



# City of Harrisonburg, Virginia

## Department of Planning & Community Development

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Building Inspections  
Engineering  
Planning & Zoning

To: Eric Campbell, City Manager  
From: Adam Fletcher, Director – Department of Planning and Community Development and Harrisonburg Planning Commission  
Date: October 8, 2019 (Regular Meeting)  
Re: Rezoning (R-3 to R-5C) and Three Special Use Permits to Allow Multi-Family Dwellings of More Than Twelve Units Per Building, Multi-family Buildings Greater than Four Stories and/or 52 Feet in Height, and to Allow Retail Stores, Convenience Shops, Personal Service Establishments, Restaurants (Excluding Drive-Through Facilities), and Business and Professional Offices at the site, which is located on two parcels totaling +/- 6.6 acres addressed as 2150, 2152, 2156, and 2158 Reservoir Street and 717 Foley Road and are identified as tax map parcels 84-A-3 & 13.

### **Summary:**

Public hearings to consider four requests from Kathy Hite with representative Madison Lucy Realty, LLC to construct a mixed-use development containing non-residential and residential uses. The requests are:

- To rezone two parcels from R-3, Medium Density Residential to R-5C, High Density Residential District Conditional.
- For a special use permit to allow multi-family dwellings of more than 12 units per building per Section 10-3-55.4(1) of the Zoning Ordinance.
- For a special use permit to allow multi-family buildings to be greater than four stories and/or fifty-two (52) feet in height per Section 10-3-55.4(2) of the Zoning Ordinance.
- For a special use permit to allow retail stores, convenience shops, personal service establishments, restaurants (excluding drive-through facilities), and business and professional offices per Section 10-3-55.4(4) of the Zoning Ordinance.

The two parcels totaling +/- 6.6 acres are addressed as 2150, 2152, 2156, and 2158 Reservoir Street and 717 Foley Road and are identified as tax map parcels 84-A-3 & 13.

### **Background:**

The Comprehensive Plan designates this area as Medium Density Residential and Mixed Use.

Medium Density Residential areas have been developed or are planned for development of a variety of housing types such as single-family detached, single-family attached (duplexes and townhomes), and in special circumstances, multi-family dwellings (apartments). Depending on the specific site characteristics, densities in these areas should be around 15 dwelling units per acre. Non-residential uses may also be appropriate.

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.

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

Site: Single-family detached dwellings and vacant property, zoned R-3

North and

West: Single-family detached dwellings, duplexes, and townhomes, zoned R-3

East: Across Reservoir Street, townhomes, zoned R-3

South: Single-family detached, duplexes, and multi-family, zoned R-3

**Key Issues:**

The applicant has submitted four separate applications. The first is to rezone two parcels totaling +/- 6.6 acres from R-3, Medium Density Residential District to R-5C, High Density Residential District Conditional. Because the applicant would like to construct a building 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. (Note: Constructing multi-family dwellings of not more than 12 units per building is a by right ability in the R-5 district.) The third request is a SUP request per Section 10-3-55.4(2) of the ZO to allow multi-family buildings to be greater than four stories and/or fifty-two (52) feet in height, and the fourth and final application is a SUP request per section 10-3-55.4(4) of the ZO to allow retail stores, convenience shops, personal service establishments, restaurants (excluding drive-through facilities), and business and professional offices. If approved as requested, this SUP allows the above noted non-residential uses either within a stand-alone building not exceeding a floorplate of 7,500 square feet or within the entire first floor of any building of any size that is considered a mixed-use building (having residential and non-residential uses).

If all the requests are approved, Madison Lucy Realty, LLC plans to construct one, six-story mixed-use building containing non-residential and multi-family residential units.

