



City of Harrisonburg

City Hall
409 South Main Street
Harrisonburg, VA 22801

Master

File Number: ID 19-355

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Type: PH-Rezoning

Status: Tabled

Version: 1

**Agenda
Section:**

In Control: City Council

Department:

File Created: 11/27/2019

Subject:

Final Action:

Title: Consider a request from Rockingham Properties, LLC with representative Matchbox Realty to rezone 231, 251, and 261 South Liberty Street

Internal Notes:

Agenda Number: 6.h.

Sponsors:

Enactment Date:

Attachments: Memorandum, CC Site map, CC Application, applicant letter, and supporting documents, Planning Commission Extract, Letter from Department of Public Works to Matchbox Realty, November 7, 2019, Public Hearing notice, Surrounding property owners notice, PowerPoint presentation, PC Memorandum, PC Site map, PC Application, applicant letter, and supporting documents, PC Letter from Department of Public Works to Matchbox Realty, November 7, 2019

Enactment Number:

Contact:

Hearing Date:

Drafter: thanh.dang@harrisonburgva.gov

Effective Date:

Related Files:

History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
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1	Planning Commission	12/11/2019	recommended for approval	City Council	01/14/2020		Pass
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Action Text: A motion was made by Colman, seconded by Finnegan, that this PH-Rezoning be recommended for approval to the City Council, due back on 1/14/2020. The motion carried with a recorded roll call vote taken as follows:

Notes: Chair Way read the request and asked staff to review.

Ms. Dang said that 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: Offices and newspaper production facility for the Daily News-Record, zoned M-1
- North: Multi-family dwellings, restaurants, and retail uses, zoned B-1
- East: Across North Liberty Street, Municipal parking lot and City Hall, zoned B-1 and R-3
- South: Multi-family dwellings, zoned R-3
- West: C&W Railroad and industrial uses, zoned M-1

The applicant is requesting to rezone a +/- 2.2-acre parcel zoned M-1, General Industrial District to B-1, Central Business District and for a special use permit (SUP) per Section 10-3-85(1) of the Zoning Ordinance to allow manufacturing, processing, and assembly operations when employing not more than 15 persons on the premises in a single shift and provided that all storage and activities are conducted within a building within the B-1 district. The property is located downtown along South Liberty Street and currently houses the offices and the newspaper production facility for the Daily News-Record.

If the requests are approved, Matchbox Realty plans to continue leasing space to the Daily News-Record and to lease spaces within the existing building to others. Matchbox describes that they are pursuing a rezoning to B-1 to conform with the City’s Comprehensive Plan, which was updated in 2018, and to

“provide more opportunities for expanded commercial uses at a property located in the heart of Harrisonburg’s Central Business District.”

A traffic impact analysis (TIA) was not required for the rezoning and special use permit request. In a letter dated December 7, 2019, the Department of Public Works provides explanation for their decision. (The letter is attached herein.) In summary, Public Works describes that the peak hour volume is below capacity for this segment of South Liberty Street and merging and diverging traffic on this low-speed street is not a concern. Additionally, since the applicant had disclosed that it may be six to ten years before redevelopment of the property would occur, a TIA study would be outdated and null by the time redevelopment occurs.

A downtown parking study by the City is currently underway. Public/public parking is described by the study consultants as “a facility owned by a public agency and accessible to all members of the general public” and nearby examples include the Municipal Lot (surrounding the Farmers Market Pavilion) and the Water Street Parking Deck. The parking lot in front of City Hall is identified as public/private which is described as “a facility owned by a public agency, but is accessible only to a select group of users.” The City Hall parking lot is intended for visitors to City Hall and is restricted as 2-hour parking between 7am-7pm, Monday-Saturday. There is no restriction outside of these hours.

The closest public/public parking lot to the subject property is the Municipal Lot. Data collected from a parking occupancy count conducted on a Tuesday in April 2019 determined that during the midday count period, the Municipal Lot has an 80% utilization rate (145 parking spaces occupied out of 181 parking spaces available). Utilization rates reflect the ability of a motorist to find convenient and available parking within a particular area. Rates between 75-85% signify a nearing of practical capacity; the opportunity to find parking is reasonable and turnover rates remain healthy. Exceeding the 85% threshold, means that the demand cannot be satisfied and as the consultants describe, “[i]f there are blocks where the entire effective parking supply is being utilized, this may mean that the demand cannot be satisfied [and] is pushed to other blocks nearby or that potential visitors and patrons of downtown businesses could be going elsewhere due to lack of parking.”

