



City of Harrisonburg, Virginia

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

STAFF REPORT

July 8, 2015

REZONING – 412 South Main Street (B-2C to B-1C)

GENERAL INFORMATION

Applicant: Campbell and Main, LLC

Tax Map: 26-O-3

Acreage: 18,901 Square Feet

Location: 412 South Main Street

Request: Public hearing to consider a request to rezone one parcel from B-2C, General Business District Conditional to B-1C, Central Business District Conditional.

LAND USE, ZONING, AND SITE CHARACTERISTICS

The Comprehensive Plan designates this area as Professional. This designations states that these areas are for professional service oriented uses with consideration to the character of the area. These uses are found in the residential areas along major thoroughfares and adjacent to the Central Business District. Conversion of houses in these areas to office and professional service uses is permitted with appropriate attention to maintaining compatibility with adjacent residential areas in the same manner as described for Planned Business areas.

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

Site: Joshua Wilton House inn and restaurant, zoned B-2C

North: Across Campbell Street, St. Stephens United Church of Christ, zoned B-2

East: A parcel containing the private drive to Campbell Court (a multi-family complex), zoned R-3, further east—on a separate parcel—a single family dwelling, zoned R-3

South: Campbell Court, zoned R-3, and Union bank (fronting South Main Street), zoned B-2C

West: Across South Main Street, Planning and Community Development building, Municipal Building, and the new City Hall (under construction), zoned B-1

EVALUATION

The applicants are requesting to rezone 412 South Main Street—the Joshua Wilton House (JWH) inn and restaurant property—from B-2C, General Business District Conditional to B-1C, Central Business District Conditional. The property is located on the southeastern corner of the South Main Street/Campbell Street intersection in the City's downtown. The existing B-2C zoning has been in effect since 1987 when previous property owners requested it be rezoned from R-3 to B-2C to make way for the inn and restaurant. The proffers approved at that time and which remain in effect today are (written verbatim):

1. Dwelling (Joshua Wilton House) will be converted into an inn and restaurant.
2. Restaurant will not be open to the public on Sundays prior to 12:00 o'clock noon.
3. The use of the property will be restricted to an inn and restaurant, and no other use otherwise permitted under the current B-2 zoning district will be permitted.

The applicants' primary objective for rezoning the property is to rectify setback violations that were recently discovered by the new owners earlier this year.

Back in 1986, when the property was zoned R-3, and when the 1984-era Zoning Ordinance was in effect, a 1986 physical survey of the property revealed the building was conforming to all setback regulations except the side of the building that faced Campbell Street—that side needed a 30-foot setback, but only had (what appears to have been) a 24.3-foot setback. When the property was rezoned to B-2C in 1987, the structure became non-conforming to setbacks on the south side of the property as well because the B-2 zoning district required (and still does) 30-foot setbacks along any line adjacent to a residentially zoned property.

In 1988, three setback variances were approved by the Board of Zoning Appeals (BZA), which granted the property owners the ability to have a rear setback (along the eastern property line) of 8 feet and to have a side yard setback (along the southern property line) of 10 feet for planned additions to the JWH. The third setback variance allowed for a gazebo to be installed on the property at no closer than 5 feet from both the side and rear property lines. During the same BZA hearing, the applicants also requested for the BZA to formally approve/clarify that the property was considered conforming to off-street parking regulations. The applicants claimed a deviation to the off-street parking regulations was approved by Planning Commission and City Council during the rezoning of the property because the applicants indicated during that process that they would rely on public parking facilities. The minutes of the BZA hearing also reflect the applicant's attorney stating that they would rely on the municipal parking lot. In the end, along with approving the setback variances, the BZA formally recognized approval of a parking variance.

The approved 1988 BZA variance rectified the south side setback non-conformity as described above. Unfortunately, the addition that was built on this side of the building was, on average, 0.3 feet too close to the lot line (the survey reflects the corners at 9.6 and 9.8 feet away from the line). Furthermore, the gazebo was also located too close to the side and rear property lines as it sits, at its closest point, 2.2 feet from the rear property line. The rear addition though, toward the eastern property line, was built within the allowable setback.

Later, in 1995, the same previous property owners requested another setback variance from the BZA, hoping to allow for a 7-foot setback so that they could build another addition on the southern side of the building. The BZA granted them the variance but the approval was permitted only for the addition that was planned at that time. Unfortunately, again, the addition was built too close to the side property line, where it encroaches the setback by 0.3 feet.

