



# CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

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May 6, 2024

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

**SUBJECT:** *Consider a request from Liberty Street Investments LLC to rezone 162 West Elizabeth Street*

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

Chair Finnegan read the request and asked staff to review.

Ms. Rupkey said the applicant is requesting to rezone a +/- 10,353 –square foot property from M-1, General Industrial District to B-1C, Central Business District Conditional. The parcel is addressed as 162 West Elizabeth Street and is identified as tax map parcel 35-S-18. If the request is approved, the applicant plans to construct a three-story multifamily building with 15 to 20 dwelling units.

*Proffers*

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

1. No drive-through facilities shall be permitted on the Property
2. 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 unless the property owner first, at their cost: (1) completes a Traffic Impact Analysis approved by the City Department of Public Works and (2) implements all identified mitigation measures or improvements. The City Department of Public Works may, in its sole discretion, waive, in whole or in part, completion of a Traffic Impact Analysis or any identified mitigation measures or improvements.
3. Prior to issuance of any building permit, the property owner shall dedicate public street right-of-way or public sidewalk easement to at least 0.5-feet behind the back of sidewalk along the West Elizabeth Street frontage.

4. Ground floor interior, controlled access tenant bike storage spaces with a minimum of 1.0 spaces per residential dwelling unit shall be installed prior to issuance of any certificate of occupancy and maintained.

The conceptual site layout is not proffered.

The applicant is planning to construct a pull off/drop off area that necessitates the rebuilding of the existing sidewalk. With proffer #3 the applicant would be required to dedicate up to at least 0.5 feet behind the back of the sidewalk as public right-of-way or in a public sidewalk easement. The applicant is not planning to provide surface parking at this time. The B-1 district does not require off-street parking spaces.

#### *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 Mixed Use area is a designation that promotes “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. Proffer #1 promotes pedestrian friendly design by prohibiting drive-throughs. Staff suggested that the applicant consider proffering the prohibition of parking lots (including travel lanes and drive aisles) from being located between any building and West Elizabeth Street to further promote pedestrian friendly design. However, the applicant has not

finished the final layout of the site and would like to have the opportunity to provide parking under the building, if necessary, and which may necessitate a driveway in front of the building.

As noted, the submitted layout of the site is not proffered, but one design element that staff is concerned with is where a refuse facility serving the site might be located. Refuse facilities and how refuse is collected is not often a concern of staff's during a rezoning process, but given an early conceptual draft layout of the site that was evaluated, the small size of the site, and the parcel's shape, staff is concerned with having a refuse facility positioned in front of the building, adjacent to the public street. When new developments are built downtown, staff recommends that refuse storage and collection be thoughtfully considered early in the design process. In general, staff recommends locating refuse facilities within buildings. However, if refuse is stored outside, then staff recommends for refuse facilities to be located behind the building or at least behind the front façade of a building so that the refuse facilities are out of view of and not easily accessed by the general public. The City Code will require that private refuse service be provided for the planned development. The applicant can choose to use a dumpster or another form of private collection on the site.

#### *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. Therefore, a TIA was not required for the rezoning request.

#### *Public Water and Sanitary Sewer*

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

#### *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*

The student generation attributed to the proposed 15 to 20 residential units is estimated to be 2 to 3 students. Based on the School Board's current adopted attendance boundaries, Waterman Elementary School, Thomas Harrison Middle School, and Harrisonburg High School would serve the students residing in this development. Harrisonburg City Public Schools (HCPS) staff noted that schools are over capacity in three of the six elementary schools. Note that the City has been planning for the purchase of land for a 7<sup>th</sup> elementary school for a number of years as such a project continues to be listed in the City's Capital Improvement Program.

#### *Recommendation*

While staff has concerns with details of the final design of the site, those concerns do not outweigh the advantages of rezoning the property to create the opportunity for more housing in the downtown area. Given the Comprehensive Plan's Land Use Guide designation for this property and the submitted proffers, staff believes that the request is in conformance with the Comprehensive Plan and recommends approval of the rezoning request.

Vice Mayor Dent said did I hear you say they are considering parking inside or underneath the building or what?

Ms. Rupkey said the applicant may be able to speak more to it, but at this time they are not planning to provide any parking but during final design the layouts and things may make them realize it might be an opportunity for them to provide a couple of spaces underneath.

Vice Mayor Dent said I also see another alley here. While that is public, can that be a location for the refuse?

Ms. Rupkey said it is pretty thin alley.

