



# CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

409 SOUTH MAIN STREET, HARRISONBURG, VA 22801

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To: Planning Commission  
From: Department of Community Development  
Date: July 20, 2023 (Regular Meeting)  
Re: Rezoning and Special Use Permit – 11, 21, 31 Elon Rhodes Lane, 241 Commerce Drive, and 298 East Washington Street (R-3 and B-2C to R-5C) and (To Allow Multiple-Family Dwellings of More Than 12 Units Per Building)

## **Summary:**

Project name	Commerce Village II
Address/Location	11, 21, 31 Elon Rhodes Lane, 241 Commerce Drive, and 298 East Washington Street
Tax Map Parcels	41-Q-4, 4A, and 6
Total Land Area	+/- 2.5-acres
Property Owner	Harrisonburg Redevelopment and Housing Authority
Owner's Representative	Monteverde Engineering & Design Studio
Present Zoning	R-3, Medium Density Residential District and B-2C, General Business District Conditional
Proposed Zoning	R-5C, High Density Residential Conditional
Special Use Permit Requested	To allow multiple-family dwellings of more than twelve (12) units per building per 10-3-55.4 (1)
Staff Recommendation	Approval
Planning Commission	August 9, 2023 (Public Hearing)
City Council	Anticipated September 12, 2023 (First Reading/Public Hearing) Anticipated September 26, 2023 (Second Reading)

## **Background:**

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

Site: Commerce Village multiple family dwellings and vacant property, zoned R-3 and B-2C

North: Across Commerce Drive, townhomes, zoned R-4, Planned Unit Residential District

East: Across Commerce Drive, townhomes, zoned R-4

South: Across East Washington Street and adjacent to the property, Simms Center and automotive repair, zoned R-2 and B-2

West: Automotive repair, industrial use, and Pleasant View, Inc., zoned M-1, General Industrial District and B-2

In August 2004, City Council approved a requested rezoning from the Harrisonburg Redevelopment and Housing Authority (HRHA) of four B-2 parcels (tax maps 41-Q-4, 4A, 6, and 7) totaling +/- 2.5-acres with specific proffers. One of the proffers noted that the development would be built substantially conforming to the submitted site layout. The corner parcel, made up of tax maps 41-Q-4 and 4A, was rezoned to B-2C with all business uses being restricted to 2,000 square feet in size and no business could operate vehicle repair or sales, general service or repair shops, or warehousing and other storage facilities. During the same 2004 rezoning, tax maps 41-Q-6 and 7 were rezoned to R-3C, Multiple Dwelling Residential Conditional (a district now often referred to as the “old R-3 district”).

After the above noted rezoning, the properties remained undeveloped. Then, in June 2013, HRHA requested rezoning tax map parcel 41-Q-6 from R-3C, Multiple Dwelling Residential District Conditional to R-3, Medium Density Residential District and a small portion of 41-Q-4 from B-2C to R-3, Medium Density Residential District, to create enough lot area to construct 30 multiple-family dwelling units. There were no proffers submitted. At this same time, HRHA requested two special use permits. The first was to allow multi-family dwellings of up to 12 units per building, which was (and still is) required when desiring to build multi-family units within the “new R-3 district.” The second SUP was to allow for the reduction of required parking spaces, which requires any area that would have been used for parking to remain as open space. City Council approved the rezoning request and also approved the two SUPs with the following conditions:

With regard to the SUP to allow multi-family family dwellings:

- No more than two (2) unrelated persons shall occupy any dwelling on the property, including the multi-family dwellings permitted by this special use permit.
- The special use permits shall be valid for five years from the date of approval by City Council.

Regarding the SUP to reduce required parking:

- The site shall provide not less than 60 percent of the required minimum amount of parking spaces.
- If, in the opinion of Planning Commission or City Council, the implementation of this special use permit becomes a nuisance, the permit can be recalled for further review, which could lead to the need for additional conditions, restrictions, or the revocation of the permit.
- The special use permits shall be valid for five years from the date of approval by City Council.
- In the event that they (the developer) are not able to get a transit stop on the property, they (the developer) must construct sidewalk or some equivalent pedestrian walkway out to East Washington Street.

Presently, the 2004-approved proffers related to the B-2C zoned portion of the subject rezoning site are still in effect. The R-3 zoned portion of the subject rezoning has no proffers but has two SUP conditions that remain in effect.

