



CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

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July 31, 2023

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

SUBJECT: *Consider a request from Blue Stone Designs LLC to rezone three parcels at 201, 203, 205, and 207 Broad Street, and 264 and 266 East Wolfe Street*

**EXTRACT FROM MINUTES OF HARRISONBURG PLANNING COMMISSION
MEETING HELD ON: July 12, 2023**

Chair Finnegan read the request and asked staff to review.

Ms. Rupkey said the applicant seeks a rezoning of their property to bring the property into compliance with the Zoning Ordinance (ZO). On August 10, 2022, the property owner submitted a building alteration permit application intending to update outdated plumbing and electrical systems by furring out existing walls. On August 31, 2022, the permit was approved and issued. However, a Community Development Building Inspector discovered that additional work had been carried out without the necessary permits. On March 20, 2023, the property owner submitted a building alteration permit application to rectify the situation. It was at this point that zoning staff became aware that the current use of the property did not conform to the R-2, Residential District regulations. The property owner was informed that in order to obtain approval for the permit, they would need to prove nonconformance by providing substantiating evidence that the use had been legally established and maintained over time. However, despite efforts made, the requested documentation could not be provided, leaving rezoning the property to the B-1, Central Business District as the sole viable option to ensure conformity for the existing residential uses. The processing of the building alteration permit has been suspended pending the outcome of the subject rezoning request.

If the application for rezoning is denied, the applicant will be required to bring the buildings into compliance with the Zoning Ordinance unless they are somehow able to demonstrate nonconformance. The applicant is requesting to rezone a +/- 19,000-square foot property from R-2, Residential District to B-1C, Central Business District Conditional. The properties are addressed as 201, 203, 205, and 207 Broad Street, and 264 and 266 East Wolfe Street. The three properties are identified as tax parcels 34-O1, 2, and 3. There are currently three illegal multifamily buildings on the property. Each building has four dwelling units.

Proffers

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

1. the [sic] subject properties shall only be used for residential buildings, except that any allowed by special use permit shall be permitted as approved by city [sic] Council.
2. All current parking on the property along East Wolfe Street that requires backing into the public right-of-way shall be eliminated. The property owner shall be responsible for removing gravel so that the area does not look like a parking area (e.g. seeding the area with grass, landscaping, or installing other structures or features to discourage parking that backs into the public right-of-way). This work must be completed within six months of City Council approval of the rezone [sic].
3. Structures/Buildings shall be no taller than 52 feet in height and limited to no more than 4 stories.

The B-1 district allows many types of non-residential uses including, but not limited to, retail, restaurants, offices, and hotels. If approved, proffer #1 eliminates the property's ability to contain, by right non-residential uses as the property is a transitional area between the residential neighborhood and higher intensity uses that are typically found in the B-1 district.

The ZO prohibits multifamily dwellings to use public right-of-way for maneuvering in and out of parking spaces. Thus, with Proffer #2, the applicant will change the existing gravel area along East Wolfe Street in a way to discourage parking that backs into the public right-of-way; this can be done by grass, landscaping, or installing other features.

The B-1 district also allows a maximum building height of 75-feet. While there are currently units on the property, proffer #3 is intended to address any concerns someone might have that if in the future a new building is constructed on the property; the building's maximum height would be limited to 52 feet and no more than four stories.

Land Use

The Comprehensive Plan designates the property as Mixed Use, which is described as:

The Mixed Use category 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.

Broad Street is the transition area between planned residential uses and the mixed-use area of downtown. Staff is appreciative of the applicant's willingness to keep the property residential through the proffers, as well as, limiting building height. Staff believes that the proposed use with the submitted proffers conforms with the Mixed Use area designation and abutting Neighborhood Residential designation.

Staff suggested the applicant consider proffering either to build a sidewalk along East Wolfe Street or to dedicate public street right-of-way or a public sidewalk easement along East Wolfe Street so that the City could later construct sidewalks along East Wolfe Street. At this time, the applicant is not comfortable proffering to build the sidewalk or to dedicating public street right-of-way, or to dedicate a public sidewalk easement. While staff would like to promote the interconnectivity of the City's sidewalk network in this area, staff understands some of the applicant's hesitations and the fact that constructing sidewalk adds cost to the overall housing cost.