Before getting into the specifics of the requests, it is important to understand the uses permitted by right on the subject site. The subject properties are zoned, R-3, Medium Density Residential District. The R-3 district is intended for medium density residential development and other uses intended to respect the residential character, which are aesthetically compatible with the district by means of architectural expression, landscaping, and restrained traffic flow. The R-3 district allows medical and professional offices by right as well as other non-residential uses including but not limited to churches and other places of worship, public or private schools, charitable or benevolent institutions, child day care centers, and private clubs. The R-3 district's by right residential uses include single-family detached dwellings, duplex dwellings, and attached townhouses of no more than eight units in a row within one structure. An individual interested in developing townhomes on these parcels would likely seek approval of a variance from the Subdivision Ordinance to allow parcels to not have public street frontage. Such a development would be served by internal, private streets similar to the Charleston Townes and Avalon Woods townhome developments. Among other SUPs, multiple-family dwellings of up to 12 units per building and personal service establishments may be requested. The R-3 district also allows by right dwellings to be occupied by a family or not more than four persons; in other words, four unrelated individuals can occupy each dwelling.

Information submitted by the applicant describes plans for the first floor of the building to contain over 10,000 sq. ft. of retail and/or professional services (although as indicated in the proffers below, this site must only contain a minimum 8,000 square feet of retail and/or professional services). The upper floors are planned for multi-family units containing 90 four-bedroom units, five two-bedroom units, and five one-bedroom units, for a total of 100 apartment units and 375 bedrooms.

With regard to the rezoning request, the applicant has submitted the following proffers (written verbatim):

1. The site shall contain no more than three hundred seventy-eight (378) bedrooms.
2. The site shall contain residential and non-residential uses.
3. A minimum of 8,000 sq. ft. of space for uses permitted by Section 10-3-55.4 (4) shall be contained on the site and limited to the first ground floor of the building(s).
4. No parking lot (including travel lanes and drive aisles) shall be located between Reservoir Street and the closest building to Reservoir Street.
5. There shall be a 100-ft building setback from shared property line with Woodland Subdivision.
6. There shall be an opaque fence at least 4 ft. in height between development areas of the site and the Woodland Subdivision.
7. The existing vegetation (trees & shrubbery) on the western end of the property bounded by the edge of the current HEC easement, current Harrisonburg sewer easement, and the southern property shared with TM# 84-(A)-9, 10, and 11 shall be undisturbed to provide a vegetated buffer, or an evergreen vegetative buffer shall be created within this area, where such evergreens shall be planted at no less than 5 feet on center and 6 feet in height at the time of planting to fill in and reestablish a vegetative buffer within the bounded area.

Note that the submitted conceptual site layout is not proffered.

Proffer #1 would allow the site to contain up to 378 bedrooms, which is three more than the 375 bedrooms described in their letter. It should be acknowledged that while the applicant has not proffered the number of multi-family units, the proffer to require the site to have non-residential uses and the R-5 district's dimensional regulations would limit the total number of multi-family dwelling units on the +/- 6.6 acre property to 156, which is a density of 23 units per acre. The applicant would have the flexibility to construct a building with different unit-bedroom configurations than what is currently proposed; in other words, the applicant could reduce the number of 4-bedroom multi-family dwelling units and increase the number of one, two, or three bedroom multi-family dwelling units so long as they do not construct more than 156 units. Note that if the applicant were to construct the unit-bedroom configuration described in their letter, 100 dwelling units on the +/- 6.6-acre property is equivalent to 15 units per acre, which is the density described in the Comprehensive Plan for the majority of this site's Medium Density Residential designation.

Proffer #2 ensures the property includes non-residential uses and does not develop into a residential only or non-residential only site.

With regard to proffer #3, the applicant's letter describes plans for over 10,000 sq. ft. of non-residential uses. To provide flexibility in building design, the applicant has proffered that a minimum of 8,000 sq. ft. of non-residential uses permitted by Section 10-3-55.4 (4) shall be contained on the site and limited to the first ground floor of the buildings. While the conceptual site layout illustrates one single building on the site, the proffers do not require this design and the site could include additional buildings so long as the development complies with the ZO, other development regulations, and other regulating proffers. Proffer #3 also requires that all non-residential uses permitted by Section 10-3-55.4 (4) must be located on the first floor of any building. Without that proffered detail, a multi-story building with only non-residential uses could have been constructed so long as the building was residential in design and scale and did not exceed a floorplate of 7,500 sq. ft.

