



# CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

409 SOUTH MAIN STREET, HARRISONBURG, VA 22801

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To: Ande Banks, Interim City Manager  
From: Adam Fletcher, Director – Department of Community Development and Harrisonburg Planning Commission  
Date: March 8, 2022 (Regular Meeting)  
Re: Rezoning and Special Use Permit - 765 East Market Street, and Properties along East Market Street and Franklin Street (B-2 and R-2 to R-5C, and to Allow Multi-Family Dwellings of More Than Twelve Units Per Building) (The Edge Apartments)

### **Summary:**

Consider two requests from Joyce A. Shultz and Joyce A. Shultz MD Living Trust with representatives Bluestone Land LLC:

1. To rezone 23 parcels from B-2, General Business District and R-2, Residential District to R-5C, High Density Residential District Conditional, and
2. For a special use permit per Section 10-3-55.4 (1) to allow multi-family dwellings of more than 12 units per building in the R-5, High Density Residential District.

The site totals +/- 6.48 acres and includes 23 parcels addressed as 765 East Market Street, East Market Street, and Franklin Street, is identified as tax map parcels 28-K-1 through 4, 28-K-9 through 18, and 28-K-20 through 28.

Staff and Planning Commission recommended to approve both the rezoning and the special use permit requests.

### **Background:**

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: Commercial use and vacant parcels, zoned B-2 and R-2
- North: Commercial uses, zoned B-2
- East: On both sides of East Market Street, commercial uses, zoned B-2
- South: Commercial uses, single-family detached dwellings, zoned B-2 and R-3
- West: Single-family detached, duplex, and townhomes, zoned R-2

**Key Issues:**

The applicant has submitted two separate applications. The first is to rezone 23 parcels from B-2, General Business District and R-2, Residential District to R-5C, High Density Residential District Conditional. Because the applicant would like to construct buildings with more than 12 multi-family units per building, the second request is for a special use permit (SUP) per Section 10-3-55.4 (1) of the Zoning Ordinance (ZO) to allow multi-family dwellings of not more than 12 units per building in the R-5, High Density Residential District. (Note: Constructing multi-family dwellings of not more than 12 units per building is a by right ability in the R-5 district.) If both requests are approved, Bluestone Land LLC plans to construct 156 multi-family dwelling units within eight buildings as illustrated in the attached conceptual site plan.

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

1. Occupancy Restrictions and Parking: Dwelling units may be occupied by a single family or no more than three (3) unrelated persons. A minimum of 1 off-street parking space per dwelling unit shall be provided. There shall be a minimum overall ratio of 1.4 off-street parking spaces per unit for all parcels herein requested to be rezoned.
2. Road and Sidewalk Improvements: The following improvements will be constructed as part of this development:
  - a. At the time of development, the Owner shall, as approved by the City, and as generally shown on the concept plan, build Franklin Street as a public street with curb, gutter, and sidewalk from the existing terminus near the western boundary of tax map parcel 28-J-28 to East Market Street. In addition, the mid-block crosswalk nearest East Market Street shall be raised. The crosswalks shown at the intersection of Franklin Street and the private entrances to the development shall, at minimum, be painted. The street width will be narrowed with “bump outs” for on-street parking.

3. Exclusive of the parking lot in front of building # 7, no parking lot (including travel lanes and drive aisles) shall be located between any other building and East Market Street or Franklin Street.
4. Density and Unit Mix: The development shall contain a maximum of 156 units. Units shall be limited to 1, 2, and 3 bedroom units, of which a minimum of 70% shall be 2 bedroom units or less.
5. Affordable Housing- The Owner shall provide affordable housing equal to five percent (5%) of the total residential dwelling units within the Project in the form of for-lease affordable dwelling units. The Owner shall convey responsibility of constructing the affordable units to any subsequent purchaser of the Property. The Owner shall create units affordable to households with incomes at or less than 80% of the Department of Housing and Urban Development (HUD) median family income for the Harrisonburg VA MSA at the time of initial move-in (the "Affordable Unit Qualifying Income"). This requirement shall apply for a period of fifteen (15) years following the date the final Certificate of Occupancy for the Project is issued by the City of Harrisonburg (the "Affordable Term"). During the Affordable Term, each January, the Owner shall provide to the City of Harrisonburg a Compliance Report for the prior year to demonstrate that 5% of the units were rented in accordance with this proffer.

