



City of Harrisonburg, Virginia

DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT

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December 1, 2015

TO THE MEMBERS OF CITY COUNCIL CITY OF HARRISONBURG, VIRGINIA

SUBJECT: Public hearing to consider a request from 137 Water, LLC, with representative Barry Kelley to rezone a parcel containing 2,460 +/- square feet from M-1, General Industrial District to B-1C, Central Business District Conditional. The property is located at 137 West Water Street and is identified as tax map parcel 25-C-7.

EXTRACT FROM MINUTES OF HARRISONBURG PLANNING COMMISSION MEETING HELD ON: November 11, 2015

Chair Fitzgerald read the request and asked staff for a review.

Mr. Fletcher said the Comprehensive Plan designates this area as Mixed Use Development. This designation includes both existing and proposed new mixed use areas. These areas are intended to combine residential and non-residential uses in planned neighborhoods where the different uses are finely mixed instead of separated. These areas are prime candidates for “live-work” and traditional neighborhood developments. Live-work developments combine residential and office/service uses allowing people to both live and work in the same area, which could be combined in the same building or on the same street. The gross residential density in areas outside downtown should not exceed an average of 15 units per acre, though all types of residential units are permitted: single family detached, single family attached and apartments. Apartments are permitted only if single family detached and/or attached units are also provided and together cover a greater percentage of the project site. Residential densities in downtown may be higher than an average of 15 units per acre, and commercial uses would be expected to have an intensity equivalent to a Floor Area Ratio of at least 0.4, although the City does not measure commercial intensity in that way.

The following land uses are located on and adjacent to the property:

- Site:** Non-conforming single family structure, zoned M-1
- North:** Across West Water Street, Rosetta Stone offices, zoned B-1
- East:** Across Norfolk Southern Railroad tracks, retail uses and other Rosetta Stone offices, zoned B-1
- South:** Ice House parking lot, zoned B-1C
- West:** Ice House parking lot, zoned B-1C

The applicant is requesting to rezone a small parcel containing 2,460 +/- square feet from M-1, General Industrial District to B-1C, Central Business District Conditional. The property is located at 137 West

Water Street, which is adjacent to the southwest of the wooden bridge over the Norfolk Southern Railroad tracks. The property has been used residentially for many years and includes a non-conforming single family structure. The building also is non-conforming to setback regulations as the structure does not meet minimum setback requirements. Per staff's research, the building appears to have been built sometime between 1907 and 1912 as the structure is not shown on the 1907 Sanborn map but then appears on the 1912 Sanborn map, where it is described as a cigar factory.

The applicant acquired the property in April 2015 and believes the prior owners had used the building as a duplex. There are only a few building permits on record for this property; a 1972 permit was issued to convert the basement to an apartment for the property owner's in-laws. Aside from that building permit, there is no documentation to confirm the property was used continuously since 1972 as a two unit dwelling to maintain its non-conformity. Although not always an indication of two units, the site does not have two addresses nor does it have two water meters or two electrical meters.

The applicant would like to rezone the property to B-1 because the Central Business District allows residential uses by right and has no minimum setback regulations; therefore, successfully rezoning the lot to B-1 would bring the use and the structure into zoning compliance. The applicant plans to renovate the existing residential structure by creating two, one-bedroom units—one on the first floor and one on the bottom/basement floor. At the end of October, the applicant was issued a building permit to begin renovating the structure. The work on that permit includes improvements that are permitted, whether the rezoning is approved or not.

Although the property is quite small, and the applicant has already been issued a building permit to begin renovations to use the property residentially, if the property is rezoned to the B-1 district, there are no guarantees about future uses or residential occupancies of the property. By right, any residential unit could have up to 4 occupants in the B-1 zoning district. As is always emphasized by staff, because there are no minimum parking requirements in the B-1 district, if the City approves any B-1 rezoning request, the City is also accepting the responsibility of the parking demand such properties place on the City's downtown area. In this particular case, the property's uses could change over time from the current intended use to something more parking intensive.

Staff understands that historically this site has been occupied by individuals that often times did not have a vehicle or may have only had one vehicle. Prior to the adjacent property developing into a large parking lot, there was a small parking area to the rear of the subject property's residential structure, and there was access to the public street. Since the construction of the parking lot, there no longer remains vehicular access to the rear of the property to provide off-street on-site parking.

