




STAFF REPORT COVER SHEET

August 31, 2020

Addresses:	117 Courthouse Road SW (Parcel # 0384 02 0032)	Case Number:	PF-32-20-CZ
Public Meeting Date:	8/31/2020	Applicant:	Dennis Rice of JDA Custom Homes, Developer/Contract Purchaser
Board/Commission:	Town Council	Owners:	Florence A Rosenborough Tr
Existing Zoning:	C-2 / C-1A	Existing Land Use:	Low Density Residential
Brief Summary of Request:	Request for a change in the zoning map from the C-2/C-1A zoning districts to the RS-10 single-family detached residential zoning district.		
Site Improvements:	Applicant proposes to incorporate subject lot into 3-lot single-family detached residential subdivision		
Size of Property:	12,932 square feet/0.3 acres		
Public Notice Requirements:	<p>Advertisement for two successive weeks of public hearing in a newspaper having paid general circulation in the Town</p> <p>Posting of the property at least ten days prior to the public hearing</p> <p>Written notice by registered or certified mail of hearing to property owners of subject site and property owners/agents/occupants abutting and immediately across from subject site at least 5 days prior to public hearing</p> <p>Written notice provided to chief administrative officer of adjoining locality within one-half mile of subject site at least 10 days prior to public hearing</p>		
Brief Analysis			
PROPERTY HISTORY <p>The subject lot is mostly covered by trees and a portion of the driveway of the neighboring residential property. The lot has been owned by the same owner of the residential lot at 121 Courthouse Road SW.</p>			
COMPATIBILITY WITH THE COMPREHENSIVE PLAN <p>The Comprehensive Plan shows the subject lot as Mixed-Use. The adjacent lots are shown as Mixed Use and Low Density Residential. The subject lot has been used for residential purposes for at least 50 years.</p>			
COMPATIBILITY WITH THE ZONING ORDINANCE <p>The property is allowed to be rezoned by Town Council per Article 24 of the Town Code, after receiving a recommendation from the Planning Commission.</p>			
Attachments:	Rezoning Plan Set <input checked="" type="checkbox"/> Rezoning Affidavit <input checked="" type="checkbox"/>		
Author: Michael D'Orazio, AICP, Deputy Director of Planning and Zoning			

Consideration of a requested change to the zoning map for one parcel, located at 117 Courthouse Road SW (Parcel # 0384 02 0032), in the C-2 General Commercial and C-1A Special Commercial zoning districts. Requested zoning is RS-10 Single-Family Detached Residential.

Introductory Comments & Background:

The subject property, 117 Courthouse Road SW, is currently vacant and is covered with a number of trees. A portion of the driveway for abutting residential lot is also located on the property. Residentially zoned properties (zoned RS-10 Single-Family Detached Residential) abut the property in the southeast and commercially zoned properties (zoned C-1A Special Commercial and C-2 General Commercial) are located to the northwest.

Background

The history of the subject parcel goes back to the operation of the Arlington and Fairfax Railroad, a line that connected Fairfax County, including Vienna, with Arlington and, by connection, Washington, D.C. The 40-foot wide parcel was originally part of the railroad right-of-way. Trolleys operated in the right-of-way in the early 20th Century. In the 1920s and 1930s the line was bought and sold several times and service eventually ended in 1939¹.



Figure 1 - Trolley with Vienna listed as its designation, source - Friends of the W&OD Trail

¹ <https://ggwash.org/view/62658/dual-mode-streetcar-buses-operated-in-arlington-and-fairfax-counties-in-the>