Transportation and Traffic

A traffic impact analysis (TIA) was not required for the rezoning request. While the applicant has not proffered a minimum number of off-street parking spaces, there is an alley behind the properties that gives residents the ability to park behind the buildings. Residents can also park on City streets. Given the parcel's size, location, alley access, on-street parking abilities, and the submitted proffers, staff does not have concerns with off-street parking matters.

Public Water and Sanitary Sewer

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

Housing Study

The Harrisonburg Comprehensive Housing Assessment and Market Study designates this area as Market Type A. Market Type A areas include "an emphasis on increasing density through zoning changes, infill development and housing rehabilitation to maintain the quality of housing."

Recommendation

Staff is recommending approval of the rezoning.

Chair Finnegan asked if there any questions for staff.

Commissioner Armstrong asked if I remember right, it is currently two stories? So, this would be allowing an additional two stories?

Ms. Rupkey responded or up to 52 feet in height. As they are right now, they are not the four stories that I am aware of.

Commissioner Armstrong said no it looked like two to me. They are proffering no more than four stories but there are currently two. I am surprised that they are proffering up to four.

Ms. Rupkey said that proffer was suggested by staff and was similarly modeled to the next-door property if you remember 211 Broad Street they did a very similar rezoning to B-1 to allow for apartments in B-1. They did the same height restriction so kind of keeping with the consistency of it. And if they were to say tear down what they have there, they could go up to that, 52 feet or two stories.

Chair Finnegan asked if there were any more questions for staff.

Vice Chair Byrd asked the current zoning has how many feet in height?

Ms. Rupkey answered 35.

Vice Mayor Dent said I think this is more of a meta-comment. It seems like we keep having these square peg in a round hole rezonings. Zoning it to business so that we can have apartments? Or zoning it to B-1 even though...that whole thing I will go through that we voted in City Council. So, all of that to say that I am really looking forward to the zoning rewrite so we can make these things much more simple and clear and what they are intended for instead of things that do not really fit just to make it work.

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

Bryan Wilfong, applicant, spoke to this request. He said I am definitely eager to work with the City. I am certainly willing to answer any questions you have about the property. Part of the parking that we are eliminating there was...we redid a parking lot behind the building so that the residents of the building would have a place to park. So, we are not totally getting rid of the parking just trying to prevent the illegal part as Meg had mentioned back into one end of the public street. Any questions you all have I am willing to answer.

Commissioner Armstrong asked these are all rentals, right?

Mr. Wilfong answered yes ma'am.

Chair Finnegan asked if there were any questions for the applicant's representative. He asked if there was anyone in the room or on the phone wishing to speak to the request.

Thomas Jenkins, a resident at 375 East Wolfe Street, came forward to speak the request. He said I have been really excited to see the improvements they have made to this. I am a little challenged by this because I want to see it continue to be residential. Like staff was saying this kind of

transition between residential and business is kind of like where do you draw the line? Broad Street to me is very much a residential street and I think that is what, from what I have heard, the applicants desire is. One of my concerns with the rezoning is setbacks. If I am correct, there would not be any setbacks to that. In the future they could be building pretty much all the way to the property boundary. So, I have concerns from that. From the visual standpoint [unintelligible] pedestrian standpoint. I think I would like to encourage where it is to continue to be residential. I understand the height restriction I guess because of that property right next door and just trying to make it the same as that, but I do have a concern of that I would love to see that continue to be 35 feet as well, but I would like to see something kind of to address this setback. Even though that is not an issue now, however if that were to ever get redeveloped, I would hate to see that get built to the property line. Thank you.

Chair Finnegan asked if there was anyone in the room or on the phone wishing to speak to the request.

Chair Finnegan continued and said [to the applicant] you are not obligated to but if you would like to respond to the comment about setbacks, you are welcome to approach and speak to that before we close the public hearing.

Mr. Wilfong said the only thing that I would say there is that Mr. McDorman when he rezoned his, I do not believe proffered a setback. So, he has the ability now to do that. I just also wanted to mention that the property that borders Community Street and East Wolfe, which is the neighboring property to what I am hoping to get rezoned, is also zoned B-1 with no restrictions. You have B-1 to the left and B-1 to the right with no restrictions. So, it kind of makes sense for the continuity of Broad Street and East Wolfe Corner if it were all to be B-1. It kind of makes sense in that perspective, but I do understand your desire to keep it as residential and I have proffered that as well. I just wanted to point out that it was already commercial on both sides. That is all.