Given that the parking demand in the Municipal Lot is nearing optimal utilization during midday and public concerns continue to be received about parking in downtown and in this area, staff has emphasized these concerns to the applicant. Since there are no minimum off-street parking requirements in the B-1 district, if the City approves any B-1 rezoning request, the City is also accepting the responsibility of the parking demand that such properties place on the downtown area. While there are currently around 82 marked parking spaces on this property, the building could be enlarged, or the property

redeveloped, eliminating parking spaces already on the property, and then operate uses that are more parking intensive. The applicant understood staff's concern, however, in an email dated December 3, 2019, the applicant states:

“At this time, the applicant does not feel comfortable proffering any number of off-street parking spaces on the subject site due to uncertainty regarding the design of a potential new development as well as the uses contained therein. While we certainly want to accommodate clients and customers on-site, we feel more comfortable pursuing the City's B-1 designation, and all the rights contained therein, in accordance with the 2018 Comprehensive Plan.”

While rezoning to B-1 is generally thought to be consistent with the Mixed Use designation of the Land Use Guide, the Land Use Guide also describes that “development [in Mixed Use areas] should take into consideration the services and resources that are available (such as off-street parking) and plan accordingly.” For example, the applicant for a rezoning request being considered concurrently at 129 West Water Street has proffered a minimum of ten parking spaces to be located on the property. Others who have rezoned to B-1C have proffered one parking space either for each residential unit or for each bedroom, plus an additional number of parking spaces for non-residential uses on their properties.

As described by the applicant in meetings with staff, their short term-plans for the property include maintaining newspaper production operations and office space for the Daily-News Record and to also consider leasing remaining office spaces to others. Such opportunity to add business and professional offices is allowed in the M-1 zoning district with an approved SUP per Section 10-3-97(3). If the applicant were to choose this route and obtain the SUP, they could operate in the short-term while also addressing staff concerns for off-street parking demands because the Zoning Ordinance's minimum off-street parking regulations would apply to the M-1 zoned property.

Although staff believes the Land Use Guide's support for mixed use (both residential and non-residential uses) is the goal that the City should be working toward for the subject property, at this time, staff believes that rezoning the site to B-1 without known plans for accommodating the necessary parking demand for the many other B-1 uses that could operate on this site, including potential residential units, is not in the best interest for this section of the downtown. At this time, staff recommends denial of the rezoning request.

As described above, along with the rezoning request, the applicant is applying for a SUP per Section 10-3-85(1) to allow manufacturing, processing, and assembly operations when employing not more than 15 persons on the premises in a single shift and provided that all storage and activities are conducted within a building within the B-1 district. The purpose of the SUP is to allow the Daily News-Record to continue to operate at this location if the

property is rezoned to B-1. The newspaper printing and production operations of the Daily News-Record is considered a manufacturing, processing, and assembly use and is not allowed by right in the B-1 district. The applicant has described that the manufacturing operation includes printing via printing press, assembly of the physical paper, and coordination of the paper for distribution purposes. Operations typically take place between 8am-8pm. Truck traffic at the property is limited to the delivery of printing materials, which usually occurs between 5pm-8pm two to three times per month, and the collection of the finished paper for distribution, which generally occurs in the overnight/early morning hours and involves about 50 trucks in total each week. Although the Daily News-Record typically has no more than five employees working in the manufacturing process on any given shift, if the SUP is approved, staff would be comfortable allowing the applicant the flexibility to have the maximum number permitted by the special use.

While staff has recommended denial of the rezoning request, if the rezoning request is approved, staff believes that the proposed newspaper production operations are known to this area as it has been operating for many years and at this location is consistent with good zoning practice and will have no more adverse effect on the health, safety, or comfort of persons living and working in the area and will be no more injurious, economically or otherwise, to property or improvements in the surrounding area, and would therefore recommend approval of the SUP with the following conditions:

1. The special use permit shall only be applicable for a newspaper production facility or a substantially similar operation.
2. If in the opinion of Planning Commission or City Council, the use becomes a nuisance, the special use permit can be recalled for further review, which could lead to the need for additional conditions, restrictions, or the revocation of the permit.

Chair Way asked if there were any questions for staff.

Commissioner Finks asked if the 181 parking spaces of the lot across the street include the space around the Farmer's Market Pavilion.