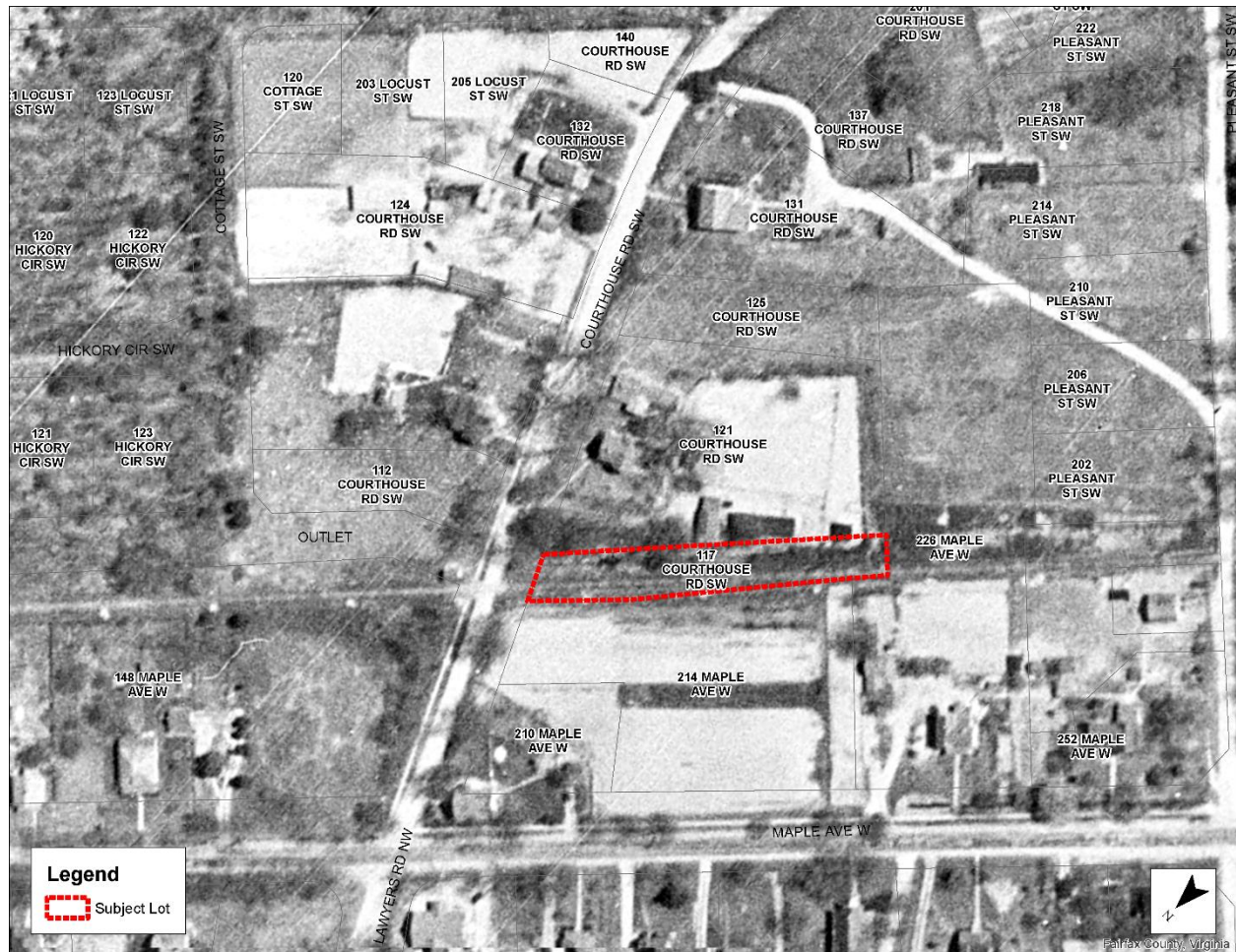


Figure 2 - Aerial photograph from 1937. The railroad is still visible from this date.

When zoning districts were established in Vienna, the old railroad right-of-way was not uniformly zoned one zoning district. Today, the remnants of the 40-foot right-of-way remain zoned both residential and commercial. When the subject property was originally zoned in 1955 (see Figure 3), it appears the majority of it was zoned RS-10 residential. However, based on staff's analysis of historical zoning maps, sometime between 1959 and 1961, the parcel was rezoned to C-1A and C-2.

The property had been owned by the same owner of the residential property at 121 Courthouse Road SW since at least 1969, according to Fairfax County records, and has been used for residential purposes since that time. The 121 Courthouse Road SW parcel includes two dwellings, which according to Fairfax County real estate data, were built in 1925. One of the dwellings utilizes the 117 Courthouse Road SW mailing address and the other uses 121 Courthouse Road SW.