Chair Finnegan said just a follow up question on the parking piece of it, if they were to put parking under there, it is not clear to me where the cars will go in and out from based on this layout.

Mr. Fletcher said from the public street.

Chair Finnegan said from Elizabeth Street, going in that way.

Ms. Rupkey said possibly where the drop off area is now could be an option.

Mr. Fletcher said the parcel is a similar size to the parcel image right. You can see that you can have 90-degree two-way traffic on both sides. They are still early in their concept. I do not want to steal Todd's thunder, but he can come up and speak to that. It is physically possible.

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.

Todd Rhea, the applicant, came forward to speak to the request. He said you all have heard me present to the Planning Commission many of times as a representative or an attorney for an applicant in this case it is a little different in that this lot is actually owned by myself and several professionals at our law firm it has been for some time. I am actually the applicant in addition to being the applicant's representative this evening. This lot is currently a parking lot that has been vacant and not used for a few years. It used to provide parking for Rosetta Stone when they were located downtown. Since Rosetta Stone closed, it has not been used for parking since that time. It is adjacent to 210 parking spaces, so there is no shortage of adjacent parking. Much of that parking, in my observation over the years, is used during the day and it is not used on nights and weekends. The City and County's joint jail and courts operation rent about 150 spaces from Otterbein Methodist Church across Elizabeth Street. There are plenty of opportunity there for some flex parking, should that become necessary. The genesis for this idea came out of the Downtown 2040

Plan which was completed in 2021 and endorsed by City Council and the Planning Commission. A tenant of that downtown plan was that downtown needs more residence and the goal was to convert unused or underused locations in or adjacent to the City's B-1 district for housing in order to provide walkable and bikeable places for people to live who work downtown or enjoy the commercial amenities that are offered downtown. It is very clear that this is exactly the kind of project that the Downtown 2040 Plan called for. Knowing that was sort of the way the City was moving downtown, we looked at some options with respect to this lot. We found a really neat infill project in the Minneapolis-Saint Paul Twin Cities area of Minnesota. That municipality has been a leader in infill housing and reforms related to parking. The development we patterned this off of is a twelve-unit infill on a 6,000 square foot lot. This lot here in Harrisonburg is about 10,500 square feet. The units are sized so that we can fit an 18-unit, three-story building among the mix of one- and two-story apartments on it. The goal is to not have parking on site. One proffer that was not covered but it is in there is that we have proffers consistent with that Minneapolis design first floor interior secured bike storage for all residents so they are not lugging their bikes up and down one and two flights of stairs to get to their apartments. They are interior, they are not outside locked in the weather, that is a proffered improvement. We are kind of going out on a limb here because there are not many developments without parking in Harrisonburg. We are looking to break some ground here. We have talked to a bunch of folks downtown, we are at the southern end of what I will call the Bird District that runs from Elizabeth Street up to Gay Street and it has Nest, Sage Bird and Magpie. This concept fits neatly into that area to provide a residential option without parking if at all possible. Our initial design was to have the pull off along Elizabeth Street. One thing Covid taught us, among many negative things was a positive thing is that you can pretty much get anything you want delivered to your house including rides, groceries and pharmacy needs. If we do not have parking, that pull off will serve for residents to grab a ride or to have a drop off and not be on the public street. We have talked to Public Works, who will sign that appropriately for drop off. The plot itself, topographically from the back runs downhill towards Elizabeth Street. There is a one story drop of about 11 or 12 feet from the back of that lot to the front of that lot. If we just run into a situation where the concept design and our marketing is not there for no parking on site, we could raise the front part of that building on a pedestal to provide parking. As Mr. Fletcher pointed out, that lot is wide enough to have two aisles of 90-degree parking accommodated under that building. Again, that is not our intent or design. We want to sort of be a leader in providing an option for people to live downtown without having a car. Without having a car...it costs about 12 to 14 thousand dollars per year. If you can live somewhere and save that money, then it is not so daunting to pay a small premium to shop at the Friendly City Food Co-Op. It is much more expensive, that is an easy walking distance of this. If you are not paying 700 dollars a month in car and insurance payments, you can afford to eat better and live a healthier lifestyle. Mr. [Barry] Kelley is here. Matchbox owns and has renovated nicely the adjoining R-3 properties along High Street and Wolfe Street which kind of front our subject property on two sides. It is a nicely done student housing area to the west of this site. Professional offices to the immediate east and then commercial across Blacks Run, where Mashita and the Aristocat Café are. Our B-1 conditional design is consistent with that step up in density from commercial to professional office to small multifamily to R-3 student housing. With that said, I welcome your questions. I have been on that corner and looked up that street for 29 years. I have been involved in seeing how Downtown Harrisonburg has developed and I and my partners are excited to have the opportunity to be a little bit of a groundbreaker with this current proposal. Thank you.

