



CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

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February 5, 2024

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

SUBJECT: *Consider a request from Harrisonburg Redevelopment & Housing Authority to rezone 715 North Main Street*

**EXTRACT FROM THE DRAFT MINUTES OF HARRISONBURG PLANNING
COMMISSION MEETING HELD ON: January 10, 2024**

Chair Finnegan read the request and asked staff to review.

Ms. Rupkey said in 2010, the current owner of the property, Harrisonburg Redevelopment and Housing Authority, requested a rezoning from R-2 to M-1C and requested three special use permits, which were approved by City Council. The 2010 rezoning included the following proffers (written verbatim):

1. The following uses permitted by right in the M-1 zoning classification will continue to be permitted by right:
 - a. Veterinary supply and service establishments including hospitals, laboratories and kennels.
 - b. Maintenance and repair shops.
 - c. Mercantile establishments and office facilities accessory to and supportive of the sale, processing and storage of goods and materials as permitted in this district.
 - d. Hotels, motels and similar types of transient accommodations. Nontransient housing facilities are not permitted nor may existing housing facilities be expanded.
 - e. Accessory buildings and uses customarily incidental to any of the above-listed uses.
 - f. Training facilities and vocational schools.
 - g. Public utilities, public service or public transportation uses or building, generating, purification or treatment plants, water storage tanks, pumping or regulator stations, telephone exchange and transformer or substations.
 - h. Plant nurseries and greenhouses.
 - i. Public uses.

The remaining uses and any future uses added to the uses permitted in the by right section of the M-1 zoning classification being proffered out and thereby not permitted. Also as an

additional general proffer, no buses shall be parked other than for immediate loading and unloading on this property.

2. For purposes of the sign ordinance, the applicant proffers to be bound by that portion of the sign ordinance for the R-1 zoning classification as established in Section 11-7-4 of the City ordinances, the signage permitted in the M-1 zoning classification being proffered out and thereby not permitted.

The three special use permits (SUPs) that the applicant had applied for included: to allow for reduced parking, to allow for charitable and benevolent uses, and to allow for a boarding and rooming house. The SUPs were approved with the following conditions:

- The boarding and rooming house along with the uses permitted by Section 10-3-97 (9) and the reduced parking privileges shall be only for the uses the same as the applicants proposed project.
- The property shall supply no less than five parking spaces.
- If in the opinion of the Planning Commission or City Council, parking issues become a nuisance, the reduced parking special use permit could be recalled for further review, which could lead to the need for additional parking spaces, conditions, restrictions, or revocation of the permit.

As defined in the Zoning Ordinance, conforming boarding and rooming houses, among other things, are required to complete an annual inspection by October 31st of each year and failure to perform such inspection automatically voids the SUP approval. In this particular case, the boarding and rooming house became null and void in 2019 as records indicate the property owner's last inspection occurred in 2018.

The applicant is requesting to rezone a +/-13,600-square foot parcel from M-1C, General Industrial District Conditional to B-1C, Central Business District Conditional. The property is addressed as 715 North Main Street and is identified as tax map parcel 40-T-10. The applicant plans to lease the property to Strength in Peers, who plan to operate a recovery residence on the site.

Note that staff presented a Zoning Ordinance Amendment to Planning Commission on November 8, 2023 to make way for recovery residence uses. City Council (CC) requested additional information from staff and tabled the ordinance amendment on December 12, 2023. At this time, staff anticipates presenting the Zoning Ordinance Amendment to CC again in February 2024.

Proffers

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

1. All traffic generating uses shall be limited to a combined total of 100 vehicle trips in either the AM or PM peak hour as calculated using the latest edition of the Institute of Transportation Engineer's Trip Generation Manual.
2. Drive-through facilities are prohibited.
3. No parking lot (excluding travel lanes and drive aisles) shall be located between any building and North Main Street.

Land Use

The Comprehensive Plan designates this site as Mixed Use and states:

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.

The Downtown 2040 Plan identifies the northern boundary of the Downtown Study Area as the intersection of West Washington Street and North Main Street. Although the subject property is outside of what is generally considered downtown, the property is located along a gateway into downtown and is within the North Main Street Corridor Enhancement Area identified in the Comprehensive Plan. The uses and design of this corridor should be taken into consideration while fostering this transition area.