Proffer #4 is intended to promote pedestrian friendly design by placing building(s) close to the street. Placing parking lots and drive aisles between buildings and public streets creates barriers for people wanting to walk to uses/buildings. Concentrating people and places along the public street creates an environment that is more accessible, interesting, and safer for pedestrians, which are designs and environments that staff promotes, especially for areas designated Mixed Use by the Comprehensive Plan's Land Use Guide.

It should be acknowledged that because there are powerlines along the Reservoir Street frontage, which inhibits access for fire apparatus, the Fire Department will require fire lanes along all other sides of the building closest to Reservoir Street. The applicant understands that Fire Department requirements, among other details, would be reviewed during the engineered comprehensive site plan phase of development.

Proffer #5 is intended to provide a buffer for the Woodland Subdivision from any future building(s) on this site. In the R-5 district, side yard setbacks for principal buildings are 10-feet. With this proffer, buildings on this site could not locate within 100-ft. of the shared property line with the Woodland Subdivision. This proffered setback line is generally depicted on the submitted conceptual layout.

Proffer #6 adds a physical separation between the Woodland Subdivision from the development with a minimum 4-ft. tall opaque fence. The reason the applicant did not proffer a 6-ft. tall fence is due to the grade change between the site and the Woodland Subdivision. The applicants and staff had discussed the possibility of preserving or creating an additional vegetative buffer along the shared property line with the Woodland Subdivision. However, there is a 25-ft. wide easement for the powerline at that location.

Proffer #7 is intended to preserve and maintain the area on the western end of the property as a vegetated area. The proffer states that the area shall be undisturbed or, if the area is disturbed, then evergreens shall be planted at no less than 5 feet on center and 6 feet in height at the time of planting to fill in and reestablish a vegetative buffer within the bounded area.

With regard to minimum off-street parking, requirements are calculated based on uses and are provided in Article G of the ZO. In the conceptual site layout, the applicant has shown a scenario in how they might organize off-street parking spaces. The applicant understands that parking requirements, among other details, would be reviewed during the engineered comprehensive site plan phase of development to ensure that all regulations are met. (For example, there are two rows of parking shown with 15 spaces in each row. The ZO only permits 12 parking spaces in a row before a landscaped island is required.)

As required by Section 10-3-118 of the ZO, since the allowable uses under the rezoning and SUPs met the threshold for the City to be able to review a traffic impact analysis (TIA), staff required for traffic to be evaluated. Based on traffic capacity analysis, the following roadway improvements were recommended (written verbatim):

Woodland Drive at Right-out Driveway:

- Construct site driveway with one egress lane.

Reservoir Street at Right-in/Right-out Driveway:

- Construct site driveway with one ingress and one egress lane.
- Construct a southbound right-turn taper on Reservoir Street.

Foley Road at Full-Movement Driveway:

- Construct site driveway with one ingress and one egress lane.

As previously stated, the property is located in the Medium Density Residential and Mixed Use areas shown and described in the Comprehensive Plan's Land Use Guide. Medium Density Residential areas have been developed or are planned for development of a variety of housing types such as single-family detached, single-family attached (duplexes and townhomes), and in special circumstances, multi-family dwellings (apartments). Non-residential uses may also be appropriate. Mixed Use areas 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.

Staff believes that locating buildings close to Reservoir Street and without a parking lot separating the building(s) and the public street helps to integrate the use into the larger neighborhood and would encourage residents living within the surrounding neighborhoods to walk or ride a bicycle to the commercial uses within this development, as well as, to and from other existing and future developments in the area. While the applicant has not proffered a pedestrian plaza along the frontage of the property as is shown on the conceptual plan, staff understands that proffering such details would be difficult until site and architectural design work is further along in the development process. Nonetheless, staff is encouraged by the idea illustrated in the conceptual layout, but recognizes that it could simply end up being a landscaped area in front of the building.

