



# 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: December 13, 2023 (Regular Meeting)  
Re: Rezoning and Preliminary Plat with Variance – 716, 720 & 722 Foley Road (R-3 to R-5C)

## **Summary:**

Project name	N/A
Address/Location	716, 720 & 722 Foley Road
Tax Map Parcels	84-B-15 & 16
Total Land Area	+/- 1.06-acre property
Property Owner	Devon Lane LLC
Owner's Representative	Frank Gordon
Present Zoning	R-3, Medium Density Residential District
Proposed Zoning	R-5C, High Density Residential District Conditional (+/- 26,000 square foot portion of the +/- 1.06-acre property)
Subdivision Ordinance Variance Request	Section 10-2-42 (c), all lots shall front on a public street
Staff Recommendation	Approval of both requests
Planning Commission	December 13, 2023 (Public Hearing)
City Council	Anticipated January 9, 2023 (First Reading/Public Hearing) Anticipated January 23, 2023 (Second Reading for the rezoning only)

## **Background:**

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

**Site:** Multifamily dwellings; zoned R-3

**North:** Across Foley Road, single-family detached and duplex dwellings; zoned R-3 and R-5C

**East:** Single-family detached dwelling; zoned R-3

**South:** Single-family detached, duplex, and multiple-family dwellings; zoned R-3

**West:** Single-family detached dwelling; zoned R-3

In December 2021, City Council approved a special use permit (SUP) to allow multiple-family dwellings of up to 12 units per building on property addressed as 716 and 722 Foley Road. The conditions of that SUP include:

1. All newly constructed multiple-family units shall be efficiency, or one- or two-bedroom units.
2. Prior to issuance of any certificate of occupancy for multiple-family dwellings, the property owner shall dedicate necessary public street right-of-way to encompass curb and gutter plus 0.5-ft., and deed a public sidewalk easement to include the remainder of the two-foot-wide grass strip, a five foot wide sidewalk, and 0.5-ft behind the sidewalk. The future curb and gutter location shall be equidistant from the street centerline similar to what exists across the street.
3. The entrance at Foley Road to serve multiple-family building(s) on the site shall be no greater than 30 feet wide.
4. The special use shall be established, or any construction authorized shall be commenced and diligently pursued within five years from the approval date of the special use permit.

It was understood that to be able to build the multifamily units that were planned, the dividing property line separating 716 and 722 Foley Road had to be vacated so that lot area requirements could be met for the existing single family detached dwellings and the multifamily dwelling units. SUP condition #2 also required the owner to dedicate necessary public street right-of-way and a sidewalk easement prior to the issuance of certificates of occupancy for the allowed for multi-family units.

In May 2022, City Council approved a special use permit to allow for a reduction in parking. The conditions of that SUP include:

1. Reduction in required parking shall only be permitted for efficiency or one-bedroom multifamily units up to a total of 11 such units, where one parking space per unit may be provided.
2. The special use shall be established, or any construction authorized shall be commenced and diligently pursued within three years from the approval date of the special use permit.

Then in December 2022 the property owner applied for building permits to construct an 11-unit multifamily building. Ultimately, the permits were approved and construction commenced. These units, however, do not yet have certificates of occupancy as the necessary minor subdivision was just recorded on December 5, 2023. City tax map and geographic information system (GIS) maps will be updated to show the area as one parcel. While those updates are pending, this staff report will describe the property as two parcels.

**Key Issues:**

The applicant is requesting to rezone a +/- 26,000-square foot portion of a +/- 1.06-acre area from R-3, Medium Density Residential District to R-5C, High Density Residential District Conditional. The property is addressed as 716, 720, and 722 Foley Road and is identified as tax map parcels 84-B-15 & 16. The applicant intends to build three, one-bedroom or efficiency units behind the existing building addressed at 716 Foley Road. Although not proffered, the applicant intends to construct these units as three fully accessible ADA units.