Chair Finnegan closed the public hearing and opened the matter for discussion.

Chair Finnegan continued and asked I do not know if staff can speak to the setback question. It can be built to the property line. Is that correct? Like if this were demolished and rebuilt.

Ms. Rupkey said yes. The B-1 setback is zero.

Chair Finnegan asked so it is B-2 on Community Street, right?

Mr. Fletcher answered it is B-1.

Ms. Dang said the label is incorrect on the site plan.

Commissioner Baugh said [references to the site map] the sea of red is all the same zoning but it just should say B-1 instead of B-2.

Ms. Rupkey [referencing to the site map] said this should all be B-1. I apologize.

Chair Finnegan asked how do we feel about this? This is a couple doors down from the Mayor so I am sure she will have some things to say about it. Thoughts on this?

Commissioner Baugh said if I recall correctly, the Mayor was in favor of the other one. If my recollections correct, I brought up the setback issue on that one kind of just for discussion and it seemed to be the general sense that, I am think sort of a combination, between the proximity of existing B-1 and the general Mixed Use designation we were okay with it. That reminds me of some of the informal conversations we were having with Commissioner Alsindi yesterday about... You talked about where precedent comes into this and I think this is an interesting example. It is not like we have a lot of formal requirements in that area but you are seeing how the practical thing comes up. We have approved something very similar right there. I mean I do not want to overstate it but when the applicant was asked "well, how do you feel about the setbacks." His answer was "well you let the guy next door to me do it without the setbacks." That really was his response.

Commissioner Alsindi said I would not say the feeling. If, speaking objectively, we believe this is going to be a start [unintelligible] rather than just a case. If we are treating it as a single case but then we will come across certain standards that we will feel unfair. Then, nothing wrong with it, but if it needs to be dealt with as a start for a policy then it deserves to be reviewed as that rather than a one case and then we forget, or somebody comes and says "why did you deal with this case in that way?" If it is going to start to become a policy, then it is going to be easier for people to understand 80% 90% unification but then 20% 10% improvise that is [unintelligible] policy if it is going to start to become policy. Otherwise, it is going to be a precedent that we cannot deal with later on.

Commissioner Baugh said well I think the point is that it is not the precedent is firm but there is just that practical side of it that I think we can change the policy pretty much anytime we want to as long as it is legal and we have decided that we are certainly entitled to say yeah we have tried that and we have decided that was not the right idea and now it would be in the public interest to go in the other direction. But there is this element of the more you allow an area to develop into a particular direction there certainly is a tendency for it to settle there and that becomes the normal and the status quo.

Commissioner Alsindi said for me to state the fact that I view it as a positive thing by the way. If this is the start for us to think of something that would be useful in the future if it repeats itself and it is good and it becomes a positive point, we are looking at it from that point on.

Commissioner Baugh said I just think it is the general point that we may approve this, but this is the time to discuss it. I just wanted to address a point Mr. Jenkins made. From our planning standpoint right now, he sort of asked where the line is, and the answer is the line right now is Broad Street. So again, if passes any prologue, assuming that does not change, could we one day see somebody on the other side of Broad Street coming in saying "Well you have let it happen on the other side of Broad Street maybe you should allow it there" I am just throwing that out as food for thought of the future because that is the way these things could go sometimes. Based on where we are right now, that is what we have said. We have said that we would see something on the other side of Broad Street as being more of an encroachment on the existing residential. That is where the line is in our Land Use Guide right now. The only other thing I was going to ask about

was, usually it is somebody else bringing this up other than me although I fully support this one, I am familiar with this part of town and some of the history on this issue, but I will just go ahead and ask staff now, why did we give up on sidewalks? I am a little less clear on the...I mean a lot of times we do give up on sidewalks and it will be situation well we have them on the other side of the street, or they are sort of isolated so on and so forth. This is a more pedestrian traveled area.

Ms. Rupkey said there is currently a sidewalk on the other side of Wolfe Street and across the street on Broad. The cost of doing the sidewalk could possibly increase the housing costs is one angle we looked at it as.

