



CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

409 SOUTH MAIN STREET, HARRISONBURG, VA 22801

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To: Ande Banks, City Manager
From: Adam Fletcher, Director, Department of Community Development and Harrisonburg Planning Commission
Date: July 11, 2023 (Regular Meeting)
Re: Rezoning -130 Franklin Street (B-2 to B-1C)

Summary:

Project name	N/A
Address/Location	130 Franklin Street
Tax Map Parcels	26-H-7
Total Land Area	+/- 4,974 square feet
Property Owner	130 Franklin Street LLC
Owner's Representative	Funkhouser Real Estate Group
Present Zoning	B-2, General Business District
Proposed Zoning	B-1C, Central Business District Conditional
Staff Recommendation	Approval
Planning Commission Recommendation	June 14, 2023 (Public Hearing) Denial (6-0)
City Council	July 11, 2023 (First Reading/Public Hearing) Anticipated July 25, 2023 (Second Reading)

Background:

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

Site: Single family detached structure comprising of an illegally established office use, zoned B-2

North: Parking lot, zoned B-2

East: Fine arts gallery, zoned B-2

South: Across Franklin Street, First Step, zoned U-R/R-P Overlay

West: Single-family detached dwelling, zoned B-2

Around 1993 or 1994, the property, as it is today, was zoned B-2, General Business District. At that time, the site contained a nonconforming single-family detached dwelling but was illegally changed to an office use. While offices were (and still are) permitted by right in the B-2 district, there are many other considerations that must be taken in to account when changing the use of a building. As is the case

with any “change of use” of a building, a building permit is required. During the review of the building permit application, Zoning staff would review for compliance with the Zoning Ordinance (ZO) while Building Inspections staff would review the application to ensure the structure meets the requirements of the Building Code for the planned new use. Once compliance is achieved, a certificate of occupancy (CO) can be issued for the building. The Department of Community Development has no records of a building permit or CO for the property.

Among other things, when there is a change of use applied for, the ZO requires that the number of off-street parking spaces be provided based on the change. The property does not currently have the required number of parking spaces for the office use in the B-2 district. However, if a rezoning to the B-1, Central Business District is approved, then the property would have no off-street parking requirements and the use would be in compliance with the ZO’s off-street parking requirements.

While the City has not issued a formal notice of violation letter to the property owner, they are aware the property is currently in violation of the ZO with a use violation as well as being in violation of the required minimum off-street parking requirements. The property owner is also aware that after rezoning approval and before any use other than single-family detached residential moves into the building, that the structure must be brought into compliance with Building Codes and will require permits and inspections. The property owner has been advised to discuss requirements with the Department of Community Development’s Building Inspections Division.

Key Issues:

The applicant is requesting to rezone a +/- 4,974 square foot property from B-2, General Business District to B-1C, Central Business District Conditional. The property is located on Franklin Street between the intersections of Federal Street and South Mason Street.

Land Use

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

“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.”

While abutting parcels are zoned B-2, there are nearby parcels, within 100 feet, that are zoned B-1. In addition, the Mixed Use area extends to South Mason Street to the east of the subject property. The zoning district most closely associated with Mixed Use-designated properties located in the downtown area, such as the subject property, is the B-1 zoning district.

Transportation and Traffic

Often staff has concerns with properties rezoning to the B-1 district without due consideration for the impact to how the downtown area might be impacted by parking demands. In this particular case, given the size of the parcel and the existing structure, staff has no concerns regarding transportation and traffic for the proposed rezoning.

Public Water and Sanitary Sewer

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

Recommendation

Staff has no concerns with the request and recommends approving rezoning the property from B-2 to B-1.

Environmental Impact:

N/A

Fiscal Impact:

N/A

Prior Actions:

N/A

Alternatives:

- (a) Approve the rezoning request; or
- (b) Deny the rezoning request.

Community Engagement:

As required, the request was published in the local newspaper twice advertising for Planning Commission’s public hearing and twice advertising for City Council’s public hearing. The advertisement was published as shown below:

Rezoning – 130 Franklin Street (B-2 to B-1)

Public hearing to consider a request from 130 Franklin Street LLC to rezone a +/- 4,974 square foot parcel from B-2, General Business District to B-1, Central Business District. The Zoning Ordinance states 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 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 130 Franklin Street and is identified as tax map parcel 26-H-7.

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 approve the rezoning request.

Attachments:

1. Extract from Planning Commission
2. Site maps
3. Application and supporting documents
4. Proffer Letter dated June 29, 2023
5. Public comment

Review:

Planning Commission recommended denial (6-0) of the rezoning request. (There is one vacancy on the Planning Commission.)

After the Planning Commission public hearing, the applicant submitted the following proffers (written verbatim):

The following Uses are Permitted by Right:

1. Personal service establishments.
2. Governmental, business and professional offices and financial institutions.
3. A single-family dwelling.
4. Dwelling units may be occupied by a family or not more than two (2) persons.
5. Theaters, community rooms, museums and galleries and other places of assembly for the purpose of entertainment or education.
6. Religious, educational, charitable and benevolent institutional uses.
7. General service or repair shops, when not employing more than fifteen (15) persons on the premises in a single shift (not including persons whose principal duties are off the premises) and providing that all storage and activities are conducted within a building. Examples:

Cleaning and laundry establishments, printing and tailoring shops, appliance repairs, upholstery and furniture repairs.

8. Accessory buildings and uses customarily incidental to any permitted uses.
9. Small cell facilities, concealed wireless telecommunications facilities, industrial microcells, distributed antenna systems, and macrocells. Telecommunications towers are permitted only by special use permit. Wireless telecommunications facilities are further regulated by Article CC.
10. Public libraries.
11. Public uses.
12. Research and development activities which do not cause any more smoke, dust, odor, noise, vibration or danger of explosion other than uses permitted in this district and which involve no more than 15 percent of the gross floor area in the assembling or processing of products. Any assembling or processing shall only involve products developed on the premises. All services and storage shall be conducted within the principal structure which is to be completely enclosed.
13. Home occupations.
14. Radio and television stations and studios or recording studios. All antennas and satellites and associated equipment shall be screened.
15. Homestays, as further regulated by Article DD.

Special use permits shall be permitted as approved by City Council.