As shown in the Comprehensive Plan's Land Use Guide, this section of Reservoir Street is planned to transition to a mixed use corridor. Staff believes that this project has the opportunity to set the stage to demonstrate the type of design the community desires in this area. The Land Use Guide states that "[t]o

the greatest extent possible, all developments throughout the City shall include [Traditional Neighborhood Design] principles,” which include having a neighborhood that allows residents to work, shop, and carry out many of life’s other activities; allowing residents to walk, ride a bicycle, or take transit for many trips between home, work, shopping, and school; and having a variety of housing types provided at a range of densities with heterogenous mixes of residences, among other things. The Land Use Guide also states that “[t]he scale and massing of buildings is an important consideration when developing in Mixed Use areas,” which staff believes this development proposal addresses by placing the building closer to the public street.

Over the past decade, new student housing complexes have opened in Rockingham County and have placed increased pressure and traffic on city streets as more students drive longer distances to and from campus. Staff recognizes and values that the proposed development is located closer to James Madison University’s campus than some of the newer, traditional student housing complexes. Sidewalks and bike lanes along Reservoir Street, as well as, available public transit service would provide residents with alternative transportation options to driving.

As indicated by the ZO, the SUPs to allow multi-family dwellings of more than 12 units per building and to allow multi-family buildings greater than 4 stories and/or 52 feet in height may be approved so long as City Council determines that certain conditions as specified within Section 10-3-55.6 (e) are met. Staff believes such conditions are met as (1) there is existing multi-family development in close proximity and multi-family development can be supported by the Land Use Guide at this location; (2) adequate vehicular, transit, pedestrian, and bicycle facilities currently serve the site along Reservoir Street and the applicant will be required to provide sidewalks along their frontage at Foley Road at the time of development; (3) compatibility with existing single-family, duplex, and townhouse development is achieved with the proffers that restrict buildings from being located within 100 ft. of the Woodland Subdivision and massing the building closer to the street with the proffer that prohibits parking lots and drive aisles between Reservoir Street and the closest building to Reservoir Street; and (4) there are no steep slopes on the site, and, like all developments, the site must comply with stormwater management regulations, which are addressed during the engineered comprehensive site plan process. Considering the details of the proffers submitted by the applicant, staff has only one suggested condition for the SUP applications. Staff recommends for the SUP per Section 10-3-54.4(4) to allow retail stores, convenience shops, personal service establishments, restaurants, and business and professional offices, that:

- Standalone, non-residential buildings are prohibited.

Staff recommends approval of the requests for the rezoning and three SUPs with the following condition for the SUP per Section 10-3-54.4(4):

- Standalone, non-residential buildings are prohibited.

**Environmental Impact:**

N/A

**Fiscal Impact:**

N/A

**Prior Actions:**

N/A

**Alternatives:**

- (a) Recommend approval of the rezoning and three SUP requests as submitted;
- (b) Recommend approval of the rezoning and three SUP requests with conditions on the SUPs as recommended by staff;
- (c) Recommend approval of the rezoning and one or more of the SUPs with any conditions as deemed necessary; or
- (d) Recommend denial of the rezoning and three SUP requests.

