



# 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: November 26, 2024 (Regular Meeting)  
Re: Rezoning – 731 Jefferson Street (M-1 to R-3)

## **Summary:**

Project name	N/A
Address/Location	731 Jefferson Street
Tax Map Parcels	40-O-7 and 8
Total Land Area	+/- 15,948
Property Owner	Josue Elidio Pereira Coreas
Owner's Representative	N/A
Present Zoning	M-1, General Industrial
Proposed Zoning	R-3C, Medium Density Residential District Conditional
Staff Recommendation	Approval
Planning Commission Recommendation	October 9, 2024 (Public Hearing) Approval (7-0)
City Council	November 26, 2024 (First Reading/Public Hearing) Anticipated December 10, 2024 (Second Reading)

## **Background:**

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

Site: Illegal residential use, zoned M-1

North: Presumed nonconforming residential uses, zoned M-1

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

South: Layman's Automotive & Towing, zoned M-1

West: Across railroad right of way, Shenandoah Valley Organic - Farmer Focus, zoned M-1

The existing structure addressed as 731 Jefferson Street is believed to have been built before the property was annexed into the City in 1870. When the property was annexed, the City of Harrisonburg had not yet adopted a Zoning Ordinance. In 1939 when the City's Zoning Ordinance (ZO) was adopted, the property was zoned B-2, which at the time was the Business, Manufacturing, and Industrial District. At that time,

a residential use would have been allowed in the B-2 district. In 1963, when the City adopted a new Zoning Ordinance, the property was zoned M-1, Light Industrial and became a nonconforming residential use.

In April 2024 the property suffered a fire. While City staff were inspecting the property, staff began investigating whether nonconformity was lost as staff had reason to believe a second unit was added to the property making the structure an illegal duplex. The applicant has been unable to prove that a duplex was legally established and for it to be considered a nonconforming use.

The ZO states that “[w]henver a nonconforming use is enlarged or extended beyond the size, character, or intensity of the use as it existed at the time that it became nonconforming, the nonconforming status of such use shall terminate and become unlawful.” Additionally, the purpose of the nonconforming principle is to preserve rights in existing lawful buildings and uses of land, subject to the rule that public policy opposes the extension and favors the elimination of nonconforming uses. Nonconforming uses are disfavored because they detract from the effectiveness of a comprehensive zoning plan.<sup>1</sup>

After discussing options with staff, the applicant is requesting to rezone the property to allow for at least one dwelling to continue operating on the property. The applicant would like to have the ability to convert the dwelling into a legal duplex in the future. If the rezoning is approved, staff will continue to work with the applicant to get the correct building permits.

**Key Issues:**

The applicant is requesting to rezone a +/- 15,948-square foot property from M-1, General Industrial District to R-3C, Medium Density Residential District Conditional. The property is located at 731 Jefferson Street and is identified as TM 40-O-7 and 8.

*Proffers*

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

1. A variable width public sidewalk easement along Jefferson Street will be provided for the City to construct a sidewalk in the future. The easement will extend 7.5 ft from the existing back of curb into the property and will be dedicated at minor subdivision. In addition, a 5 ft temporary grading easement beyond the 7.5 ft sidewalk easement will be provided for the City to have sufficient space to install the proposed sidewalk.

With this proffer the applicant would dedicate public sidewalk and temporary construction easements to allow the City to construct sidewalk along the streets at some point in the future if they were to submit a subdivision application.

*Land Use*

The Comprehensive Plan designates this parcel as Neighborhood Residential and states that:

These areas are typically older residential neighborhoods, which contain a mixture of densities and a mixture of housing types but should have more single-family detached homes than other types of housing. This type of land use highlights those neighborhoods

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Albemarle County Land Use Law Handbook, Chapter 18 - Nonconforming Uses and Structures., <https://www.albemarle.org/government/county-attorney/resources/land-use-law-handbook>

in which existing conditions dictate the need for careful consideration of the types and densities of future residential development. Infill development and redevelopment must be designed so as to be compatible with the desired character of the neighborhood.

While the applicant's short-term plans are to bring the property into compliance for a single-family detached dwelling, the applicant has expressed interest in the possibility of converting the structure into duplex or a multi-family building with three dwelling units. The R-3 district would allow the applicant to have the flexibility to pursue these options in the future. The R-3 district allows duplexes by right and allows multi-family buildings with an approved special use permit.

*Transportation and Traffic*

A traffic impact analysis (TIA) was not required for the rezoning request.

*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 notes that "[m]arket type D has lower market activity as well as lower access to amenities. This could be because the areas are stable residential neighborhoods or because the area is less developed and therefore has fewer sales and fewer amenities. Strategies that would be appropriate in the latter case include concurrent development of the housing and economic opportunities through mixed-use developments to build commerce and housing centers across the City.

*Public Schools*

Staff from Harrisonburg City Public Schools (HCPS) noted that based on their student generation calculations, the proposed single-family detached dwelling would result in a student generation of zero. 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 on this property. HCPS staff noted that four of the six elementary schools are over capacity. Harrisonburg City Public Schools (HCPS) staff noted that schools are over capacity in three of the six elementary schools.

For total student population projections, the City of Harrisonburg and HCPS both use the University of Virginia's Weldon Cooper Center for Public Service's projections. These projections are updated annually and are available at: <https://www.coopercenter.org/virginia-school-data>.

*Recommendation*

Staff believes that this request does not have any major adverse effects to the surrounding properties and is consistent with the Comprehensive Plan and recommends approval of the request.

**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 – 731 Jefferson St (M-1 to R-3)***

A request from Josue Elidio Pereira Coreas to rezone two parcels totaling +/- 15,948-square foot from M-1, General Industrial District to R-3, Medium Density Residential District. The parcels are addressed as 731 Jefferson Street and are identified as tax map parcels 40-O-7 and 8.

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) approval of the rezoning request.

**Attachments:**

- 1. Extract from Planning Commission
- 2. Site maps
- 3. Application and supporting documents

**Review:**

Planning Commission recommended approval (7-0) of the rezoning request.