In understanding staff's concerns, the applicant submitted the following proffer:

- The subject property shall be permitted to utilize all abilities granted by the B-1 zoning district, except that residential use of the existing single family structure shall be limited to two, one-bedroom units, where occupancy shall be restricted to a family or not more than two (2) persons.

The submitted proffer resolves staff's typical concerns regarding off-street parking for B-1 properties. Although parking details were not proffered, limiting the residential use of the existing structure essentially maintains its likely historical use while limiting the occupancy of each unit. Also, in this particular case, the adjoining parking lot is owned by the applicant and he has explained that any tenant of either unit would have the ability, if necessary, to lease parking spaces within the Ice House parking lot. Furthermore, given the small size of the property, redeveloping the subject property would likely mean redeveloping the larger block, which includes the Ice House parking lot. The Ice House parking

lot parcel is zoned B-1C, where the only regulating proffer states that “all uses shall comply with requirements of Article G Off-Street Parking except that residential dwelling units shall provide one parking space per dwelling unit.”

The West Water Street wooden bridge over the railroad, which is adjacent to the northeast of the subject property, is planned for reconstruction, which would likely necessitate some type of improvements across the subject properties street frontage. At this time, staff is uncertain of the exact timeline of when the improvements would be made. Rezoning the property does not require public street right-of-way dedication. However, the applicant should understand if the subject property is redeveloped (i.e. the existing structure is demolished, the use of the property is substantially changed, etc.), prior to improvements being made to the bridge, the property owner would be required to dedicate a portion of the property’s street frontage to the City for the bridge and street’s reconstruction and improvements.

Although unrelated to the rezoning request, the Department of Public Utilities noted that the existing residential structure utilizes a private sanitary sewer lateral connection across the adjoining property to the west (the Ice House parking lot parcel). During the development of the adjoining property in 2014, the City requested that a private sewer easement be provided to the parcel at 137 West Water Street. Staff is unaware if the private easement was established. Without the private easement, there is no legal sewer service connection to 137 West Water Street. If the easement does not exist, staff recommends the required private sewer lateral easement be recorded as soon as possible.

With regard to the Comprehensive Plan, rezoning the property to B-1C conforms with the Land Use Guide as the property is designated Mixed-Use Development Areas. The property falls within a quarter-mile radius of Court Square proving the property’s ability to being walkable to the many services offered downtown. Furthermore, the property is identified within the Plan’s Downtown Revitalization Area and although there is no specified strategy or guideline for development for having such a designation, the Plan recognizes that developments and redevelopments in this area are highly desirable for continued efforts for reviving downtown.

With the submitted proffer, staff supports rezoning the property from M-1 to B-1C.

Chair Fitzgerald asked if there were any questions for staff.

Mr. Colman said the proffer applies with the existing structure. If they were to modify the structure would it no longer apply?

Mr. Fletcher said it applies to the existing structure.

Mr. Colman said if they were to expand the existing structure would it apply.

Mr. Fletcher said if the applicant redevelops this site it triggers things that are not covered within this staff report. Right-of-way dedication would be required, which would restrict the lot even more. There are issues that would potentially make this lot a little harder to be redeveloped as it is.

Mr. Baugh said when I read through this I feel we have the residential uses covered by the proffer. It is the theory that there could be some type of commercial use on that tiny little spot that is very intensive and therefore generate a lot of traffic. But again, it is right next to a big parking lot and the applicant owns both.

Chair Fitzgerald asked if there were any further questions. Hearing none, she opened the public hearing and asked the applicant, or the applicant’s representative to speak. Hearing none, she asked if there was anyone desiring to speak regarding this rezoning request. Hearing none, she closed the public hearing and asked for a motion.

Mr. Colman made a motion to recommend approval of the rezoning as presented with the proffer.

Mr. Way seconded the motion. I think this is a very good rezoning within the downtown area.

Chair Fitzgerald called for a voice vote on the motion.

All voted in favor of the request to rezone (5-0).

Chair Fitzgerald said this request will go forward to City Council on December 8th with a favorable recommendation.

Respectfully submitted,

Alison Banks
Senior Planner