While they refer to elements that are shown within the concept plan, the concept plan is not specifically proffered.

The R-5 district allows by right dwellings to be occupied by a family or not more than four unrelated persons. Proffer #1 reduces the allowable occupancy of dwelling units to either a family or not more than three persons. Additionally, because the minimum off-street parking requirements of Section 10-3-25 (7) of the ZO allow for reduced parking when occupancy is restricted, the development does not require as much parking as would have been required under the standard R-5 district. Because this development is bisected by Franklin Street, required off-street parking calculations must be calculated separately for each half of the development. Section 10-3-27 (7) requires one off-street parking space to be provided for each dwelling unit when occupancy is restricted. For example, if 68 dwelling units are constructed on the north side of Franklin Street and 88 dwelling units are constructed on the south side of Franklin Street as illustrated in the concept plan, then a minimum of 68 off-street parking spaces must be provided on the north side and a minimum of 88 off-street parking spaces must be provided on the south side. Although the applicant could have been allowed the flexibility of providing only one parking space per unit, they have proffered to provide a minimum of 1.4 off-street parking spaces per unit for all the parcels together. This proffer binds together all the parcels subject to this rezoning request. This means there will be at least 68 parking spaces on the north parcel, 88 parking spaces on the south parcel, and then either or both of the parcels will have a few more parking spaces so that the overall development has a ratio of 1.4 parking spaces per unit.

If the maximum number of 156 dwelling units was constructed (as noted in Proffer #4), then 219 off-street parking spaces would be required. In the concept plan, the applicant has shown a scenario in how they might organize off-street parking spaces. The applicant is aware that the single-garage spaces can be counted for off-street parking, however, the surface parking in front of the garage spaces cannot be

counted as off-street parking; that the on-street parking spaces shown on Franklin Street cannot be counted towards off-street parking requirements; and they understand that parking requirements, among other details, would be reviewed during the engineered comprehensive site plan phase of development to ensure that all regulations are met.

Proffer #2 addresses street improvements along undeveloped Franklin Street. The applicant has proffered to construct Franklin Street, as approved by the City, and as generally shown on the concept plan. This will include curb, gutter, and sidewalk from the existing terminus near the western boundary of the development to East Market Street. Additionally, the mid-block crosswalk nearest East Market Street shall be raised, crosswalks will be painted on Franklin Street at the private entrances, and Franklin Street's width will be narrowed with bump outs for on-street parking.

Proffer #3 is intended to promote pedestrian friendly design by placing buildings close to streets and prohibiting parking between the multiple-family buildings and public streets. The only deviation to this would allow an off-street parking lot to abut Franklin Street as generally depicted in front of building #7 on the concept plan. Concentrating people and places along public streets creates an environment that is more accessible, interesting, and safer for pedestrians, which are designs and environments that staff promotes.

Proffer #4 restricts the development to a maximum density of 156 dwelling units, which is the same as the maximum density allowed on the +/- 6.48-acre site if rezoned to R-5. Additionally, Proffer #3 limits all dwelling units to 1, 2, and 3-bedroom units and requires that a minimum of 70 percent of the units constructed shall be 2-bedroom units or less. If 156 dwelling units are constructed, then 109 units will be either one or two bedroom units.

Proffer #5 states that for 15 years after the final certificate of occupancy is issued, five percent of the total number of units will be in the form of for-lease affordable dwelling units for households with incomes at or below 80 percent area median income (AMI). It should be noted that family size will not be considered for thresholds. In FY2021, the US Department of Housing and Urban Development (HUD) reported that the Harrisonburg area's AMI is \$66,700 and 80 percent AMI is \$54,700. (Note that a direct calculation of 80 percent of \$66,700 is \$53,360, however, the number HUD states as 80 percent AMI is \$54,700.) If 156 dwelling units were constructed, then five percent of those units, which is 8 dwelling units, would be reserved for households with incomes at or below 80 percent AMI.