Ms. Dang said that is correct.

Commissioner Finks said that spots on both sides of the pavilion are reserved and are not for public parking. Those are for City staff.

Mr. Russ said that the ones that are reserved are not included in that number. They split up that area into a couple of different parking lots. Some of them are publicly owned, but private, restricted, parking. It is just the parking spots that are open to the public throughout the day, Monday through Friday.

Commissioner Finks said that the 181 spots does not include the spots around

the pavilion.

Ms. Dang said that those on the north side of the pavilion are included, but the ones on the south side are restricted.

Commissioner Colman asked if the parking study includes the parking around the Daily News-Record.

Ms. Dang said that it does not consider it as a municipal lot. The study did count all of the parking lots in downtown, privately and publicly owned. In the staff report, where the municipal lot was described, it did not include the Daily News-Record lot. They are two separate lots.

Commissioner Colman asked if the municipal lot still has capacity, based on the study.

Commissioner Finks said that, as a person who parks in the lot on a daily basis, between the hours of 9:00 a.m. and 2:00 p.m. it is at 100% capacity.

Commissioner Colman said that the report stated 80%.

Ms. Dang said that was during a two-hour period of time, a snapshot in time.

Commissioner Finks said that he has had to park on the top deck of the parking deck, more and more over the past year and half.

Commissioner Whitten said that we will lose more spaces with the park, correct?

Ms. Dang said that she does not know.

Mr. Fletcher said that they cannot answer that question.

Mr. Russ said that existing parking spots would be removed, the gravel parking lot where staff is currently parking will be removed. What would be done to mitigate that with the park?

Chair Way said that anything like that has to be thought of in the broader context of other parking fixtures. It is difficult to project.

Commissioner Finks said that different iterations of the park, there is other parking, such as the parking spaces behind the Smith House that the Quilt Museum currently has. Those would disappear, as well.

Chair Way said that there is also more discussion about more on-street parking.

Commissioner Whitten said that we are not getting more parking spaces from any of this. The parking is an issue, obviously.

Commissioner Finnegan asked if staff recommends denial of the rezoning and the SUP.

Ms. Dang said that staff is effectively recommending denial of both of them. We are recommending denial of the rezoning. The SUP would be denied if the rezoning is denied; however, we are offering that, if the rezoning is approved, we want to protect the City and make those considerations for what conditions might be considered for that. We would recommend approval, with those conditions.

Chair Way opened the public hearing and invited the applicant or applicant's representative to speak to the request.

Michael Jaffe and Barry Kelly, Matchbox Realty, came forward to speak to the request.

Mr. Jaffe said that he worked with staff to develop a rezoning package that they thought would work well with the City, using the Comprehensive Plan as a guide to understand what we wanted to do and what the City wanted to do with that land going forward. Where we may have run into the weeds a bit was in understanding the City's needs on parking. Hearing you communicating here, today, it seems that there is recognition of a need without a solution. I think that, going forward, it would be helpful to understand exactly what it is that the City is looking for with properties like this. Is it possible to have a back and forth? I am curious regarding your opinions, as the Planning Commission. When we submitted this, we were trying to follow the guidelines that you set and the zoning that is currently in place. How would you recommend that we move forward to move this vision forward?

Mr. Fletcher asked the applicant to be more specific.

Mr. Jaffe said specifically mixed-use for this property and this land use. How can we do that? How do we know how much parking to accommodate?

Mr. Fletcher asked if the question was for staff or the Planning Commission.

Mr. Jaffe said for staff.

Mr. Fletcher said that his understanding, based on their conversations with the applicant, was that it was still up in the air. You do not know what you are doing with the mixed-use, yet. You have the idea of the professional office, and there is a way that you can do those things. You told us that you are not sure what you

are going to do.

Mr. Jaffe said that means that coming forward with a full overall plan for the property, understanding what we are going to do from a development perspective, would be helpful for staff.

Mr. Fletcher said that it would be helpful for anyone making the decisions that have impacts on this section.

Commissioner Whitten said that there is no way to know how much parking the applicant will need if the applicant does not know how much parking they will need. Everybody is going to be upset if there is not enough parking. Mr. Kelly was here a year ago saying that he did not have enough parking. I remember this conversation. It was surrounding this circle, the parking spaces on the circle. A lot of your tenants at Ice House were saying that they do not have enough parking. If you want our businesses to be successful, we need parking. We are saying that we need you to have some parking.