**Community Engagement:**

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

***Rezoning – 2150, 2152, 2156, and 2158 Reservoir Street and 717 Foley Road (R-3 to R-5C)***

Public hearing to consider a request from Kathy Hite with representatives Madison Lucy Realty, LLC to rezone two parcels from R-3, Medium Density Residential District to R-5C, High Density Residential District Conditional. The R-3, Medium Density Residential District is intended for medium density residential development and other uses intended to respect the residential character of the district. The R-5, High Density Residential District is intended for medium to high density residential development, including townhouses and multiple family dwelling units, together with certain governmental, educational, religious, recreational and utility uses. The residential density ranges for the R-5 district are multifamily, 1,800 sq. ft. minimum/unit; multifamily quadraplex, 3,000 sq. ft. minimum/unit; and townhouse, 2,000 sq. ft. minimum/unit. The Comprehensive Plan designates +/- 1.3 acres of the site fronting along Reservoir Street as Mixed Use and the remaining +/- 5.3 acres as Medium Density Residential. Mixed Use areas are intended to combine residential and non-residential uses in neighborhoods, where the different uses are finely mixed instead of separated. 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. Medium Density Residential areas have been developed or are planned for development of a variety of housing types, which in special circumstances may include multi-family dwellings (apartments). Densities in these areas should be around 15 dwelling units per acre. Non-residential uses may also be appropriate. The two parcels totaling +/- 6.6 acres are addressed as 2150, 2152, 2156, and 2158 Reservoir Street and 717 Foley Road and are identified as tax map parcels 84-A-3 & 13.

***Special Use Permit - 2150, 2152, 2156, and 2158 Reservoir Street and 717 Foley Road (Section 10-3-55.4 (1) to Allow Multi-Family Dwellings of More Than Twelve Units Per Building)***

Public hearing to consider a request from Kathy Hite with representatives Madison Lucy Realty, LLC for a special use permit per Section 10-3-55.4 (1) to allow multi-family dwellings of more than 12 units per building in the R-5, High Density Residential District. The two parcels totaling +/- 6.6 acres are addressed as 2150, 2152, 2156, and 2158 Reservoir Street and 717 Foley Road and are identified as tax map parcels 84-A-3 & 13.

***Special Use Permit - 2150, 2152, 2156, 2158 Reservoir Street and 717 Foley Road (Section 10-3-55.4 (2) to Allow Multi-Family Buildings Greater Than Four Stories and/or Fifty-Two Feet in Height)***

Public hearing to consider a request from Kathy Hite with representatives Madison Lucy Realty, LLC for a special use permit per Section 10-3-55.4 (2) to allow multi-family buildings greater than four

stories and/or fifty-two (52) feet in height. The two parcels totaling +/- 6.6 acres are addressed as 2150, 2152, 2156, and 2158 Reservoir Street and 717 Foley Road and are identified as tax map parcels 84-A-3 & 13.

***Special Use Permit - 2150, 2152, 2156, and 2158 Reservoir Street and 717 Foley Road (Section 10-3-55.4 (4) to Allow Retail Stores, Convenience Shops, Personal Service Establishments, and Business and Professional Offices)***

Public hearing to consider a request from Kathy Hite with representatives Madison Lucy Realty, LLC for a special use permit per Section 10-3-55.4 (4) to allow retail stores, convenience shops, personal service establishments, restaurants (excluding drive-through facilities), and business and professional offices in the R-5, High Density Residential District. The two parcels totaling +/- 6.6 acres are addressed as 2150, 2152, 2156, and 2158 Reservoir Street and 717 Foley Road and are identified as tax map parcels 84-A-3 & 13.

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 (b) to approve the rezoning and three SUP requests with the condition on the SUP per Section 10-3-55.4 (4) as recommended by staff.

**Attachments:**

1. Planning Commission Extract
2. Site maps (2 pages)
3. Applications, applicant letter, and supporting documents (8 pages)
4. Public comments received as of September 17, 2019 (26 pages)

**Review:**

Planning Commission recommended (6-0) denial of the rezoning request from R-3 to R-5C.

Planning Commission recommended (6-0) denial of the SUP to allow multi-family dwellings of more than 12 units per building per Section 10-3-55.4(1) of the Zoning Ordinance.

Planning Commission recommended (6-0) denial of the SUP to allow multi-family buildings to be greater than four stories and/or fifty-two (52) feet in height per Section 10-3-55.4(2) of the Zoning Ordinance.

Planning Commission recommended (6-0) to approve the SUP as submitted to allow retail stores, convenience shops, personal service establishments, restaurants (excluding drive-through facilities), and business and professional offices per Section 10-3-55.4(4) of the Zoning Ordinance.