

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

**Andy Reitelbach
July 12, 2022
TBD**

Staff Report for Special Exception SE202100041 to waive 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 ZMA202100011, The Heritage on Rio. (§ 18-4.19.5)

WAIVERS AND MODIFICATIONS FOR PLANNED DEVELOPMENTS

The applicant is requesting to waive 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, for three buildings 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 request and justification for this special exception, which can be found in Attachment 5. 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.

The applicant has indicated on the Application Plan for ZMA202100011 that Buildings 1-4, which are located along Rio Road West, will be a maximum of three stories, so no setback is required. The setback waiver is specifically for Buildings 5-7, which are interior to the property and are proposed to be up to four stories tall. Removing the setback requirement would provide more design flexibility for these interior buildings. Two of these buildings are depicted as fronting on a roadway (called Travelway B on the Application Plan) that provides access to an adjacent parcel and is proposed to be upgraded to have a more urban streetscape design, creating buildings and spaces of

human scale with a more urban feel, as recommended in the Neighborhood Model Principles of the comprehensive plan.

In addition, waiving the requirement for a setback on these buildings is consistent with the Places29 Master Plan's recommendation for a maximum height of four stories. The waiver of this requirement also allows for more density in this development, since additional units can be included in the buildings when there is no setback. These additional units that could be included without a setback is consistent with the recommendation of the Master Plan for the Urban Density Residential land use designation and for the Comprehensive Plan's policy of concentrating development in the Development Areas of the County.

A minimum setback of 5' has been provided for the buildings that front along Travelway B, as required by the Zoning Ordinance.

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 those principles, especially Principle #8, Buildings and Space of Human Scale, which is the most applicable to this special exception request.

See Attachment 10 for Illustrative Plans and Renderings provided by the applicant that depict the possible appearance of this development, including the buildings where the setback requirement would be waived.

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 waiver of the requirement for a setback of at least 15 feet for buildings that exceed three stories, or 40 feet, whichever is less.

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 that prevent structures from overwhelming people who are nearby and to contribute to the comfort of pedestrians, as reflected in the Neighborhood Model Principles, especially #8, outlined in the comprehensive plan. Waiving this requirement would satisfy the purpose of this regulation to an equivalent degree, allowing more flexibility of design for Buildings 5-7 of this development, especially the two buildings that are proposed to front on "Travelway B."

Staff recommends approval of SE202100041 (Sec. 18-4.19.5), a special exception request to waive the setback requirements for buildings in the development.