Mr. Kelly said that was convenient parking. We have a whole parking lot with plenty of spaces for our tenants, but we do not have parking right where the store customers come up. That was the issue.

Commissioner Whitten said that he is saying steps away. We were even talking about the municipal lot not having available parking.

Commissioner Colman said that he was curious about the study because he wanted to know what the usage of the parking is right now for the Daily News-Record and whoever is using that private parking right now. A proposal would be that you are willing to proffer a certain number of parking spaces. You are downtown. You might want to utilize the property in a more efficient way. Even if you do not know what will be there, you will reserve a particular number of parking spaces. Whatever you come back with in terms of development, it might need it, or it might not. Proffering or planning for that could be a good gesture, knowing that you are going to need parking somewhere. Given the area, you might not want to offer everything as parking, but some of it. The tenants are going to need parking.

Mr. Jaffe said that the market will dictate that they need parking on-site. I do not think there will be any question that we will build lot line to lot line and provide zero parking spaces. Looking at the previous application that was recommended for approval, is that a guideline that we should follow for B-1 going forward where you have a certain number of spaces available on-site? Are you okay with a reduced number for B-1 zoning?

Commissioner Colman said that he thinks so. We do want to see this rezoned to B-1, developed and utilized. Ideally, we want to reserve as many parking

spaces as possible, but you are the one investing in it. You want to make sure that it is a viable investment.

Commissioner Finks said that it should be, as stated in the Comprehensive Plan, mindful of the resources. I would hate to say that we want a certain number of off-street parking in B-1 because there are certain areas that could be redeveloped that would not necessarily need that off-street parking. I would not say that is the metric going forward; that we need a certain number of off-street parking. I think it should be looked at depending on what property is being redeveloped, where it is in town and what sort of resources we have for parking surrounding that property instead of just saying that we need to see off-street parking in the B-1 redevelopment.

Commissioner Colman said that offering a number would be helpful.

Mr. Kelly said that we developed the Keezle Building with no parking spaces. We did the Liberty building with no parking spaces. There are many that we have done over the years. What we have found is that because of the unit size that we are building, the vast majority of tenants do not have vehicles anyway. When we look at affordability, density and more people in a smaller space, it does not always involve cars. Ms. Dang mentioned one parking space per unit. We hate to get into that, it closes our gap. If we are going to build microunits, at 300 square feet per unit, you can get a lot of units in a space. That is great, affordable. People can get here, and they are going to take bikes and scooters. Why build all that parking, take all that money and resources for space that you might not need. My point is that it is difficult for us to say that we provide one space per unit. Is that the right answer? We will be stuck with that, instead of thinking outside of the box in terms of how we are going to develop this property. We see that there are a lot of different needs in our own community, and always parking. That costs money. Money means that it is less affordable.

Commissioner Finks said that the difference he sees in this particular property compared to the Keezle Building is that with the Keezle Building, the use was not changing much, where in this specific issue, we are talking about taking parking that is already being used, and being used to a considerable amount. It is disappearing, and the use is not changing in the existing structure there. In the redevelopment of the Keezle Building there was not going to be a big change in the use. Here, we are potentially taking away a parking lot that is being used, not adding parking, and potentially not changing the use of the Daily News-Record building. That is where my concern would be in this specific case. I would be very excited to see that parking lot redeveloped into livable space or some other property. I would also be concerned about losing potential parking in an area that seems overtaxed for parking. I could see areas in the northern section of downtown where parking is not as much of a premium or as much of an issue.

Mr. Kelly said that it is a chicken and egg type of scenario because we want density. We get tax revenues off that density, but then we limit it because of the parking need. We say that we cannot afford, as a public entity, to build parking. We are fighting ourselves in this whole process. I understand both sides of the story. It is a reality that we are facing. That is why we are hesitant to throw out a number because it narrows our focus. Our focus is to be broader when we go into the redevelopment, especially core walkability places like that area. It has become the City center. We are saying, in the City center, we want to take an amount of space and use it for big clumps of metal. That is not revenue producing. It is not helping us in the longer-term goals that we have talked about in our planning stages over the last five years. Everything has led to this point about this whole mixed-use thing. Now we are saying, well, there is this parking thing. Obviously, for us, we are market driven. We have B-1 zoning in the Ice House and to get JMU there, we have to have parking. We found with our residential, and we just built 38 more residential units, that over half or more people do not have vehicles in that place. What if we had to put all that parking in? Would that residential even exist today? No, it would not have happened. It is the same thing here. It is sort of a trust issue. Is this guy going to be stupid and do something stupid and put us in a bad way? I understand that, but to limit that scope puts a burden on the development.