Figure 3 - 1955 zoning map showing the railroad right-of-way, which was zoned commercial and residential in different sections of Town

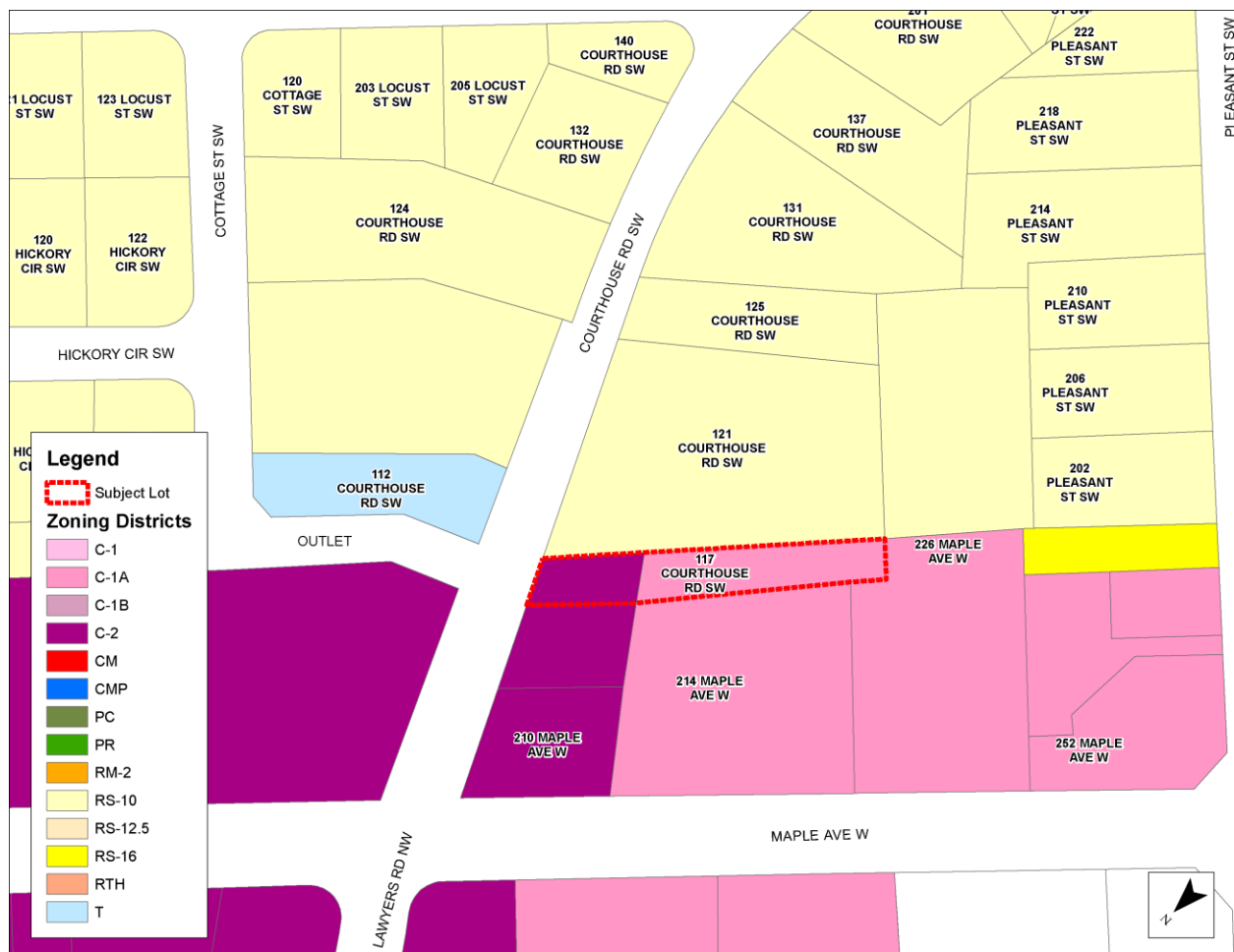


Figure 4 – Current zoning map with location of subject properties outlined in red

Current Proposal:

The developer is requesting a zoning map change for the parcel from C-2 General Commercial and C-1A Special Commercial to RS-10 Single-Family Detached Residential. The developer, if the change in zoning districts is approved, will then apply for a 3-lot subdivision, consolidating the 117 Courthouse Road SW lot and the 121 Courthouse Road SW lot and then re-subdividing. The applicant has provided preliminary drawings of the 3-lot subdivision with the rezoning application.