As noted above, the property is designated as Mixed Use in the Comprehensive Plan, which, among other things, is a designation that promotes for “live-work” environments and traditional neighborhood development (TND). The Mixed Use designation description refers to TND, which is explained further in the Comprehensive Plan on page 6-9, and includes promoting walking, biking, and taking public transit. Proffers #2 and #3 promote pedestrian friendly design by prohibiting drive-throughs and restricting vehicle parking areas from being located between buildings and the public street. Note that the B-1 district has no off-street parking requirements.

Transportation and Traffic

The Determination of Need for a Traffic Impact Analysis (TIA) form (“TIA determination form”) for the proposed rezoning is attached. The TIA determination form indicated that the project would not generate 100 or more new peak hour trips, which is the threshold for staff to require a TIA.

Public Water and Sanitary Sewer

Staff has no concerns with the requested rezoning regarding water and sewer matters.

Housing Study

The City's Comprehensive Housing Assessment and Market Study (Housing Study) places the subject property within Market Type D, which has "neighborhoods [that] are characterized by the lowest growth of any market type and low housing volume turnover." Additionally, "[i]ncomes in different pockets vary greatly. Median household incomes across block groups in these neighborhoods have the broadest range: \$20,000 to \$91,000. This could point to a divergence of two conditions found within these neighborhoods: one of stable, high-income, low turnover neighborhoods and one of lower turnover in lower income neighborhoods.

Recommendation

With the proposed proffers, staff believes that the request is in conformance with the Comprehensive Plan and recommends approval of the rezoning request.

Chair Finnegan asked if there were any questions for staff.

Vice Chair Byrd said drive isles, are those when you have a road of some sort and then there are marked lots off the side of that road?

Mr. Fletcher said it is technically any space that is not for storage of vehicles.

Ms. Rupkey said imagine a driveway.

Chair Finnegan said basically they cannot park in the front yard.

Ms. Rupkey said that is correct.

Vice Mayor Dent asked but they can have a driveway if they want?

Ms. Rupkey said in front of the building, yes.

Mr. Fletcher said the driveway gets you to the rear of the property. [To Vice Chair Byrd] Is that what you are trying to decipher between?

Vice Chair Byrd said yes because when we went to the site there was an alleyway. Would this be not including that?

Ms. Rupkey said correct because the alleyway is excluded from it, it is not part of their property.

Vice Chair Byrd said but to fit another travel lane, would that require destruction of the structure or at least manipulation of the structures existing footprint?

Ms. Rupkey said the concern is not particularly for this use, but in the future if the site were to be redeveloped.

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.

Michael Wong, the executive director for Harrisonburg Redevelopment and Housing Authority, came forward regarding the request. He said with me is Nicky Fadley, executive director of Strength in Peers. Just a little more history about the property, we acquired the property back in the early 2010 era to be able to provide a different type of housing that normally the Housing Authority could not provide. We developed a lease with Our Community Place where they also subleased out the property with Tom Benevento's group. They were able to house individuals on the boarding house application, serving individuals that needed housing, but were not able to access housing for whatever reasons through the Housing Authority. It was a way for us to be able to address the need within our community for those who have already slipped through the gaps because of the systems. We were disappointed to hear about the special use permit being dissolved or terminated. We had not heard of the...every letter that we have received in regard for request for inspections we had forwarded on to the leasees and we were disappointed that those were not set up. Last year in July, Our Community Place relayed their plan to discontinue the lease situation and Strength in Peers was in need of a recovery house type of housing to support the clientele that they serve. So, we entered a lease to purchase agreement with them at that time under the stipulation that we are able to get the boarding house access. City staff recommended that we go down this route of the B-1 and then subsequently with the recovery house resolution. This is a little more detail in regard to the history of this property. We anticipate that Strength in Peers would be good partners with us in regard to use of the facility. If you have any questions about the planned uses, I think Nicky can go into detail about that. Thank you for your time and consideration.