**Key Issues:**

The applicant has submitted two separate applications. The first is to rezone three parcels totaling +/- 2.5-acres from R-3 and B-2C to R-5C. Because the applicant would like to construct new buildings with more than 12 multi-family units per building, the second request is for a special use permit (SUP) per Section 10-3-55.4 (1) of the Zoning Ordinance (ZO) to allow multi-family dwellings of more than 12 units per building in the R-5. (Note: Constructing multi-family dwellings with up to 12 units per building is a by right ability in the R-5 district.) The SUP is only applicable to the undeveloped portion. If both requests are approved, the applicant plans to construct a 16-unit multi-family building at the corner of Commerce Drive and East Washington Street, described herein as Commerce Village II.

If the subject rezoning is approved, it would supersede and replace the previously approved 2004 and 2013 rezonings and proffers, and it will void the 2013 SUPs and conditions for the existing Commerce Village development as those SUPs would no longer be necessary under the proposed R-5C zoning and submitted proffers and the requested SUP.

Know that if the rezoning is approved, it will increase the required minimum side yard setback on the adjacent parcel addressed as 296 East Washington Street and identified as 41-Q-3. This is because that property is zoned B-2, where the side and rear yard setbacks are different depending upon the zoning district of adjacent parcels. The B-2 district regulations require a 10-foot side and rear yard setback when the adjacent parcels are not zoned residentially. However, when B-2 property boundaries abut residential districts, the side and rear yard setback increases to 30 feet and when structures on the B-2 property are taller than 35 feet, an additional foot of setback is required for each foot above 35 feet. Unless the structure located on 296 East Washington Street is already nonconforming to setback regulations, it will likely become nonconforming if the subject rezoning request is approved. Additionally, any new buildings or additions on that property will need to meet the increased minimum setback requirement.

*Proffers*

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

1. Occupancy is restricted to a family or no more than two (2) individuals per dwelling unit.
2. A minimum of 0.75 parking spaces per dwelling unit shall be provided.
3. On tax map parcels 41-Q-4 and 41-Q-4A, no parking lot (including travel lanes and drive aisles) shall be located between any building and public streets (Commerce Drive and East Washington Street).
4. There shall be no entrances on East Washington Street.
5. Future development on tax map parcel(s) 41-Q-4 and 41-Q-4A shall share an entrance with 41-Q-6, as generally depicted on Exhibit A (concept plan).
6. Internal private sidewalk connections shall be provided to public sidewalks along East Washington Street and Commerce Drive at the time of development of tax map parcel(s) 41-Q-4 and 41-Q-4A.

The R-5 district allows by right dwellings to be occupied by a family or not more than four unrelated persons. Proffer #1 reduces the allowable occupancy of dwelling units to either a family or not more than two individuals. This occupancy is essentially equivalent to the occupancy condition that City Council placed on the existing Commerce Village development back in 2013. Because they proffered a reduction in occupancy, Section 10-3-25 (7) of the ZO allows for reduced parking when occupancy is restricted at “1 space for each dwelling unit or as may be conditioned by the property owner at the time of rezoning”

Given this provision, the applicant has proffered to provide a minimum of 0.75 parking spaces per dwelling unit. The applicant's letter describes that all apartment units will be one-bedroom units and they based the proffered occupancy on "careful evaluation of the parking needs and observed demand throughout the history of Commerce Village and beyond." The applicant further stated that "the phase 1 units occupy less than 50% of the total allocated parking spaces, indicating that the original parking requirement for their specific needs proved excessive and does not align with the actual parking demand that has been observed on-site."

### *Land Use*

The Comprehensive Plan designates this site as Mixed Use and states:

"The Mixed Use designation includes both existing and proposed areas for mixed use. Mixed Use areas shown on the Land Use Guide map are intended to combine residential and non-residential uses in neighborhoods, where the different uses are finely mixed instead of separated. Mixed Use can take the form of a single building, a single parcel, a city block, or entire neighborhoods. Quality architectural design features and strategic placement of green spaces for large scale developments will ensure development compatibility of a mixed use neighborhood with the surrounding area. These areas are prime candidates for "live-work" and traditional neighborhood developments (TND). Live-work developments combine residential and commercial uses allowing people to both live and work in the same area. The scale and massing of buildings is an important consideration when developing in Mixed Use areas. 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.

