 Conditions.

711.06-1 The planning commission and/or the city council may apply conditions to the property to maintain the intent of these regulations.