Ms. Dang said if I may also add, I do not know that I would say that. Yes, I acknowledge that there is sidewalks on the other side but being a high pedestrian area, we want sidewalks on both sides because people are walking on both sides of the street. The housing costs that Ms. Rupkey mentioned is true. Adding to the cost of the project. I would say that the other element that we had discussed was right now that side of the street for those of you who were on the site visit or if you have visited the site you will notice that there is just a gutter for drainage and there is not an actual curb and gutter. Usually, it is easy to build the sidewalk behind the curb and gutter. If we were to build the curb and gutter and then the sidewalk, we had concerns that we had not worked through yet all the details of what drainage patterns would cause the building. It just became this kind of domino effect of consideration. I think it is a larger project to think about.

Commissioner Baugh said I would just throw in really quick that is why I was thinking in terms of I could certainly see a rationale. I am not saying I am against this, but I am saying I certainly see a rationale from what you are saying. I know exactly what you are talking about the topography issue sort of requiring somebody to put it in right now. Okay that seems like an unnecessary burden may not even be that great of an idea. I do know we have had other examples where we have said "well if we can get them to at least agree for the..." I guess what I am saying is what I know is one of the issues we have had with sidewalks in that neighborhood is just this issue of you sort of get locked because there are too many parcels and you cannot get a good contiguous run of people who are at any given moment property owners are for it. That then in a way sort of begs the question of well in the one hand of well maybe you have the opportunity to get at least a promise of the future dedication to go ahead and get it. I can also see the other side of it which is great we will get it here but, in this neighborhood, we are so far removed from wondering when we can get the rest of the...Again just wanted to make sure I was not missing something.

Chair Finnegan said Mr. Fletcher did you have anything to add to that?

Mr. Fletcher said I think Ms. Dang and Ms. Rupkey answered well. I was just going to put you in the mind of staff for a moment. We challenge ourselves with those specific question. Mid last week we were still working through these things, and I do not know if I had used the words "are we giving up on sidewalks?" but I challenged us about the fact about how hard are we pushing for wanting sidewalk with regard to the overall benefit of housing. Because what folks do not know is that we cannot require people to proffer things, we can offer suggestions knowing what this board likes to hear, what City Council likes to hear, what we like to see, and what the community hopes the developers provide. If the developer does not provide, of course, then the City often times is going back to retrofit those items. We offered it as the last paragraph of the Land Use

Section really sums up quite well exactly how they went about it. We suggested for the applicant to consider proffering the sidewalk or dedicating the right-of-way so then we do not have to acquire it in the future. We absolutely always want sidewalks on both sides of the street. We never want a situation where somebody has to cross the street to have a safe pedestrian environment, but we cannot require them to do it. When the applicant decided that they were not really interested in doing it, then it came back to us of “well how important is this rezoning for housing?” We said it is very important for housing. We want those units to exist. That is where we offer a favorable recommendation.

Chair Finnegan said thanks for that context. I think this is frustrating because affordable housing is, I think, one of Harrisonburg’s most urgent needs. I also think that walkability is really important if we are ever going to get away from autocentric ways of thinking. A friend of mine was recently hit by a car walking downtown. I am going to ask, why people do not walk more? Everyone has to drive and when everyone drives it makes the streets more dangerous. I struggle with this one.

Vice Mayor Dent said just an added comment to that, it seems to me that since they are deliberately moving the parking to a little lot in the back corner of these combined parcels that should free up the now illegal backing out into the street space on Wolfe Street. It seems like it would be no loss to them to at least grant a public right-of-way or easement for a sidewalk layout.

Mr. Fletcher said that is up to them.

Commissioner Alsindi said I just have one question and probably comment. So, when it says the applicant is not comfortable, that means the applicant does not want to because of costs implications? I think costs is true, but unless we factor or rather the word value when cost increases the value also increases, the value of the lifestyle, consistency, the walkability. The consistency of sidewalks of the streets and roads over there. It is missing when we just say cost. Cost of the building is true but the value of living there because I would be curious to ask, if I was a resident over there, I would be in favor of having a sidewalk eventually over there or not. Do I pay more for that in the future?