Chair Finnegan asked if there were any questions for the applicant.

Vice Mayor Dent said I agree that to be a leader in this could start a movement. To have no parking required, I imagine could also reduce your construction costs and increase the usage of the land. If that becomes a trend that developers realize that they can develop higher end, more affordable housing without including the parking, then more power to you.

Mr. Rhea said parking is an impediment to creating density and affordability in housing, there is no question to that. I understand there is some trepidation of will there be a spillover effect. Will people really have cars there even though there is no parking on site? Will that impact others? Again, in the downtown City 30% is surface parking, there is plenty of opportunity for flex parking assets to be utilized should that become absolutely necessary, but we are hoping that it will not in this case.

Vice Mayor Dent said given that there is a parking lot right next door that you say is mostly used during the day, is flex parking an option there?

Mr. Rhea said we would look forward to having that conversation with the Sheriff's Department and the Courts' system to see if that would be a possibility. Functionally, it is because this lot is at the far end of those lots. When people park to work at the jail or the courts, they fill in on the Market Street side first and work their way back on parking. This backside along Elizabeth Street across the street is often empty.

Chair Finnegan said to that point, you wanted to leave the option open to do potentially structured parking underneath. I would imagine that would increase the cost of the construction and then also would increase the cost of the rent.

Mr. Rhea said those costs get passed through, nobody builds something to lose money on it but the lot does have the slope which would make that an option without a lot of mass excavation. Anytime you put a building on a pedestal it does increase the price and the only reason to put it on a pedestal is to provide parking.

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

Kenneth Kettler, a resident at 242 East Water Street, came forward to speak to the request. He said I am really pleased to see more residences downtown especially dense residences like this with actually no parking. When I was looking to move here, it took me several months to actually find a place downtown where I could walk all of the places that I needed to. Which is good because I had more time to look for one and that is not always the case when moving to a new City. I am also really pleased to see that there is the little parking that there is and the cost of rent is not tied to the cost of parking. In my home, it is me and my wife and there is one car between us. Being downtown you do not need to be driving a whole lot of places. We can walk to the Co-Op, I can walk downtown to work. The good news is I live in Urban Exchange where if you want to park there you pay extra, I do not pay for that. I appreciate not having to pay. Especially when we are talking about students who may be living there as well and do not need to be paying more for

something that they do not have in terms of a car, I love to see that on this one. I, likewise, hope that is a trend that continues. Council for the applicant noted that 30% of downtown is surface parking lots. Another way of putting it is 69 acres of downtown Harrisonburg is surface parking. That is not counting parking decks, which are big enough. That is a huge amount of space for the urban business core of the City. I am really pleased to see this, thank you very much.

Barry Kelley, a neighbor to the subject property, the Matchbox properties next to it, and 136 [Elizabeth Street], came forward to speak to the request. He said we are 100 percent in support of this, the applicant's design and the fact that they are out there doing this just adds to it. The reason that I am coming up is just to add to the fact of non-parking. We just recently finished in the last few years the Keezell and Kavanaugh buildings and neither one has parking and there is 21 units in one and 22 units in another and both have commercial spaces. They have been successful. I just wanted to add that because it is happening. I think this is a good project for that.

Chair Finnegan 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.

Commissioner Baugh said I move to approve as presented.

Vice Chair Byrd seconded the motion.

Chair Finnegan said I will also add that this comes up outside of the downtown district where we do have parking requirements for apartments. I would call parking requirements for apartments a renter's tax because in most single-family neighborhoods in this City, you can park a car for free, paid for by the City, in front of a house. When we have apartments that are forced to build off street parking, that is passed on to the renter. Renters pay personal property tax on their vehicle and they pay property tax by way of paying rent. I would like to see more of this type of thing elsewhere in the City. I would be in favor of this.

Chair Finnegan continued and called for a roll call vote.

Commissioner Baugh	Aye
Vice Chair Byrd	Aye
Vice Mayor Dent	Aye
Commissioner Washington	Aye
Chair Finnegan	Aye

The motion to recommend approval of the rezoning request passed (5-0). The recommendation will move forward to City Council on May 14, 2024.