Vice Mayor Dent said thank you for answering the question that I would have had, what happened to Our Community Project, Vine and Fig because that was a unique facility and I think they were housing refugees that resettled here, for example, or reentering from incarceration. That is unfortunate that was lapsed, but here we go with another case of boarding houses and what happens when you do not do the inspections. The other question is, since Council has not yet approved what we might revise of the recovery house ordinance, where does that leave this?

Mr. Fletcher said this is somewhat irrelevant between the matters. This is just a rezoning to a district that would allow the use.

Chair Finnegan said one is not contingent upon the other.

Vice Mayor Dent said right, that was my question.

Mr. Wong said it does have some implications to us, we think. In regard to if the ordinance is not approved, then Strength in Peers would not be able to utilize the facility in the level that it wants to utilize it. Which will be a significant financial impact to them in regard to the utilization and addition to the lack of housing they can provide. At that point, I am not sure we would be able to go and apply for a boarding house application or something of the sort. I guess we will cross that bridge when we get there.

Vice Mayor Dent said as I understand it, the recovery house idea is it should be a by right use, but you are talking about rezoning it to business to be a boardinghouse.

Mr. Wong said no, I am not talking about that at all. B-1 will allow for all of the additional flexibility for the use. The special use permit to be able to have a boarding house would be the requirement we would look at if City Council does not approve the ordinance. I do not think there is any other option we have.

Mr. Fletcher said what Mr. Wong is trying to say is that if for some reason it does not get amended for the recovery houses, they could potentially be left with a zoning district that allows for all different types of residential facilities, but would not allow for the application of a boarding and rooming house because the B-1 district does not allow for that application and that would be their only other option to house the number of people they want to house. The hesitation, and rightfully so, of saying if we rezone it away from M-1 then we lose an opportunity to apply for the boarding and rooming house. What they could do is as they continue forward with City Council, and you play out the scenario where City Council approves the rezoning, they could put the application on pause and request for it to not have a second reading until after the ordinance amendment is approved to their favor.

Ms. Dang said that way it would remain zoned M-1 until that second reading on the consent agenda takes place.

Vice Mayor Dent said so the M-1 would allow for the...

Mr. Fletcher said a boarding and rooming house and a recovery house are two totally different things. All that matters to them, to simplify it, is the number of people. So, disregard anything associated with how they might operate, it has everything to do with the number of people.

Vice Mayor Dent said recovery houses are up to eight by right, boarding house can allow ten.

Mr. Fletcher said that is correct.

Chair Finnegan said I would be interested to hear from the applicant how this property would be used if this goes according to plan.

Nicky Fadley, with Strength in Peers, said Strength in Peers is a local non-profit peer run recovery community organization. We are entirely individuals who have personal experience with recovery in mental health substance use and trauma related challenges. We do peer support; our main office is two blocks from this property and one of the main services that peer run organizations provide across the country are recovery residences. They are an evidence-based program. We are very happy with the fact that you all have been supportive of the recovery residence ordinance amendment. A recovery residence, for us...what we are interested in doing at this property is what would be a level two certified recovery residence under the Virginia Association of Recovery Residences. It would be a property that would have a live in volunteer house manager who could have a job during the day but in the evenings and overnight they would be at the house able to provide support and supervision to the people living in the house. They would also help to make sure that people are following rules. They would be the point of contact in case something was to happen, they could contact us as staff in the event of any kind of situation or emergency. They make sure that chores are being conducted, that the house is being kept up, just be our eyes and

ears on the property and in exchange for that volunteer service they would have no program fees. We would have seven additional participants who would live in that house. Those would be individuals who are committed to recovery from substance use of drug or alcohol addiction and who agreed to sober living. A recovery residence is considered a sober living house. So, while our organization has other programs that have various kinds of recovery that is supported from harm reduction on, a recovery residence is meant to be for sober living, and that is because if people are all living together and working on recovery and they have various different kinds of recovery, it really could impact negatively one person's safety, health and recovery to have somebody else using or possessing or being affected by drugs and/or alcohol. So, the program would be for as long as people want to stay there, we do not want to kick people out because their recovery path and journey is their recovery path and journey. It would not be considered permanent housing, people would not sign a lease or anything like that, it would be a program which they would be enrolled in and they would have a program fee that they would be responsible for. That promotes their growth and responsibility and living skills. We know that most people do not want to live doubled up in a room with seven other guys for a really long time. And so that promotes people's desire to move on and go on with their lives in a much healthier and happier way. Any other questions?

