



# CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

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To: Planning Commission  
From: Department of Community Development  
Date: March 9, 2022 (Regular Meeting)  
Re: Rezoning and Special Use Permit – 797 Chicago Avenue (B-2 and B-2C to R-5C, and to Allow Multi-Family Dwellings of More Than Twelve Units Per Building) (Chicago Avenue Apartments)

## **Summary:**

Consider two requests from Turkey Properties LLC:

1. To rezone a +/- 2.32-acre portion of a +/- 2.5-acre parcel from B-2, General Business District and B-2C, General Business District Conditional to R-5C, High Density Residential District Conditional., and
2. 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 site is addressed as 797 Chicago Avenue and is identified as tax map parcel 39-P-1.

## **Background:**

A portion of the subject site was rezoned from M-1, General Industrial District to B-2C, General Business District Conditional in May 1995. The existing proffers are attached with this application.

The Comprehensive Plan designates this site as Mixed Use. 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: Undeveloped acreage, zoned B-2 and B-2C

North: Commercial retail use, zoned B-2C

East: Commercial retail and business uses, zoned B-2

South: Single-family detached dwellings, zoned R-1

West: Across undeveloped North Dogwood Drive right-of-way, undeveloped parcels, zoned R-1

**Key Issues:**

The applicant is requesting to rezone a +/- 2.32-acre portion of a +/- 2.5-acre parcel from B-2, General Business District and B-2C, General Business District Conditional to R-5C, High Density Residential District Conditional. In conjunction with the rezoning request, the applicant is requesting 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, High Density Residential District. If both requests are approved, the applicant intends to construct two buildings, each containing more than twelve multi-family dwellings, as illustrated on the attached preliminary conceptual site plan.

With this request the applicant has proffered the following (written verbatim):

- Dwelling units may be occupied by a single family or no more than three (3) unrelated persons.
- A sidewalk connection between the apartment development and Chicago Avenue to connect the apartment project with direct access to the city's sidewalk system.
- The owner will design and construct a 5' wide sidewalk or a 10' wide shared use path connection from the rear of the property to the city's public trail/shared use path to connect the apartment project with direct access to the City's public trail/shared use path.
- A 6' ft tall opaque fence, the full length of the property line separating the apartment development from the properties identified as tax map parcels 39-P-6, 7, 8, & 9 to the south of the property.
- Exterior site lighting shall be designed so that the light is not directed off the site and the light source is shielded from direct offsite viewing. Light fixtures in the parking areas shall not exceed 15' in height.
- The development will contain one area, totaling 500 s.f., of recreational area for use by the residents that will include picnic table or tables, play areas or play structures, and gazebo, and exercise area.

- The existing vegetation (trees & shrubbery) on the western end of the property, within a minimum of 10-ft. of the property line shared with the City’s public street right-of-way in which the public trail/shared use path is located, shall be undisturbed to maintain the vegetated buffer, or an evergreen and deciduous vegetative buffer shall be created within a minimum of 10-ft. of the same property line, where such evergreen and deciduous trees shall be planted and maintained at no less than 10 feet on center and 6 feet in height at the time of planting to fill in and reestablish a vegetative buffer within the area. This evergreen and deciduous tree vegetative buffer shall not be required in the areas of the proffered connection to the public trail/shared use path or any required stormwater management areas.

It should be understood that the preliminary concept plan is not proffered.

While most of the proffers are self-explanatory, staff offers additional information on the first and seventh proffer.

The R-5 district allows by right dwellings to be occupied by a family or not more than four persons. The first proffer reduces the allowable occupancy of dwelling units to either a family or not more than three persons. With the first proffer, because the minimum off-street parking requirements of Section 10-3-25 (7) allow for reduced parking when occupancy is restricted, the development only requires one parking space for each dwelling unit. The applicant understands that parking and parking lot landscaping requirements, among other elements, would be reviewed during the engineered comprehensive site plan phase of development to ensure that all regulations are met.

Proffer seven is intended to preserve and maintain the area along the western boundary of the property as a vegetated area. The proffer states that the area shall be undisturbed within ten feet of the property line or, if the area is disturbed, then evergreen and deciduous trees shall be planted at no less than 10 feet on center and 6 feet in height at the time of planting to fill in and reestablish a vegetative buffer within ten feet of the property line.