Additionally, the applicant is requesting to subdivide the +/- 1.06-acre parcel addressed as 716, 720, and 722 Foley Road (tax map parcels 84-B-15 and 16). The applicant is proposing to subdivide the property to place each single-family detached dwelling on its own lot and to place all multifamily units on one parcel. Additionally, the applicant is requesting a variance to the Subdivision Ordinance to allow the proposed +/- 25,782 square foot multi-family lot to not have public street frontage.

*Proffers*

If the rezoning is approved, it would supersede and replace the existing R-3 (Medium Density) zoning and associated SUPs.

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

1. Dwelling units on the referenced property shall be one bedroom or efficiency units only.
2. Dwelling units on the referenced property may be occupied by a family or no more than three (3) individuals per unit.

The submitted conceptual site layout is not proffered.

The R-5 district allows by right dwellings to be occupied by a family or not more than four persons. Proffer #2 reduces the allowable occupancy of dwelling units to either a family or not more than three persons. With this proffer, because the minimum off-street parking requirements of Section 10-3-25 (7) allows for reduced parking when occupancy is restricted, only one parking space per unit is required by the ZO.

#### *Land Use*

The Comprehensive Plan designates this site as Medium Density Residential and states:

These 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.

While the applicant did not proffer a maximum number of dwellings units, with R-5's minimum 1,800 square foot lot area requirement per multi-family unit, and because they are requesting to rezone +/- 26,000 square feet, the allowable number of units in the R-5 area would be 14, which is what the R-5-zoned area would contain if the applicant built the three planned units. If the rezoning is approved, and if the subdivision is approved, the maximum density of the subject properties could be 18 units. In this case, staff believes such unit types and density would be in conformance with the Land Use Guide.

#### *Transportation and Traffic*

A traffic impact analysis (TIA) was not required for the rezoning request.

#### *Public Water and Sanitary Sewer*

Staff has no concerns with the requested rezoning regarding water and sewer matters. With the approval of the proposed subdivision, the applicant would be providing a 20-foot public sanitary sewer easement.

#### *Subdivision Variances*

The proposed subdivision includes a variance request to deviate from the Subdivision Ordinance Section 10-2-42 (c), which requires "[a]ll lots shall front on a public street and no lot shall embrace any portion of a street or alley." As part of the subdivision, the applicant would provide an appropriate access easement for the parcel that does not have public street frontage.

#### *Housing Study*

The City’s Comprehensive Housing Assessment and Market Study (Housing Study) places the subject site within Market Type A. Among other things, this Market Type is characterized by high population growth. The study notes that Market Type A has “above median overall access to amenities such as public transit within walking distance, full-service grocery stores, and multiple parks and recreation facilities.” The study also notes that “policies that are appropriate to Market type A areas include an emphasis on increasing density through zoning changes, infill development and housing rehabilitation to maintain the quality of housing.”

*Public Schools*

Harrisonburg City Public Schools does not anticipate the three planned units impacting student generation numbers.

*Recommendation*

Although staff would typically expect for the applicant to construct street frontage improvements of curb, gutter, and sidewalk, decisions were previously made to forego such improvements at this location. Staff believes the proposed rezoning is conforming with the Comprehensive Plan and speaks to appropriate policies and actions identified by the Comprehensive Housing Assessment and Market Study. With regard to the proposed subdivision, aside from the requested variance, the subdivision would meet all other Subdivision Ordinance requirements. Staff recommends approval of both the rezoning and the plat variance request.

**Environmental Impact:**

N/A

**Fiscal Impact:**

N/A

**Prior Actions:**

N/A

**Alternatives:**

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

**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 – 716, 720 & 722 Foley Road (R-3 to R-5)***

Public hearing to consider a request from Devon Lane LLC to rezone a +/- 26,000-square foot portion of a +/- 1.06-acre property from R-3, Medium Density Residential District to R-5, High Density Residential District. The property is addressed as 716, 720, and 722 Foley Road and is identified as tax map parcels 84-B-15 & 16.

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 plat variance as submitted.

**Attachments:**

1. Site maps
2. Application and supporting documents

**Review:**

N/A