Vice Mayor Dent said not a question, but I am just really pleased to hear you say there is a live in volunteer resident keeping their eyes on it, that makes all the difference in the safety and the continuity of the program. Excellent work for Strength in Peers.

Chair Finnegan asked if there were any questions for the applicant. Hearing none, he asked if there was anyone in the room or on the phone wishing to speak to the request. Hearing none, he closed the public hearing and opened the matter for discussion.

Vice Mayor Dent said maybe what I said was more of a discussion than a question. I am still very confused by the zoning thing, but you worked it out.

Chair Finnegan said in Harrisonburg, have we ever had an SRO, single room occupancy, zoning designation or anything like that?

Mr. Fletcher said I cannot recall that we have had a district for it. Boarding and rooming houses, the process was a bit easier in years past because it was by right in certain districts.

Chair Finnegan said is the difference just in number like how many people can live there.

Mr. Fletcher said I honestly do not know.

Chair Finnegan said I just know there are lots of other cities looking into SRO zoning, I was not aware of the differences. How do we feel about this? I would be in favor.

Vice Chair Byrd said I was just trying to make sure I understood the proffers and the difference between how staff presented here and what it was written on our papers here. There are signs that was more concern about number three.

Ms. Dang said in past rezoning applications where similar text has been provided, the word “including” was used in place of where it says “excluding.” If you can recall Mr. Sallah’s property on West Wolfe Street and then the Lucy Drive where Woda Cooper had done their rezoning, the language was... on the other rezonings it said “no parking lot including travel lanes and drive isles shall be located between any building in whatever the public street is.” So that meant that there could be no parking lot and no driveway, no u-shaped pull off, nothing. We just wanted the building to be massed towards the public street. In this case where the applicant has modified the language and said excluding travel lanes, it just means that you can put those travel lanes and drive arounds between a building and the public street. While we as staff would prefer the language as “including,” as Ms. Rupkey explained, our thoughts are this is a small lot and there are other benefits with this rezoning that we ended up recommending approval. You may see on another rezoning application along this corridor depending on the situation, we might feel more strongly about the text, how that proffer might be worded. Does that help?

Vice Chair Byrd said yes. It is sounding more like thinking in the future if they needed to deal with the building structure itself and rethink lanes. Only because I knew the alley existed.

Ms. Dang said what I recall is that they were trying to protect their interest on the hypothetical chance that alley could get closed by the City, what other options might they have. While at this point in time staff does not foresee us recommending...the adjacent owners would have to want to come in with an application to close the alley, that was also something that the applicant was concerned about.

Vice Chair Byrd said that was the part that was really in mind, I was going “there is that island there why would you do this?” Barring that I now understand staff’s comments concerning that proffer, I would be in favor of this. Therefore, I will make a motion to welcoming approval of the rezoning request.

Vice Mayor Dent seconded the motion.

Commissioner Alsindi said I know this comes late but again when we say it is for the wording and meaning, when we say “excluding” does that mean that we still can park over there? The action of parking can happen, that is what is misleading sometimes with the word “excluding” that you are in preference for the “including.” We say no parking lot I know the focus becomes on the lot, but the act of parking is still there when you say excluding travel. Does it mean I can still park in travel lanes?

Mr. Fletcher said it might help to understand that the definition of the parking lot includes all of those things. It includes travel ways, loading areas, driveways, it includes everything, essentially, that is paved. So, what this is saying is they just would not have the parking spaces in front of the building but you would be able to traverse over the area to get to the rear of the property.

Commissioner Alsindi said even any temporary parking happens there takes place.

Mr. Fletcher said I would likely think if somebody were going to stop there and pause for 15 minutes to unload furniture, that is okay, but it is not meant to be for parking.

Commissioner Baugh	Aye
Vice Chair 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 (6-0). The recommendation will move forward to City Council on February 13, 2024.