The Determination of Need for a Traffic Impact Analysis (TIA) (attached) shows the development is estimated to generate 24 additional trips (based on 48 dwelling units) in the PM peak hour and does not meet the 100-trip peak-hour threshold that gives City staff the ability to require a TIA. When a development reaches or exceeds 100 trips in the peak hour, this threshold is what typically causes concern for traffic safety and delays and would require the need for a TIA study. Thus, a TIA study was not performed.

If the request to rezone the subject property to R-5 is approved, then the maximum number of multiple-family dwelling units allowed would be 56, which equates to a density of 24.2 dwelling units per acre. The Comprehensive Plan Mixed Use designation states “[r]esidential density in Mixed Use areas outside of downtown should be around 24 dwelling units per acre.” Thus, if constructed to the maximum density, the development would still be around 24 dwelling units per acre. While the applicant has not proffered a maximum density for the development, they have demonstrated on the concept layout and within the Determination of Need for a TIA to construct 48 multiple-family dwelling units.

Within their letter, the applicant has requested that the City allow them 36 months from SUP approval to obtain any necessary land disturbing permit or building permits for the multi-family buildings due to the typical time frame required for the completion of site planning and financing. Section 10-3-130 (c) of the ZO states that “[w]hen a special use permit is approved by the city council, the special use

authorized shall be established, or any construction authorized shall be commenced and diligently pursued, within such time as the city council may have specified, or, if no such time has been specified, then within twelve (12) months from the approval date of such permit.” Staff is comfortable recommending an extension from 12 months to 36 months by conditioning the following for the SUP:

The special use shall be established, or any construction authorized shall be commenced and diligently pursued within 36 months from the approval date of the special use permit.

If the SUP is approved with this condition, the property owner should plan their submission schedules accordingly for engineered comprehensive site plan review and/or building permit review to ensure that the special use is established or the construction of at least one multi-family building is commenced and diligently pursued within 36 months.

From a design and site layout perspective, staff is comfortable with the applicant’s proposal to create multi-family structures with more than 12-dwelling units per building at this location. Therefore, staff supports the SUP request to allow multi-family dwellings of more than 12 units per building.

The Land Use Guide states that “[t]o the greatest extent possible, all developments throughout the City shall include [Traditional Neighborhood Design] principles.” This includes 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. Staff believes that the proposed rezoning and SUP allow for this project to blend well within the existing neighborhood while providing more housing choices for people who want to live in the City.

Staff recommends approval of the rezoning and special use permit request with the suggested condition.

**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 with the suggested condition;
- (c) Recommend approval of the rezoning and SUP request with other conditions;
- (d) Recommend approval of the rezoning request and denial of the SUP request; or
- (e) 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 – 797 Chicago Avenue (B-2 and B-2C to R-5C)***

Public hearing to consider a request from Turkey Properties LLC to rezone a +/- 2.32-acre portion of a +/- 2.5-acre parcel from B-2, General Business District and B-2C, General Business District Conditional to R-5C, High Density Residential District Conditional. The Zoning Ordinance states that the B-2, General Business District is intended to provide sufficient space in appropriate locations for a wide variety of retail shopping, commercial, automotive, miscellaneous recreational, and service activities. 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 this site as Mixed Use. Mixed Use areas are intended to combine residential and non-residential uses in neighborhoods, where the different uses are finely mixed instead of separated. 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. Large scale developments, which include multi-family buildings are encouraged to include single-family detached and/or attached dwellings. The site is addressed as 797 Chicago Avenue and is identified as tax map parcel 39-P-1.

***Special Use Permit – 797 Chicago Avenue (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 Turkey Properties 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 site consists of a +/- 2.32-acre portion of a +/- 2.5-acre parcel, is addressed as 797 Chicago Avenue and is identified as tax map parcel 39-P-1.

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) recommend approval of the rezoning and SUP with the suggested condition

**Attachments:**

1. Site map
2. Application and supporting documents
3. 1995 B-2C Proffers

**Review:**

N/A