Commissioner Finks said that is one of the concerns. When we do these rezonings, they convey. While I hear what you are saying and agree with a lot of what you are saying, this rezoning is going to convey. If something should happen where you are unable to realize your vision with this property, whatever we decide with this rezoning is going to be turned over to the next person. They may not have the same ideas that you do.

Commissioner Finnegan said that he sometimes refers to the Planning Commission as the Parking Commission. We spend at least forty percent of the time talking about parking. I do think that there is a leap of faith that Harrisonburg has to make at some point, downtown, on exactly what you are talking about. You have this many units, this many people who live in those units do not have cars. I do not know how we make that leap with free parking downtown. That is part of the equation that we are not talking about here. You used the term "overtaxed." It is overtaxed because it is not taxed at all by the people that use it. It is part of a broader conversation.

Commissioner Whitten said that these same demographics, these same people that like the apartments, seem to use those nice big parking decks that they keep building at JMU. There seem to be cars from somewhere. Somebody has cars.

Commissioner Finnegan said it is a case of the chicken or the egg.

Chair Way asked if there was anyone else wishing to speak to the request.

Hearing none, he closed the public hearing and opened the matter for discussion.

Commissioner Ford-Byrd asked about condition number two. In the past, it has come up about what the process is for looking into something that has been approved. The response to that has been a bit murky. Have we moved anywhere in the process of identifying what exactly that looks like.

Ms. Dang said that they have not. We have not recalled an application using this SUP condition. I would imagine that they would let staff know. One way or another, somebody would call the Community Development office, and we would present the concern to the Planning Commission or City Council to review.

Commissioner Whitten said that then it would end up in court.

Mr. Fletcher said that it would not necessarily end up in court.

Mr. Russ said that if a large business like the Daily News-Record had their SUP revoked by City Council, it is very unlikely that they would not sue.

Commissioner Ford-Byrd said that she is looking for clarity on the process.

Mr. Fletcher said that he thought the process question was, how would this be brought to you for discussion about whether or not it is a nuisance, and should there be more conditions? Was that your question?

Commissioner Ford-Byrd said yes.

Mr. Fletcher said that we have not had to act on complaints about SUPs that were considered nuisances to bring to Planning Commission or City Council. I am not aware of anyone calling the Planning Commission or City Council to make complaints about SUPs as to whether or not they are a nuisance. If it has happened, we have not known about it.

Commissioner Ford-Byrd asked if that would take one phone call, five or ten phone calls?

Mr. Fletcher said that he does not know. If you see the way that the condition is worded, it is a question for this body or City Council.

Mr. Russ asked if someone were to call about something going on. Here it is relatively obvious because it would be recent, but is someone looking to see if there is a SUP related to the problem. We have SUPs allowing four unrelated rather than two unrelated people on a property and we have had complaints about those properties in the past. I am not aware of us ever referring those

complaints to City Council to have that SUP revoked. Is anyone looking to check for SUPs?

Ms. Dang said that she does not believe that they have had a complaint on a SUP.

Mr. Russ said that he can think of one in the last year. A property on Market Street had this condition. There was an issue with a St. Patrick's Day party. The City Manager's office was flooded with phone calls. One side of the building, a duplex, did have a SUP for four rather than two unrelated occupants.

Commissioner Colman said that it was not presented to the Planning Commission.

Mr. Fletcher asked if it had that condition.

Mr. Russ said that it was worded slightly different, but it did. It was to be reviewed once a year.

Commissioner Colman asked who makes the decision to bring that to the Planning Commission or City Council.

Mr. Fletcher said that they could inform Community Development, letting us know that you have received one call, two calls, three calls and, if in your opinion you would like to recall it for further discussion, you may do so.

Chair Way said that it could be done as an agenda item for the next month's meeting.