Vice Chair Byrd asked there are three proffers on this application or are there not?

Ms. Rupkey and Mr. Fletcher answered there are.

Ms. Rupkey said the first proffer was for the residential uses plus the uses by a special use permit. The second was the landscaping and removal of gravel along Wolfe Street. The third was no building should be taller than 52 feet in height or no more than four stories.

Chair Finnegan asked Vice Chair Byrd did that answer your question?

Vice Chair Byrd said we were all talking about sidewalks so, I was trying to remember was there an existing easement along Wolfe.

Ms. Dang said there is not an existing easement. We do not know because we have not surveyed or anything, but it appears that there is not enough right-of-way for the City to put in a sidewalk

before. We have had that conversation with the applicant, and they were not comfortable proffering either construction of sidewalk or to dedicate an easement for the City to do it in the future.

Chair Finnegan said this is kind of pitting housing and affordability against walkability, which I do not like.

Commissioner Baugh said this is not the only one. I always have one that I think of on this. We ended up approving it after a lot of discussion but the existing development that was on the fringes of town and there were other sidewalks in the area. I mean this is an area where people frequent. When I was just talking before, we were talking about how that whole block... is if you do think of the planning of that entire block being mixed use, with maybe us being okay with things like built to the property lines when you think of sidewalks

Chair Finnegan said I think that is a really important point to keep in mind. If we know what is being done with these buildings now is not the four-story built to the property line but if they were ultimately demolished and there is no public right-of-way, I see that as being problematic. I want to support this because I think the proximity to downtown the walkability, of the rest of the neighborhood... I am surprising myself because when I came here, I thought that sounds good but the fact that there is no sidewalk there, or an easement for a sidewalk, and that these could be demolished and there would be no possibility of a sidewalk if it was built to the property line. I have a problem with that. That is a sticking point for me.

Vice Mayor Dent said this is verging on one of those cases of leaning towards denying it not out of lack of support, but as a back to the drawing board, you can do better, we really want the sidewalk easement. I know we cannot demand a proffer, but we can vote yes or no.

Mr. Fletcher said just to make the point it looks like the applicant is interested in potentially speaking if the Chair would like to welcome it. I do not know. I presume that staff probably went over with the applicant that the applicant has the ability to make proffers even at the meeting. While it sometimes can be cumbersome to get wording correctly written, it is possible to do so and also possible to do so after Planning Commission. City Council really appreciates it when all proffers are presented to the Planning Commission so that they are acting on the same agenda item.

Mr. Russ said if this property were redeveloped, because there is existing contiguous sidewalk, is this parcel not large enough to trigger a full site plan that would require them to construct that along the front?

Mr. Fletcher said when it is redeveloped.

Mr. Russ continued if it were redeveloped, they would need to provide sidewalk along the portion of the parcel that does not have it already.

Chair Finnegan said that is a really important clarifying point because what I heard was if this were demolished and built to the property line there would be no way to add a sidewalk.

Mr. Fletcher said well that is true. They would build to their property line if they wanted to and then the question becomes is there enough right-of-way width to fit two travel lanes and a sidewalk in the existing right of way.

Mr. Russ said but our existing standards because there is a contiguous sidewalk. It would have to extend the sidewalk. Right?

Mr. Fletcher said yes, the statements are true but if there is not enough right of way width we would have to have the conversation with the Department of Public Works as to what we are giving up.

Ms. Dang said they would have to dedicate the right-of-way. Our ordinance requires that if there is an adjacent sidewalk they would have to dedicate the right-of-way.

Mr. Fletcher said yes, that is absolutely correct.

Mr. Fletcher continued so the answer is, you would end up with sidewalks at redevelopment. Not renovation of existing units, but redevelopment.

Ms. Dang thanked Mr. Russ.

Chair Finnegan said that is a really important clarifying point. Thank you for adding that into the conversation. I do not know if the applicant... I do not know if we have questions, we have already closed the public hearing. Unless there is new information, which that was new information thank you, I would like to get to a point where we can make a motion.

Vice Chair Byrd said in light of this new information, if destruction of the existing structures and proposed building of new structures would trigger public concerns related to Wolfe, then I would no longer be against this application. I would be in favor and therefore I will make a motion to approve the rezoning.

