



# City of Harrisonburg, Virginia

## Department of Planning & Community Development

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Building Inspections

Engineering

Planning & Zoning

To: Eric Campbell, City Manager  
From: Adam Fletcher, Director – Department of Planning and Community Development  
Date: November 13, 2018  
Re: Rezoning (M-1 to B-1C) 455 & 457 North Liberty Street

### **Summary:**

Public hearing to consider a request from Robert Nickell Jackson & Other Trustees to rezone two 3,250 +/- sq. ft. parcels totaling 6,500 +/- sq. ft. from M-1, General Industrial District to B-1C, General Business District Conditional. The two parcels are located at 455 and 457 North Liberty Street and are identified as tax map parcels 34-C-4 and 34-C-4A, respectively.

### **Background:**

The subject property came to the attention of City staff in July 2018 when a concern was received from a tenant regarding possible building code violations within the structure. Community Development personnel performed an inspection of the property and noted that not only were there property maintenance violations, but the use of the structure had changed from a non-conforming duplex building to an illegal four-unit apartment building. There were no building permits or Certificates of Occupancy on file showing the approved conversion of the structure from a duplex to an apartment building. Staff determined that the structure was converted illegally and sent a certified notice of violation informing the owner that the property had lost its non-conforming status and would need to be brought into compliance with the zoning regulations for the M-1, General Industrial District, which meant it could no longer be used for residential purposes.

In August, the property owner submitted an application to the Board of Zoning Appeals (BZA) appealing staff's decision that the property must conform to the M-1 zoning district. However, after reviewing the BZA application and viewing the site, staff believed that no matter what the outcome of the appeal, the structure would still be non-conforming to setbacks making it difficult, if not impossible for the owner to make any necessary property maintenance repairs regardless of the use. Staff suggested that the owner may want to withdraw the appeal and consider rezoning the property to B-1, Central Business District; if approved it would allow for flexibility with setbacks, density and parking issues.

The Comprehensive Plan designates this area as Neighborhood Residential. This designation states that this type of land use highlights those neighborhoods 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 existing character of the neighborhood. These are older neighborhoods, which can be characterized by large housing units on small lots.

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

- Site: Illegal four-unit apartment building, zoned M-1
- North: Non-conforming single-family dwelling, zoned M-1
- East: George's Food feed mill operation, zoned M-1

South: Upholstery manufacturing operation, zoned M-1

West: Single-family dwellings, zoned R-2

**Key Issues:**

The applicant is requesting to rezone two parcels totaling +/- 6,500 square feet, from M-1, General Industrial District to B-1C, Central Business District Conditional. The property is located along the western side of North Liberty Street, between West Gay Street and the George's Food poultry processing facilities. The building that is currently situated on the property is the original structure and is identified on the City's 1912 Sanborn Maps as two units. City records indicate the structure was constructed around 1910 in an area that included other residences. When the City adopted zoning in 1939, this area was placed within the B-2, Business, Manufacturing, and Industrial District. City records indicate that throughout the years this area has continually been some form of industrial zoning classification, and although some dwellings have been removed to create industry uses or parking lots, several non-conforming residences remain today.

With the requested rezoning, the applicant has proffered the following (written verbatim):

In connection with the rezoning request for the properties located at 455 North Liberty Street and 457 North Liberty Street, such properties being identified on the tax maps of the City of Harrisonburg as tax map parcels 34-C-4 and 34-C-4A, the following are proffered:

1. The following permitted uses are hereby proffered:
  - (ii) Dwelling units, up to a maximum of four dwelling units. Occupancy of each dwelling unit can be a family or not more than two unrelated persons;
  - (iii) Business or professional offices; or
  - (iv) Religious, educational, charitable and benevolent institutional uses which do not provide housing facilities.

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

2. If the use of some or all of the properties is changed from dwelling units to another use, five off-street parking spaces shall be provided.