Chair Way reminded the Planning Commission that they were considering a rezoning. This topic is a process to think about, but the rezoning is on the table. I am going to be voting in favor of the rezoning. We are talking about a lot of unknowns here. There is unknown parking in the future. What I am concerned about is that there would be two tiers of B-1. There would be the historic B-1 and then whenever a new rezoning to B-1 request there is an expectation of parking and other things that is not there for some of the historic and traditional uses of B-1. I do take Commissioner Finks' perspective of the geographical specificity of each case seriously. In this case, I am not convinced that there is going to be an immediate problem here. I am quite convinced about the perspective of breaking the obsession about parking. This is an opportunity to move in that direction. I think that the argument made about the increased compactness and density, you get the higher tax revenue from that piece of land, which can then feed in to the provision of parking with improved decks. There is a logic which seems convincing to me. I understand that there are concerns about this site and the impact there. This is a very walkable location and we should double down on the walkability here. I use this area a lot. I live very close to it. There is a

lot of concern, however I think this is a reasonably sensible use of this piece of land, as rezoned.

Commissioner Whitten said that it is not unreasonable to ask how it will be used. There are many unknowns on that site. We would have better answers regarding the expectations for parking if we knew more about what the developer was doing. I think that makes it not unreasonable.

Chair Way said there is a reasonable case to be made on both sides. It would be nice to have a good idea of what is going to go in there when it is rezoned, but, as I understand it, legally, they can rezone because they want to rezone, not because they have a plan of development.

Commissioner Whitten said that the Planning Commission can say no.

Commissioner Colman said that it makes sense to align with the Comprehensive Plan. That is what we want. We want properties to be rezoned to align with the Comprehensive Plan. My expectation is that this will be market driven. If the people are asking for parking, they will have to provide parking. That will drive how they develop the property. The other thing I suggested is to proffer some parking, a reduced number, to be able to have some parking on the side. Perhaps some accessible parking and some additional parking. We want to make sure that the property is utilized.

Chair Way said that we have B-1 zoning as this distinct and unique zoning category. I made my point about the potential two tiers and us being more punitive and restrictive on the new ones than the historic ones. B-1 exists because we do expect the City to provide the parking. It is collectivized that way downtown. If we do not like that, then we should not have that zoning category, or we should encourage B-2 zoning there. It is a cost for the City, but it is a cost with a goal in mind about creating a different part of the City. I am sympathetic to the City's concerns about the cost of providing for parking, but it is a cost that is understood.

Commissioner Finnegan asked where can you park for free in Charlottesville? There are not that many places.

Chair Way said that he is not debating the cost of parking. I am saying that there is going to be some cost by the City to provide parking.

Commissioner Finnegan said that he believes that the City provides tens of thousands of free parking spaces when you count on-street parking in all the neighborhoods. We are entering a different discussion, but it does create a Jevons Paradox when we create free parking, businesses come in, you run out of parking...

Chair Way said that may be the tipping bar. As downtown gets more vital and there is more tax revenue generated by these things, then there also gets to be that strength in the business there. They are not so on the margin, so on the edge. They can, then, afford to support the cost of parking.

Commissioner Finnegan said that it is a conversation that Harrisonburg does not want to have, but that we need to have soon. You do not quit smoking by continuing to buy cigarettes.

Commissi

Yes: 6 Colman, Finnegan, Finks, Way, Ford-Byrd and Romero

No: 1 Whitten

1 City Council 01/14/2020 tabled Pass

Action Text: A motion was made by Vice Mayor Romero, seconded by Council Member Baugh, to approve the rezoning and special use permit request with the stated conditions. The motion carried with a recorded roll call vote taken as follows:

Vice Mayor Romero withdrew his motion.

A motion was made by Council Member Jones, seconded by Council Member Baugh, to table this request until further review of the Downtown Parking Study. The motion carried with a recorded roll call vote taken as follows:

Notes: Mayor Reed stated items 6h and 6i will be discussed together.

Adam Fletcher, director of Community Development, presented a request to rezone from M-1 to B-1 and a special use permit request to allow manufacturing processing and assembly operations located at 231, 251, and 261 South Liberty Street.

He stated the applicant's short-term plans to maintain the operations of the Daily News Record but then open up the ability to open the rest of the building to be utilized for businesses and other types of operations in the building. He stated as M-1 zoning they could not rent out the space to other business uses unless a special use permit was obtained, however, the applicant is requesting to be rezoned to B-1 as it provides the most flexibility in their future year plans beyond the six to seven-year mark. He stated a Traffic Impact Analysis was not required. He reviewed the surrounding property, zoning and stated the long-term plans for the area are for mixed use.

He reviewed the current parking classifications but noted a Downtown Parking Study is in process. He stated the Comprehensive Plan notes that 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. He stated if this property is rezoned to B-1 the applicant would not be required to provide off-street parking.

