



CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

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To: Planning Commission
From: Department of Community Development
Date: July 13, 2022 (Regular Meeting)
Re: Rezoning – 209 and 211 Broad Street (R-2 to B-1C)

Summary:

Public hearing to consider a request from McDorman Properties LLC to rezone a +/- 6,500 square foot parcel from R-2, Residential District to B-1C, Central Business District Conditional. The property is addressed as 209 and 211 Broad Street and is identified as tax map parcels 34-O-4.

Background:

Currently, the property is zoned R-2, Residential District, where, among other uses, single-family detached homes and duplexes are allowed by right. Conforming single-family detached home lots must have a minimum of 7,000 square feet of lot area while conforming duplex parcels have a minimum of 11,000 square feet of lot area (or 5,500 square feet per lot if the duplex structure is divided in to two, separate fee simple parcels). The current R-2 district regulations do not allow three- or four-unit structures. Per the City's Geographic Information System (GIS), the subject property has over 6,500 square feet of lot area. If the property were undeveloped, while the parcel has less than the required 7,000 square feet of lot area needed for a single family detached home, because the parcel is a lot of record, the site is still allowed to have no more than one single family detached home. It appears the building was constructed in 1955 as a four-unit apartment building; given this information, up to this point, the property was presumed nonconforming.

In April 2022, the current property owner applied for electrical and mechanical permits to install four heat pump systems to prepare the building for occupancy and stated that the property had been vacant for some time. As stated within Section 10-3-20 (b)(2), among other things, nonconforming uses may be continued so long as such use is not discontinued for more than two years. Furthermore, Section 10-3-21 (b) then explains that if a nonconforming use is changed to a more restricted nonconforming use for more than two years, "the original nonconforming use shall be deemed abandoned and the use shall not thereafter be changed back to the original nonconforming use." Eventually, it was determined that three units were vacant and discontinued for more than two years; thus, the four-unit multi-family structure had lost its presumed nonconforming status and would only be permitted to have one unit on the property.

In recognizing this unfortunate situation and in knowing the City's great need to provide and maintain existing housing, staff advised the property owner of two options to gain the ability to maintain or to re-establish the four-unit building. The first option was to appeal the Zoning Administrator's decision with

the Board of Zoning Appeals. In knowing that the property was designated Mixed Use by the Land Use Guide, which is the designation often associated with the B-1 district, and in knowing that the B-1 district offers flexibility with residential density, setbacks, and off-street parking requirements, staff informed the property owner of a second option, which was to request rezoning the property from R-2 to B-1.

As noted above, 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: Multi-family building, zoned R-2

North: Single-family detached dwellings, zoned R-2

East: Across Broad Street, single-family detached dwellings, zoned R-2

South: Multiple-family dwellings, zoned R-2

West: Residential and non-residential uses, zoned B-1

Key Issues:

The applicant is requesting to rezone the property from R-2, Residential District to B-1C, Central Business District Conditional. The property is located on the west side of Broad Street between the intersections of East Wolfe Street and East Rock Street. The existing building is a four-unit multi-family structure. However, as noted above, staff has determined that the property has lost its ability to have a four-unit multi-family building and thus the property must conform to the R-2 district, which, residentially, only allows one single-family detached home on the parcel.

With the requested rezoning, the applicant has proffered the following (written verbatim):

1. The property shall only be used for residential dwellings, except that any allowed special use permits shall be permitted as approved by City Council.
2. Dwelling units may be occupied by a single family or no more than two (2) unrelated persons.
3. Structures/buildings shall be no taller than 52 feet in height and limited to no more than four 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.

The B-1 district also allows dwelling units to be occupied by a family or not more than four persons, however, proffer #2 restricts dwelling units to be occupied by a single family or not more than two persons, which is similar occupancy to the UR, Urban Residential district.

The B-1 district allows a maximum building height of 75-feet. While the applicant has no plans to construct a new building 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.

While the applicant has not proffered a minimum number of off-street parking spaces, there is an alley behind the property that gives residents the ability to park behind the building. 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.

The B-1 district is commonly known for the massing of large commercial or mixed use buildings along street frontages; but, B-1 also provides opportunity for flexibility with setbacks and parking requirements. B-1 properties can also contain only residential uses (single-family detached, duplex, townhomes, and multi-family), which is exactly what the by right permissions would allow via proffer #1. The subject property and all properties on the west side of Broad Street are designated in the Comprehensive Plan as Mixed Use, and as previously noted, this designation is often associated with the B-1, Central Business District. Furthermore, properties to the west of the subject property are already zoned B-1.

Staff believes the outcome of the rezoning would be in compliance with the Comprehensive Plan and promotes the retention of much needed housing in the City. Staff recommends approval of the rezoning from R-2 to B-1C.

Environmental Impact:

N/A

Fiscal Impact:

N/A

Prior Actions:

N/A

Alternatives:

- (a) Recommend approval of the rezoning request; or
- (b) Recommend denial of the rezoning 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 – 209 and 211 Broad Street (R-2 to B-1C)

Public hearing to consider a request from McDorman Properties LLC to rezone a +/- 6,500 square foot parcel from R-2, Residential District to B-1C, Central Business District Conditional. The Zoning Ordinance states that the R-2, Residential District is intended for medium-density, single-family and duplex residential development. The B-1, Central Business District is intended as an urban and regional center for the conduct of commercial, financial, professional and governmental activities to which the public requires direct and frequent access. No minimum lot size or setback restrictions exist in the B-1, Central Business District. 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 property is addressed as 209 and 211 Broad Street and is identified as tax map parcels 34-O-4.

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) to recommend approval of the rezoning request.

Attachments:

- 1. Site map
- 2. Application and supporting documents

Review:

N/A