Since the affordable units will be rented at market rate, meaning that tenants in the affordable units will pay the same rental rates as others, staff suggested that the applicant set aside the affordable units for households that make 60 percent AMI and below. While it would still be a cost burden to renters, setting aside units for 60 percent AMI and below could help people in that AMI category have a chance at finding housing in the City. The applicant explained to staff that this is not financially feasible.

If the concept plan shown was developed, the City's Parking Lot Landscaping regulations would require street trees along the following sections of Franklin Street – on the north side of Franklin Street between Building #6 and the western limits of the parking lot, and on the south side of Franklin Street between the raised crosswalk and the amenity building because those parking lot areas are adjacent to the public street. However, along the remaining sections of Franklin Street and along East Market Street, there is no parking lot adjacent to the public street so no trees would be required. Staff suggested that the

applicant consider proffering additional street trees. The applicant was not comfortable proffering street trees and responded that they will consider the location, type, and number of trees to be planted during the site planning stage.

As demonstrated in the Determination of Need for a Traffic Impact Analysis (TIA) (attached), the development did not meet the 100-trip peak-hour threshold that gives City staff the ability to require a TIA. When a development reaches or exceeds 100-trips in the peak hour, this threshold is what typically causes concern for traffic safety and delays. Thus, a TIA study was not performed.

Staff wishes to acknowledge that the applicant originally desired to close Franklin Street, which could have offered more flexibility for their site design. However, staff did not support closing Franklin Street. Creating an interconnected network of streets provides for street connectivity and accessibility to destinations for people to be able to walk, bicycle, and drive throughout the community. The applicant was able to rework their concept plan and will construct Franklin Street as a public street.

From a design and site layout perspective, staff likes the applicant's proposal to mass buildings close to the public streets with off-street parking relegated behind buildings and to create multi-family structures with more than 12-dwelling units. Staff believes that massing buildings close to the public street with parking behind the buildings creates an environment that is more accessible, interesting, and safer for pedestrians. Therefore, staff supports the SUP request to allow multi-family dwellings of more than 12 units per building.

The City's Comprehensive Housing Assessment and Market Study (Housing Study), which was completed in January 2021 identified a shortage of rental housing units that are affordable to the lowest and highest income renter households (0-30% and above 80% AMI) and found that "[t]here is significant mismatch with many higher income households residing in more affordable units and lower income households residing in more costly units." Among renters, the study noted several key findings of the housing mismatch, which included:

- "There are significantly more households than units in the 0-30% AMI tier. This tier includes most student households (including dependent and independent students), persons needing supportive housing, elderly households, and other household types that are non-student, non-elderly households.
- The vast majority of rental units are naturally occurring affordable housing, meaning that the unit is affordable to a household earning up to 80% AMI without public subsidy; 81% of all rental units are affordable to households with incomes up to 80% AMI.
- Because there are many more households with incomes above 80% AMI but few available for this income tier, these higher income households occupy rental units that cost less, therefore increasing competition among lower income households for the affordable units.
- The vacancy rate is low; CHAS [Comprehensive Housing Affordability Strategy] data identified that only 2% of rental units were vacant."

The Housing Study explained that when the rental vacancy rate is low at 2% (or 3.5% per American Community Survey data), it indicates "a very tight market with an inadequate inventory. This creates high levels of competition within the market as renters compete for scarce units and where the lowest income households have the fewest options."

The housing study also identified that “[t]here are only 230 studio and one-bedroom units affordable to 0-30% AMI households, which is a critical unit type needed to meet the needs of households consisting of 1-2 persons and single persons needing supportive housing.” The proposed development could contribute to help to address the need for more one-bedroom units in the City. Nonetheless, even if there are more two-bedroom units rather than one-bedroom units, overall, this project could help the community with the current housing situation because it would add more units to the market.

The Housing Study also places the subject property within Market Type C. Along with other details of this market type, it is the smallest but fastest growing market type in the City. Among other characterizations, Market Type C has a large number of university students. The Housing Study states “[l]ike Market Type A, Market Type C has above median overall access to amenities such as public transit within walking distance, full-service grocery stores, and multiple parks and recreation facilities.” It goes on to say that “Market Type C has above median access to amenities yet is the most affordable market type in the City. The creation and preservation of affordable housing and construction of middle income housing would be appropriate here as there are already amenities in place that would make these areas attractive locations for housing...” The Housing Study also notes that “[h]aving an adequate supply of smaller apartments in Market Types A and C is important because these block groups have higher scores for access to amenities such as jobs, parks, full-service grocery stores, and public transit.”