He reviewed the applicant's current requests and provided an additional option to do the same operation, which includes keeping the zoning as M-1 and provide a special use permit for business and professional offices and noted if it remained M-1 they would have a minimum off-street parking requirement.

He stated staff recommended denial of the rezoning request, however, Planning Commission (6-1) recommends approval. He stated with that in mind, Staff then recommended approval of the special use permit and Planning Commission (7-0) recommended approval as well, with the following conditions:

- The special use permit shall only be applicable for a newspaper production facility or a substantially similar operation.
- If in the opinion of Planning Commission or City Council, the use becomes a nuisance, the special use permit can be recalled for further review, which could lead to the need for additional conditions, restrictions, or the revocation of the permit.

At 8:21 pm Mayor Reed closed the regular session and called the eighth and ninth public hearing to order. A notice appeared in the Daily News-Record on Monday, Monday, December 30, 2019 and Monday, January 6, 2020

Michael Jaffee, representative for the applicant, stated their views are in line with Planning Commission and the Comprehensive Plan for downtown. He hopes council will consider the request.

At 8:22 pm Mayor Reed closed the public hearing and the regular session reconvened.

Council Member Jones asked Mr. Jaffee what his thoughts were if the zoning stayed as M-1. Mr. Jaffee stated he doesn't feel the M-1 fits into what the city is trying to achieve or consistent with what is wanted in that area. Council Member Jones asked if they would not be able to accomplish their goals if it was kept M-1. Mr. Jaffee stated they would not.

Council Member Jones asked Vice Mayor Romero how the meeting at Planning Commission went. Vice Mayor Romero stated the Planning Commission did recognize the concern of staff in regard to availability of parking, however, recognized that we are becoming a more walkable community. Council Member Baugh stated he likes walking but is inclined to go with staff's concerns. He stated rezoning would give the applicant a lot more flexibility than M-1 with special use permit, if we give them B-1 now, there is no taking it back and if we allow B-1 rezoning without additional parking requirements it will stay that way and parking will become a city issue. He stated we can grant the special use permit and let them develop their future plans further down the road.

Council Member Jones asked the applicant would keeping it M-1 stop them from doing what they want. Mr. Jaffee stated they are aware of the parking issues around the site, he doesn't think they could get away without providing off street parking on the lot, adequate for the needs of the building, but no proffers are being offered.

Council Member Jones asked how it would it hurt business. Mr. Jaffee stated in the immediate future (2-5 years), the surface lot could be developed and remaining M-1 would not allow for building.

Council Member Jones asked Mr. Fletcher regarding the option of remaining M-1. Mr. Fletcher stated if the applicants short term plans are as presented, they could operate as planned after obtaining a special use permit under the M-1 zoning. He stated the concern at this time staff is not certain it is the right time to rezone without some solution put forth about the demand for parking in this area. He stated the city wants it to be mixed use, wants it to be walkable, other businesses have put in proffers for parking. He stated if this is rezoned to B-1 the applicant can do as they wish.

Eric Campbell, city manager, reminded council that the Downtown Parking study is in its final stages of a very in-depth study of the downtown area and staff is at the beginning of drafting the scope of the Downtown Master Plan. He asked Council to keep those in mind when looking at this request.

Council Member Baugh stated if we approve this as recommended by the Planning Commission, whatever discussion goes on down the road, the applicant would not have to participate or meet any requirements.

Council Member Hirschmann asked how long before the Downtown Parking Study is completed and presented to Council. Mr. Campbell stated it is at the final stages where the preliminary recommendations are being reviewed by staff and Mr. Fletcher stated the anticipated date would be in February. Council Member Hirschmann stated it might be prudent to wait until after the review of the parking study is done.

Vice Mayor Romero asked if the option provided was talked about among Planning Commission members. Mr. Fletcher stated it was discussed at Planning Commission as a possibility.

Council Member Jones stated we need the business, he would like to do whatever they need but suggests the need to wait until council has time to review the parking study before a decision is made.

Council Member Baugh asked if we table the request does Council have to act on this within a certain time frame. City Attorney Brown stated Council will have

180 days to act and failure to act would be an automatic denial of the request.

Yes: 5 Mayor Reed, Vice-Mayor Romero, Council Member Baugh, Council
Member Jones and Council Member Hirschmann

No: 0