Required approvals:

The Planning Commission is required to hold a public hearing and make a recommendation to the Town Council on the requested change to the zoning map. The Town Council is required to approve or deny the request for the rezoning. Staff notes that, per Section 18-245 of the Town Code, if an application is denied, no application for any change to the same or a less restricted classification of zoning of the same lot shall be considered within 12 months of the final action by Town Council on this application.

The Planning Commission held a public hearing on this item at a June 24, 2020 public hearing. After hearing from staff and the applicant, and with no members of the public speaking on the matter, the Planning Commission voted to close the public hearing. The Planning Commission discussed the matter and voted 4-4 on a motion to recommend approval of the rezoning request. With a tie vote, the motion failed. A memo from the Planning Commission chair is included with this item.

Relevant Regulations:

Town Code

[Sec. 18-246. - Planning commission notice and hearing.](#)

A. The planning commission shall hold a public hearing on the proposed amendment, supplement, change, or rezoning referred to it by the Town Council for its recommendation. Notice of public hearings before the commission shall be given by publishing the time, place and notice of the hearing once a week for two successive weeks in a newspaper having a paid general circulation in the Town. The public hearing shall be held not less than five nor more than 21 days after final publication.

B. In addition, in cases where property is proposed for rezoning, the commission shall cause the property concerned to be posted at least ten days prior to the date of the hearing before said commission. When the proposed rezoning involves 25 or fewer parcels of land, written notice by registered or certified mail shall be given by the planning commission at least five days before the hearing to the owner or owners, their agent or the occupant of each parcel involved, and to the owners, their agent or occupant of all abutting property and property immediately across the street or road from the property affected, whether such property is in the Town or county.

C. After the public hearing, the planning commission shall submit its recommendations to the Town Council.

[Sec. 18-247. - Town Council to give notice and hold hearing.](#)

Before considering any proposed amendment, supplement, change, or rezoning, the Town Council shall hold a public hearing thereon, notice of said hearing to be accomplished as prescribed in section 18-246. The planning commission and council may hold a joint public hearing after the public notice as set forth in section 18-246. If such joint hearing is held, then public notice as set forth above need be given only by the council. In the case of a proposed amendment to the zoning map, such public notice shall state the general usage and density range of the proposed amendment and the general usage and density range, if any, set forth in the applicable part of the comprehensive plan.

[Sec. 18-249. - Basis for determination.](#)

In determining what, if any, amendments to this chapter are to be adopted, the Town Council shall give due consideration to the proper relationship of such amendments to the entire comprehensive plan for the Town, with the intent to retain the integrity and validity of the zoning districts herein described, and to avoid spot zoning changes in the zoning map.

Staff Analysis:

The subject parcel has been used for residential purposes, primarily serving as side yard area for an abutting residential property with two dwellings, for at least 50 years (at least since 1969). Essentially, it has acted as an extension of the abutting 121 Courthouse Road SW property, despite being zoned for commercial uses.

[Section 18-249](#) of the Town Code describes how Town Council shall give consideration to zoning map changes. It states that Town Council should give consideration to the entire comprehensive plan and that spot zoning should be avoided. As it relates to the [Comprehensive Plan](#), the Future Land Use Plan (page 38 of the Comprehensive Plan), designates the subject parcel as "Mixed Use." The Comprehensive Plan also states that established residential neighborhoods should be preserved and the overall balance of residential, commercial and industrial areas should be maintained (page 39). In regards to spot zoning, the proposed change to the zoning map (to RS-10) would not constitute spot zoning since it abuts the RS-10 zoning district.