Commissioner Armstrong seconded the motion.

Vice Mayor Dent said just to be clear that this new information as you put it means that while protected against the build up to the property line because that would trigger further review and require the sidewalk or at least an easement.

Mr. Fletcher said they would have to dedicate right-of-way. If the site redevelops meaning they take the buildings down completely and they build back, they would have to dedicate right-of-way and build the sidewalk because sidewalk already extends to the corner so they would have to build a sidewalk along their frontage along East Wolfe Street. Then they could build to the new property line.

Commissioner Baugh said I think what has happened is that the worst-case scenario that we have thrown around has been addressed already.

Ms. Dang said if I could entertain a question for staff here, if, hypothetically, it was not a full redevelopment but an addition in front of the building, would that trigger the requirement to construct sidewalks if we only have received a building permit for an addition?

Commissioner Baugh said of at least the more general question of we have answered the worst-case scenario, but let's say they do not want to build to the lot line they just want to...

Mr. Fletcher said gets us to the age-old question of what is redevelopment? And for almost 19, 20 years you can try to define it and that is difficult to define.

Ms. Dang said it depends on the situation.

Commissioner Baugh said if you prove it as it is presented right now you would not have it.

Ms. Dang said there is a possibility you would not have the sidewalk.

Commissioner Baugh said as it is right now, they are saying they are not going to do it and if you approve it, you say you are okay with it not doing it. That was going to be exactly what I was going to ask about which was... So, we feel pretty good about the worst-case scenario; that is not going to happen. That does not address the issue of now there will be any dedication for anything in the future and not everything that could be done with that property would trigger sidewalks.

Chair Finnegan said I do think, to your point Commissioner Baugh, I think that is a valid point. I also think what I am trying to do right here at least speaking through myself is balance housing affordability with walkability and how do we try to hold onto both as much as we can. Knowing that if this site gets redeveloped...it sounds like knowing what we know now from Mr. Russ, if this gets knocked down, we will get a sidewalk. If it does not...it is the question of are we willing to play those odds. At this point, I would say that I am.

Vice Mayor Dent said I have just one other question about that, is there anything they could do that could make a sidewalk impossible. As in, a redevelopment would trigger the sidewalk but in the in between case that if they put an addition over it would that go through the building permit process?

Mr. Fletcher said I would never say impossible. More costly is really the answer. Let us say you rezone it, it is zoned B-1 and then for whatever reason they want to do an addition onto the existing buildings and they go right to the property line. At some point in the future, if the City had the funds to do so and we wanted to construct a sidewalk in there we would have to acquire right-of-way and likely acquire buildings, demolishing buildings, it seems unreasonable and not likely, but I do not think I would say impossible. Then it gets back to my earlier point of then having the question of two-way travel, lane width, sidewalk, all that stuff.

Ms. Rupkey said another thing, this is mostly a question for Adam, there is three lots with it now, with it being multifamily and to approve the building permit would they be required to remove the lot lines?

Ms. Rupkey asked would the minor subdivision trigger a sidewalk?

Ms. Dang asked is the one that currently has a permit now, is it straddling two properties?

Ms. Rupkey said yeah.

Mr. Fletcher said I hesitate to give a firm answer because we have situations like this across the City as you both know when minor subdivisions come in, you all never see them, and we have to look back at other odd situations and how we have interpreted what the regulations are. Strict interpretation is a vacation of a property line is by definition a subdivision. I do not think we treated them that way when all somebody is trying to do is vacate a property line to improve a structure. It is usually when people are subdividing lots to create more density essentially. So, by vacating the property line, I would lead us down a path of discussion that you all would never get to see, but that is the debate we would have internally.

Ms. Dang said after hearing you say that, Ms. Rupkey and I agree with your direction there.

Chair Finnegan said just to clarify and not to put staff on the spot but having the discussion that we just had just now, does staff stand by their recommendation to approve?

Commissioner Baugh said I will just say this, I am leaning at the moment to go with your reasoning, the Chair's reasoning in this. So, if anybody feels like they are a firm no, then this might be a good time to speak up.

Chair Finnegan called for a roll call vote.

Commissioner Armstrong	Aye
Commissioner Baugh	Aye
Commissioner 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 August 8, 2023.