Within their letter, the applicant has requested that the City allow them 36 months from SUP approval to obtain any necessary land disturbing permit or building permits for the multi-family buildings due to the typical time frame required for the completion of site planning and financing. Section 10-3-130 (c) of the ZO states that “[w]henver a special use permit is approved by the city council, the special use authorized shall be established, or any construction authorized shall be commenced and diligently pursued, within such time as the city council may have specified, or, if no such time has been specified, then within twelve (12) months from the approval date of such permit.” Staff is comfortable recommending an extension from 12 months to 36 months with the following condition:

The special use shall be established, or any construction authorized shall be commenced and diligently pursued within 36 months from the approval date of the special use permit.

If the SUP is approved with this condition, the property owner should plan their submission schedules accordingly for engineered comprehensive site plan review and/or building permit review to ensure that the special use is established or the construction of at least one multi-family building is commenced and diligently pursued within 36 months.

While not all suggestions that staff offered were accommodated within the submitted concept plan (i.e. a small open space area for residents, a playground, grading specific areas for a potential multi-use path, and more street trees), overall staff appreciates the accommodations that were made and believes that this project could help the community with providing more housing choices for people who want to live in the City. Staff recommends approval of the rezoning and special use permit request with the suggested condition.

**Environmental Impact:**

N/A

**Fiscal Impact:**

N/A

**Prior Actions:**

N/A

**Alternatives:**

- (a) Approve the rezoning and SUP request as submitted;
- (b) Approve the rezoning and SUP with the suggested condition;
- (c) Approve the rezoning and SUP request with other conditions;
- (d) Approve the rezoning request and deny the SUP request; or
- (e) Deny the rezoning and SUP 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 the City Council’s public hearing. The City Council advertisement was published as shown below:

***Rezoning – 765 East Market Street, and Properties along East Market Street and Franklin Street (B-2 and R-2 to R-5C) (The Edge Apartments)***

Public hearing to consider a request from Joyce A. Shultz and Joyce A. Shultz MD Living Trust with representatives Bluestone Land LLC to rezone 23 parcels from B-2, General Business District and R-2, Residential District to R-5C, High Density Residential District Conditional. 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 R-2, Residential District is intended for medium-density, single-family and duplex residential development. The R-5, High Density Residential District is intended for medium to high density residential development, including townhouses and multiple family dwelling units, together with certain governmental, educational, religious, recreational and utility uses. The residential density ranges for the R-5 district are multifamily, 1,800 sq. ft. minimum/unit; multifamily quadraplex, 3,000 sq. ft. minimum/unit; and townhouse, 2,000 sq. ft. minimum/unit. 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 site totals +/- 6.48 acres, is addressed as 765 East Market Street, East Market Street, and Franklin Street, is identified as tax map parcels 28-K-1 through 4, 28-K-9 through 18, and 28-K-20 through 28.

***Special Use Permit - 765 East Market Street, and Properties along East Market Street, and Franklin Street (Section 10-3-55.4 (1) to Allow Multi-Family Dwellings of More Than Twelve Units Per Building) (The Edge Apartments)***

Public hearing to consider a request from Joyce A. Shultz and Joyce A. Shultz MD Living Trust with representatives Bluestone Land LLC for a special use permit per Section 10-3-55.4 (1) to allow multi-family dwellings of more than 12 units per building in the R-5, High Density Residential District. The site totals +/- 6.48 acres, is addressed as 765 East Market Street, East Market Street, and Franklin Street, is identified as tax map parcels 28-K-1 through 4, 28-K-9 through 18, and 28-K-20 through 28.

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:**

(a) Staff recommends alternative (b) approval of the rezoning and SUP request with the suggested condition;

**Attachments:**

1. Planning Commission Extract
2. Site maps
3. Application, applicant letter, and supporting documents
4. Concept plan
5. Public Input

**Review:**

Planning Commission recommended (6-1) alternative (b) approval of the rezoning request and the SUP request with the suggested condition.