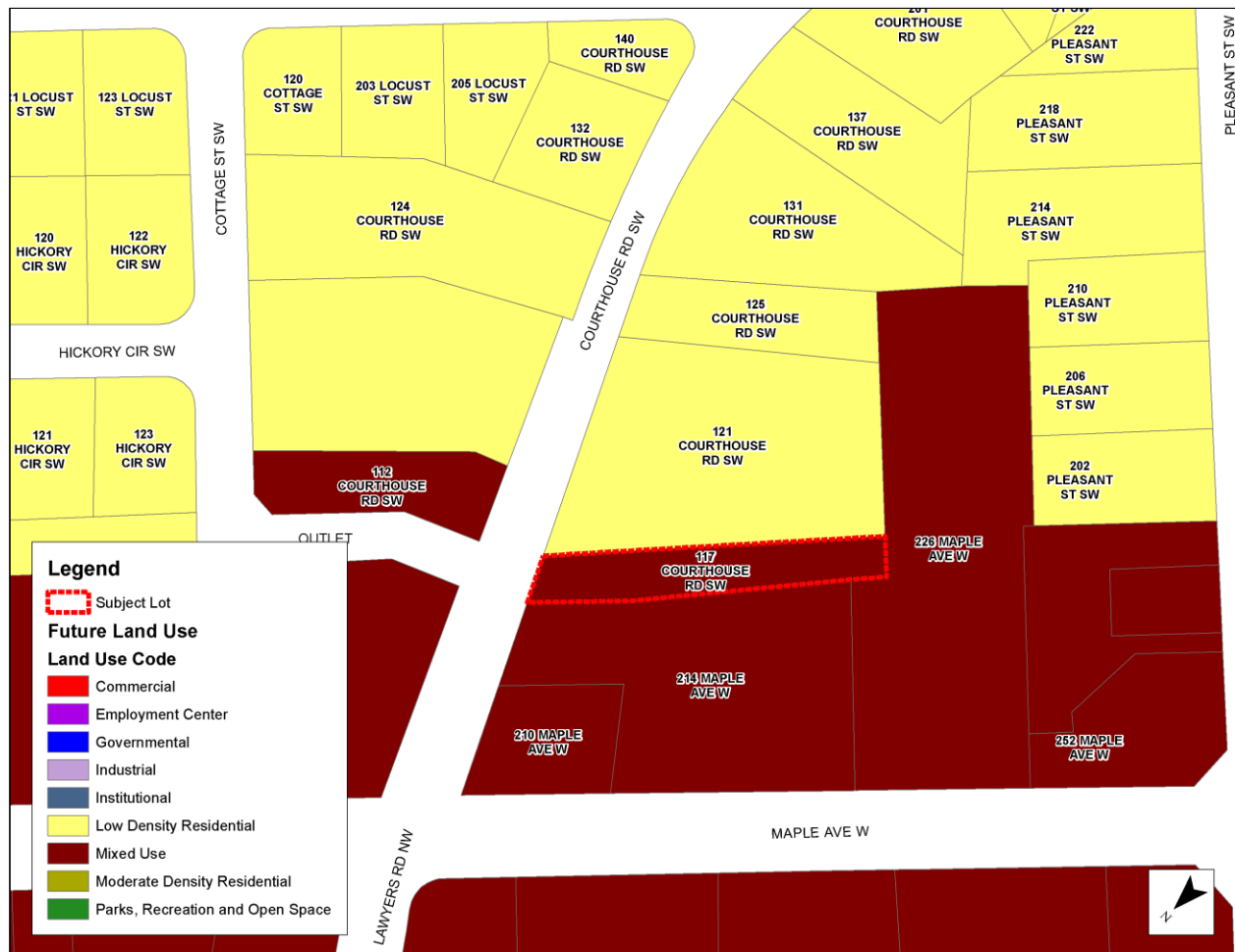


Figure 5 - Future land use plan (page 38 of the Town Comprehensive Plan)