



CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

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November 4, 2024

**TO THE MEMBERS OF CITY COUNCIL
CITY OF HARRISONBURG, VIRGINIA**

SUBJECT: *Consider a request from Josue Elidio Pereira Coreas to rezone 731 Jefferson Street*

**EXTRACT FROM THE DRAFT MINUTES OF HARRISONBURG PLANNING
COMMISSION MEETING HELD ON: October 9, 2024**

Chair Finnegan read the request and asked staff to review.

Ms. Rupkey said the existing structure addressed as 731 Jefferson Street is believed to have been built before the property was annexed into the City in 1870. When the property was annexed, the City of Harrisonburg had not yet adopted a Zoning Ordinance. In 1939 when the City's Zoning Ordinance (ZO) was adopted, the property was zoned B-2, which at the time was the Business, Manufacturing, and Industrial District. At that time, a residential use would have been allowed in the B-2 district. In 1963, when the City adopted a new Zoning Ordinance, the property was zoned M-1, Light Industrial and became a nonconforming residential use.

In April 2024 the property suffered a fire. While City staff were inspecting the property, staff began investigating whether nonconformity was lost as staff had reason to believe a second unit was added to the property making the structure an illegal duplex. The applicant has been unable to prove that a duplex was legally established and for it to be considered a nonconforming use.

The ZO states that “[w]hensoever a nonconforming use is enlarged or extended beyond the size, character, or intensity of the use as it existed at the time that it became nonconforming, the nonconforming status of such use shall terminate and become unlawful.” Additionally, the purpose of the nonconforming principle is to preserve rights in existing lawful buildings and uses of land, subject to the rule that public policy opposes the extension and favors the elimination of nonconforming uses. Nonconforming uses are disfavored because they detract from the effectiveness of a comprehensive zoning plan.¹

After discussing options with staff, the applicant is requesting to rezone the property to allow for at least one dwelling to continue operating on the property. The applicant would like to have the

ability to convert the dwelling into a legal duplex in the future. If the rezoning is approved, staff will continue to work with the applicant to get the correct building permits.

The applicant is requesting to rezone a +/- 15,948-square foot property from M-1, General Industrial District to R-3C, Medium Density Residential District Conditional. The property is located at 731 Jefferson Street and is identified as TM 40-O-7 and 8.

Proffers

The applicant has offered the following proffers (written verbatim):

1. A variable width public sidewalk easement along Jefferson Street will be provided for the City to construct a sidewalk in the future. The easement will extend 7.5 ft from the existing back of curb into the property and will be dedicated at minor subdivision. In addition, a 5 ft temporary grading easement beyond the 7.5 ft sidewalk easement will be provided for the City to have sufficient space to install the proposed sidewalk.

With this proffer the applicant would dedicate public sidewalk and temporary construction easements to allow the City to construct sidewalk along the streets at some point in the future if they were to submit a subdivision application.

Land Use

The Comprehensive Plan designates this parcel as Neighborhood Residential and states that:

These areas are typically older residential neighborhoods, which contain a mixture of densities and a mixture of housing types but should have more single-family detached homes than other types of housing. This type of land use highlights those neighborhoods in which existing conditions dictate the need for careful consideration of the types and densities of future residential development. Infill development and redevelopment must be designed so as to be compatible with the desired character of the neighborhood.

While the applicant's short-term plans are to bring the property into compliance for a single-family detached dwelling, the applicant has expressed interest in the possibility of converting the structure into duplex or a multi-family building with three dwelling units. The R-3 district would allow the applicant to have the flexibility to pursue these options in the future. The R-3 district allows duplexes by right and allows multi-family buildings with an approved special use permit.

Transportation and Traffic

A traffic impact analysis (TIA) was not required for the rezoning request.

Public Water and Sanitary Sewer

Staff has no concerns with the requested rezoning regarding water and sewer matters.

Housing Study

The City's Comprehensive Housing Assessment and Market Study (Housing Study) places the subject property within Market Type D, which notes that "[m]arket type D has lower market activity as well as lower access to amenities. This could be because the areas are stable residential neighborhoods or because the area is less developed and therefore has fewer sales and fewer amenities. Strategies that would be appropriate in the latter case include concurrent development

of the housing and economic opportunities through mixed-use developments to build commerce and housing centers across the City.

Public Schools

Staff from Harrisonburg City Public Schools (HCPS) noted that based on their student generation calculations, the proposed single-family detached dwelling would result in a student generation of zero. Based on the School Board's current adopted attendance boundaries, Waterman Elementary School, Thomas Harrison Middle School, and Harrisonburg High School would serve the students residing on this property. HCPS staff noted that four of the six elementary schools are over capacity. Harrisonburg City Public Schools (HCPS) staff noted that schools are over capacity in three of the six elementary schools.

For total student population projections, the City of Harrisonburg and HCPS both use the University of Virginia's Weldon Cooper Center for Public Service's projections. These projections are updated annually and are available at: <https://www.coopercenter.org/virginia-school-data>.

Recommendation

Staff believes that this request does not have any major adverse effects to the surrounding properties and is consistent with the Comprehensive Plan and recommends approval of the request.

Chair Finnegan asked if there any questions for staff.

Vice Chair Byrd said the last three lots that are M-1 along the same street touching R-2, in our Comprehensive Plan this is still left as M-1, correct?

Ms. Rupkey said if I am standing and looking is it the house on the left or the right? Page top or page bottom.

Vice Chair Byrd said page top.

Ms. Rupkey said they are nonconforming residential uses in the M-1 district now. This rezoning they would remain M-1 and then however the Comprehensive Plan does designate them as well as the Neighborhood Residential similarly as this property. They are also a part of the Neighborhood Residential designation.

Vice Mayor Dent said this is different from that other one that was a nonconforming in an industrial zone.

Ms. Rupkey said the Liberty Street one? This is different. The Land Use Guide was the industrial [designation] for that one.

Chair Finnegan asked if there were any more questions for staff. Hearing none invited the applicant or applicant's representative to speak to their request.

Josue Elidio Pereira Coreas, the applicant, via an interpreter came forward to speak to the request.

Chair Finnegan said in the application you talked about the possibility of wanting to add more residential structure onto that property, which you could do under the new rezoning. Is that something that you are planning to do soon or is that something in the future?

Mr. Pereira Coreas via an interpreter, said no maybe in the future but not soon.

Chair Finnegan asked if there were any questions for the applicant. Hearing none, he opened the public hearing and asked if there was anyone in the room or on the phone wishing to speak to the request. Hearing none, he closed the public hearing and opened the matter for discussion.

Commissioner Baugh said it is a little unconventional in some respects but as we saw in the visit yesterday it actually a request to bring it in line with what is actually in that neighborhood. I have no issue to support it. I will go ahead and move that we approve the proposed rezoning at 731 Jefferson Street as proposed by staff.

Vice Chair Byrd seconded the motion.

Chair Finnegan called for a roll call vote.

Commissioner Nardi	Aye
Commissioner Baugh	Aye
Vice Chair Byrd	Aye
Vice Mayor Dent	Aye
Commissioner Alsindi	Aye
Commissioner Washington	Aye
Chair Finnegan	Aye

The motion to recommend approval of the rezoning request passed (7-0). The recommendation will move forward to City Council on November 26, 2024.