April 29, 2025
Revised July 24, 2025

Attain on 5th Phase 2

Special Exception Application Narrative: Stepbacks

SE 2025-019

In connection with the zoning map amendment application ZMA 2025-0004 (the "ZMA Application"), submitted by Wahoo Way Investments, LLC (the "Applicant"), on April 29, 2025 this Application for a Special Exception requests a waiver of the stepback requirements of Section 4.19 of the Albemarle County Zoning Ordinance that would otherwise apply to the four- story apartment buildings proposed by the Application.

If approved, the Application would permit the parcel subject to the Application (the "Property"), to be developed as a multifamily residential community known as "Attain on 5th Phase 2" (the "Project"). The Project proposes 165 new Phase 2 units for a total of 309 with Phase 1. The Application Plan submitted with the ZMA Application shows the arrangement of the apartment building envelopes within the Project.

The apartment buildings within the Project are contemplated as four-story and two-story structures, however the number of stories will be determined at site plan stage as the building design is finalized. Accordingly, the proposed apartment buildings are subject to the County's front stepback requirement, which provides that for each story beginning above 40 feet in height, or for each story above the third story, whichever is less, the minimum stepback shall be 15 feet unless reduced by special exception. Zoning Ordinance § 4.19.5.

The primary purpose of the stepback regulation is to avoid a "canyon" effect along public roads, which impairs the pedestrian experience and can defeat the Neighborhood Model principle of ensuring that buildings are constructed to "human scale."[1] The proposed building configuration, however, will not result in this undesired "canyon" effect along public roads because the apartment buildings adjacent to Interstate 64 and 5th St. Extended are set back from the road, and there is a large, mature wooded buffer within the I-64 right of way along with a significant grade change that will provide a buffer between the new buildings and the entrance corridor. In addition, the architecture of the Phase 2 buildings will be subject to approval from the Architectural Review Board.

[1] The purpose of the stepback rules was discussed during the public hearing at which the Board of Supervisors added Section 4.19 to the Zoning Ordinance. County Staff noted that Section 4.19 "avoids a 'canyon' effect." Statement of Ron Higgins, Deputy Zoning Administrator, Minutes of the Board of Supervisors Hearing, June 3, 2015, at page 99.



Image: Looking east on Interstate 64. To the right would be one of the proposed four-story apartment buildings, which would be located down slope and behind the existing buffer.



Image: Looking west on Interstate 64. To the left would be one of the proposed four-story apartment buildings, which would be located down slope and behind the existing buffer.

Given the siting of the apartment buildings, the "canyon effect" is not applicable in this situation. The Project's design allows sufficient space and light between the proposed buildings to avoid the "canyon" effect.

In addition, if it were enforced, the front stepback requirement would significantly eliminate living space in the apartment buildings. Approval of the requested special exception would not only preserve living space in the apartment buildings but would enhance the residential experience by providing more spacious accommodations to residents. As noted in more detail in the Rezoning Application Narrative, the proposed community would offer

needed housing options for County residents and employees of nearby business and employment centers. Given that strict enforcement of the stepback requirement would not further the purpose of Sec. 4.19, it is appropriate to waive the requirement in light of the far greater public benefit that the Project would provide in the form of needed housing options at a high-density level as an infill development.

Taken as a whole, the Project's design implements the Neighborhood Model Principle that recommends Buildings and Spaces of Human Scale. The building design will incorporate different materials, textures, and features to prevent massing that is inconsistent with that goal, pursuant to a proffered statement on the Application Plan.

The Proposed Special Exceptions Supports the Goals of the Comprehensive Plan

Modifying the front stepback requirement is consistent with the recommended future land use of the Property under the Comprehensive Plan. The Project is located in the Development Area and is designated for Urban Density Residential uses, with between 6.01 and 34 dwelling units per acre. The Project is clearly consistent with many elements of the Comprehensive Plan, as discussed in detail within the Project narrative. The Master Plan recommends a maximum building height of 3 stories, and additional stories by exception. There have been recent statements by members of both the Planning Commission and the Board of Supervisors regarding rezonings and a recognition that to practically provide sufficient housing in the designated Development Areas, reduce pressure on the Rural Areas, and avoid the need to expand the designated development area, that rezonings would need to be approved at the high end of the recommended density level. Similar statements have been made during meetings and work sessions involving the AC44 project. To realistically meet the goal of providing housing at the high end of the recommended density level, buildings must be taller where possible and particularly in locations such as this one where there are minimal impacts to existing neighbors, and the Master Plan allows for this exception. Given the many other aspects of the Comprehensive Plan and Master Plan that this Project meets, as well as meeting the goals of providing housing in the Development Area where there are existing services and where such housing avoids detrimental impacts to transportation, this location is ideal to approve an exception for the recommended height within the Master Plan to allow the high end of the density recommendations to be achieved.

A strict application of a 15-foot stepback to the apartment buildings would result in the loss of residential units. As a reduction in the number of residential units is contrary to the Comprehensive Plan's recommendation for the Property, a special exception from the stepback is warranted. If the number of units were reduced as a result of the stepback requirement, the Project would be far less effective in meeting the County's density and affordable housing goals.

For these reasons, the Applicant requests a special exception from Section 4.19. Granting the requested special exception will further the goals of the Comprehensive Plan without creating any adverse impacts.

Thank you for your consideration of this request.