When these matters were brought to the new owners' attention earlier this year, staff informed them that they should work toward rectifying the violations. Staff explained they had several options including: to request another setback variance from the BZA; to request rezoning the property to B-1; to request a special use permit per Section 10-3-91 (9), which allows for the reduction in the required side yard setback to zero feet along the lot line of an adjoining lot or parcel zoned B-1 or M-1; or to perform a minor subdivision with the adjacent property to the

south to move the dividing line to a distance that would bring the property in compliance with setback regulations.

The applicants ultimately chose the rezoning option and have submitted the following proffers (written verbatim):

1. The subject property shall only be used for inn (transient lodging), restaurant and related activities such as weddings, meetings, civic and other special events. Catering activities for off-premises purposes shall also be permitted.
2. The restaurant operation shall not be open to the public between the hours of 1:00 am to 11:00 a.m. on Sundays. Limited food service to in-house inn guests from the kitchen may be provided during these hours.
3. The property shall maintain the existing off-street parking area enclosed by the existing vinyl fencing on the north side of the property adjacent to Campbell Street. Portions of the property (not restricting the Campbell Street entrance), may also be used for non-permanent outdoor storage of landscaping, construction or similar materials (with outdoor storage at no time to take up more than 20% of the fenced-in area).
4. The property shall maintain a thirty-foot (30') setback along South Main Street and a twenty foot (20') setback along Campbell Street for permanent structures. Fences, patios or other non-enclosed and uncovered structures shall not be subject to this restriction.

Staff is recommending approval of the applicants' request. The rezoning with the submitted proffers, while rectifying their setback violations and bringing into compliance the property's non-conforming setback along Campbell Street, more or less, maintains the existing regulations of the property. If approved, the only difference among the existing controls and the proposed proffers is that the restaurant would be able to operate for two additional hours on Sundays, which would be between the hours of 12:00 and 1:00 a.m. and 11:00 a.m. and 12:00 p.m.

Staff appreciates the applicants' willingness to proffer setback restrictions along South Main and Campbell Streets. These proffered setback restrictions are similar to two other approved proffered setbacks on nearby properties that have been rezoned from B-2 to B-1C including:

- 312 South Main Street – rezoned in 2006 with a 20-foot setback along South Main Street and Franklin Street, and
- 342 South Main Street – rezoned in 2012 with a front and rear setback of 20-feet.

Such restrictions should help preserve the front yard and street aesthetics that this and many other historic properties provide along this section of these downtown streets.

As most are aware, when a property is zoned B-1 the expectation is the uses that operate at the site can rely on public parking lots and decks and utilize on-street parking spaces. Often, staff has concerns with parking issues when a property owner is requesting to rezone a parcel to the B-1 district as adding such zoning places more strain on the City's downtown public parking facilities. However, in this particular case, staff does not have this concern. As noted above, although an unorthodox approach, the property received a variance to parking regulations through the combined rezoning and BZA approvals in the late 1980s. With the current request, the submitted proffer #3 essentially maintains the existing off-street parking area and, for the most part, how they have been operating since the inn and restaurant's existence. The change in

hours of operation though, and specifically the additional hour between 11:00 a.m. and 12:00 p.m. does add slightly more parking demand. When the property was rezoned back in 1987, the City Council minutes reflect that the proffer to not operate before 12:00 noon was “to accommodate the activities of St. Stephens [*sic*] United Church of Christ.” As the church’s sign currently advertises, church activities begin at 9:30 a.m. and 10:30 a.m., thus if the restaurant opens at 11:00 a.m., many of the “prime” parking spaces will likely be taken by churchgoers. Staff does not believe this additional hour of operation should cause significant parking issues.

With regard to the Comprehensive Plan, although this property is designated Professional by the Land Use Guide, it falls just outside the boundary of the Mixed Use Development Area (MUDA)—the designation typically associated with the B-1 district—as the City Municipal Complex property across South Main Street and St. Stephen’s church across Campbell Street are designated MUDA. Given the specifics of this particular request, staff does not believe rezoning the property to B-1C will set a negative precedent for this area of the downtown.

Staff recommends approving the rezoning to B-1C with the submitted proffers.