Downtown is an existing area that exhibits and is planned to continue to contain a mix of land uses. The downtown Mixed Use area often has no maximum residential density, however, development should take into consideration the services and resources that are available (such as off-street parking) and plan accordingly. Residential density in Mixed Use areas outside of downtown should be around 24 dwelling units per acre, and all types of residential units are permitted: single-family detached, single-family attached (duplexes and townhomes), and multi-family buildings. Large scale developments, which include multi-family buildings are encouraged to include single-family detached and/or attached dwellings."

Staff believes the rezoning and approving the SUP is in line with Comprehensive Plan. When considering all three parcels, the existing 30 units, and the planned 16 additional units, the development would equate to almost 18 units per acre, which is within the planned density for these parcels. Ultimately, however, the applicant plans to subdivide the property so that the existing 30 units are located on an approximate 1.9-acre parcel (equating to almost 16 units per acre) and positioning the planned 16 additional units on approximately 0.66-acres (which would equate to the planned 24 units per acre).

### *Transportation and Traffic*

The Determination of Need for a Traffic Impact Analysis (TIA) form ("TIA determination form") for the proposed rezoning is attached. The TIA determination form indicated that the project would not generate 100 or more new peak hour trips, which is the threshold for staff to require a Traffic Impact Analysis (TIA).

The Proffers section of this memorandum describes proffers that enhances pedestrian access and connectivity and proffers that restrict the number of entrances serving the property.

*Public Water and Sanitary Sewer*

Staff has no concerns regarding water and sanitary sewer service availability for the proposed development.

*Housing Study*

The City’s Comprehensive Housing Assessment and Market Study (Housing Study) places the subject site within Market Type B, which has “neighborhoods [that] are characterized by high income earning households, large volumes of housing sales and lower population growth.” The Housing Study further notes that houses in these markets are quick to sell and that “[p]riorities and policies that are appropriate to Market Type B areas include the preservation of existing affordable housing while at the same time working to increase access to amenities.”

*Public Schools*

The student generation attributed to the proposed 16 new residential units is estimated to be nine students. Based on the School Board’s current adopted attendance boundaries, Spotswood Elementary School, Skyline Middle School, and Harrisonburg High School would serve the students residing in this development. Harrisonburg City Public Schools (HCPS) staff noted that schools are over capacity in many of the schools.

*Recommendation*

Staff recommends approval of both the rezoning and special use permit as submitted.

**Environmental Impact:**

N/A

**Fiscal Impact:**

N/A

**Prior Actions:**

N/A

**Alternatives:**

- (a) Recommend approval of the rezoning and SUP request as submitted;
- (b) Recommend approval of the rezoning and SUP request with conditions;
- (c) Recommend approval of the rezoning request and denial of the SUP request; or
- (d) Recommend denial of the rezoning and SUP request.

**Community Engagement:**

As required, the request was published in the local newspaper twice advertising for Planning Commission’s public hearing. The advertisement was published as shown below:

***Rezoning – 11, 21, 31 Elon Rhodes Lane, 241 Commerce Drive, and 298 East Washington Street (R-3 and B-2C to R-5C)***

Public hearing to consider a request from Harrisonburg Redevelopment and Housing Authority to rezone a +/- 2.5-acre property from R-3, Medium Density Residential and B-2C, General Business District Conditional to R-5C, High Density Residential Conditional. The property is addressed as 11, 21, 31 Elon Roads Lane, and 241 Commerce Drive, and 298 East Washington Street and is identified as tax map parcel numbers 41-Q-4, 4A, and 6.

***Special Use Permit – 11, 21, 31 Elon Rhodes Lane, 241 Commerce Drive, and 298 East Washington Street (To Allow Multiple-Family Dwellings of More Than 12 Units Per Building in R-5)***

Public hearing to consider a request from Harrisonburg Redevelopment and Housing Authority for a special use permit per Section 10-3-55.4 (1) to allow multiple-family dwellings of no more than twelve (12) units per building in the R-5, High Density Residential District. The property is addressed as 11, 21, 31 Elon Roads Lane, and 241 Commerce Drive, and 298 East Washington Street and is identified as tax map parcel numbers 41-Q-4, 4A, and 6.

In addition, adjoining property owners were notified of the public hearing; the property was posted with signage advertising the request; and a notice was provided on the City's website at <https://www.harrisonburgva.gov/public-hearings>.

**Recommendation:**

Staff recommends alternative (a) approval of the rezoning and SUP request as submitted.

**Attachments:**

1. Site maps
2. Application and supporting documents
3. 2004 Proffers

**Review:**

N/A