Currently, the property is in violation of the M-1 zoning regulations because it was converted to a four-unit apartment building without proper permits. Prior to becoming four units, it was a non-conforming duplex; but, because of the illegal conversion and the length of time since the conversion, it has lost its non-conforming status and cannot be converted back to the non-conforming duplex. Therefore, it must conform to the M-1 zoning uses and requirements. The subject property is small, the building on the site does not meet current setback regulations and parking is limited. Renovating and changing the use of the existing building from residential to industrial is limited because of the non-conformance of the structure and access to the rear of the property for parking purposes would have to be achieved by obtaining an easement from an adjacent property or attempting to access through an undeveloped alley way along the rear of the site. The property could be redeveloped with an M-1, industrial use, a new structure and parking lot; however, staff does not believe this is the best use of this site and is not in the best interest for the surrounding neighborhood.

As noted above, the property's current Land Use Guide designation is Neighborhood Residential, which we often aligns with the R-2, Residential District; but, rezoning this property to R-2 would not alleviate the non-conforming setbacks, or non-conforming density issues of this site. Currently, all properties fronting along both sides of Liberty Street, from the southern intersection with South Main Street to the West Johnson Street intersection are designated Mixed Use Development Areas, except for these six parcels on the western side between West Gay Street and the George's Food poultry processing facilities. During last month's Comprehensive Plan update discussion, Planning Commission reviewed this area and proposed within the Draft Comprehensive Plan's Land Use Guide to designate the area as Mixed Use.

The adopted Mixed Use Development Areas and draft Mixed Use designation are most often associated with the B-1, Central Business District. The B-1 district is most commonly known for the massing of large commercial or mixed use buildings along street frontages; but, B-1 also creates flexibility for setbacks and parking requirements, and it may contain spaces of all residential uses.

With this request, the applicant has addressed staff's concerns with density on the site by limiting the number of dwelling units and the occupancy of each dwelling unit to a family or not more than two unrelated individuals. Non-residential uses are limited and the proffer of providing parking spaces if the use changes from all residential to a non-residential use addresses staff's concerns with parking in this area of the City. As well, if approved, the site could continue to be used as a four-unit apartment building that provides housing in the City, a concern that staff continues to hear from community members.

Lastly, no matter what the outcome of this request is, the owner will need to resolve all property maintenance violations, apply for a change of use permit with the Building Inspections Division to the use that will ultimately occupy the structure, and obtain a Certificate of Occupancy.

Staff recommends approval of the rezoning request from M-1 to B-1C.

**Environmental Impact:**

N/A

**Fiscal Impact:**

N/A

**Prior Actions:**

N/A

**Alternatives:**

- (a) Recommend approval of the rezoning request as submitted by the applicant; or
- (b) Recommend denial of 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 for the rezoning. The advertisement was published as shown below:

*Rezoning – 455 and 457 North Liberty Street (M-1 to B-1C)*

Public hearing to consider a request from Robert Nickell Jackson & Other Trustees to rezone two 3,250 +/- sq. ft. parcels totaling 6,500 +/- sq. ft. from M-1, General Industrial District to B-1C, General Business

District Conditional. The Zoning Ordinance states that the M-1, General Industrial District is intended primarily for manufacturing, processing, storage, and distribution activities, which are not properly associated with, nor compatible with, residential and institutional development. No minimum lot size restrictions exist in the M-1, General Industrial District. 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 area as Neighborhood Residential. This designation states that this type of land use highlights those neighborhoods 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 existing character of the neighborhood. These are older neighborhoods, which can be characterized by large housing units on small lots. The two parcels are located at 455 and 457 North Liberty Street and are identified as tax map parcels 34-C-4 and 34-C-4A, respectively.

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 recommend approval of the rezoning request as submitted by the applicant.

**Attachments:**

1. Site maps (2 pages)
2. Application, applicant letter, and supporting documents (10 pages)

**Review:**

Planning Commission recommended (7-0) alternative (a) to recommend approval of the rezoning request as submitted by the applicant.