



City of Harrisonburg, Virginia  
Department of Planning & Community Development

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Building Inspections  
Engineering  
Planning & Zoning

November 1, 2018

**TO THE MEMBERS OF CITY COUNCIL  
CITY OF HARRISONBURG, VIRGINIA**

**SUBJECT:** Public hearing to consider a request from Bismarck, LLC to rezone eight parcels totaling 1.4 +/- acres zoned M-1, General Industrial District to B-1C, Central Business District Conditional. The properties are located at 76 and 85 West Gay Street, and 76, 325, 335, 357, 365, 381, and 394 North Liberty Street and are identified as tax map parcels 34-D-10 and 11, 34-H-15, and 35-L-2, 3, 4, 5, and 6.

**EXTRACT FROM MINUTES OF HARRISONBURG PLANNING COMMISSION MEETING  
HELD ON: October 10, 2018**

Chair Way read the request and asked staff to review.

Ms. Dang said the Comprehensive Plan designates this area as a Mixed Use Development Area. This designation includes both existing and proposed new mixed use areas. These areas are intended to combine residential and non-residential uses in planned neighborhoods where the different uses are finely mixed instead of separated. These areas are prime candidates for “live-work” and traditional neighborhood developments. Live-work developments combine residential and office/service uses allowing people to both live and work in the same area, which could be combined in the same building or on the same street. Residential densities in downtown may be higher than an average of 15 units per acre, and 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.

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

- Site:** Recently warehousing and storage, automotive repair, tire dealer and repair, parking lot, and vacant lot zoned M-1
- North:** North of TM 34-D-11, feed mill, zoned M-1; North of TM 35-L-6, across West Gay Street, single-family detached home, zoned M-1
- East:** Across railroad tracks, across North Liberty Street, and across Noll Drive, mixed use buildings, zoned B-1, and automotive repair, zoned M-1
- South:** Across railroad tracks, across Noll Drive, house of worship, zoned B-1; multi-family dwellings, zoned M-1
- West:** Single-family detached homes and multi-family dwellings, zoned R-2 and M-1

The applicant, Bismarck LLC, is requesting to rezone eight parcels from M-1, General Industrial District, to B-1C, Central Business District Conditional. The parcels are centered around the intersection of West Gay Street and North Liberty Street on properties that Big L Tires formerly operated. As described in the applicant’s letter and illustrated in Exhibit A, the following is a summary of the structures that exist on each parcel and proposed uses:

- TM 35-L-2, 3, and portion of 35-L-4, located on the west side of North Liberty Street between the intersection of West Rock Street and West Gay Street, has a five-bay metal building that has approximately 2,8000 square feet of gross floor area (GFA). The applicant plans to renovate the building to become two retail uses or office spaces.
- TM 34-D-10, located at the northeast corner of North Liberty Street and West Gay Street, has a two-level brick building with basement that has approximately 14,000 square feet of GFA, plus a small single-level garage attached to the west side of the building that has approximately 1,600 square feet of GFA. The applicant plans to renovate the building to include 22 one- and two-bedroom apartments.
- TM 34-D-11, located on North Liberty Street to the west of TM 34-D-10, is a vacant, undeveloped parcel.
- TM 34-H-15, located at the southeast corner of North Liberty Street and West Gay Street, has an unusually shaped two-level brick building that has approximately 8,000 square feet of GFA. The applicant plans to renovate this building for offices and restaurant space.
- Portion of 35-L-4 and 35-L-5, located on North Liberty Street, has a parking lot on the site. The applicant plans to construct five townhouses or townhouse-style apartments and rear portion of the parcels for parking.
- 35-L-6, located at located at the southwest corner of North Liberty Street and West Gay Street has parking lots. The applicant plans to continue to use this parcel for parking to serve as parking for all the properties in connection with this rezoning request.

With this request, the applicant has proffered the following (written verbatim):

In connection with the rezoning request for the properties located at 76 and 85 West Gay Street, and 76, 325, 335, 357, 365, 357, 365, and 381 North Liberty Street and identified as tax map parcels 34-D-10 and 11, 34-H-15, and 35-L-2, 3, 4, 5, and 6 the following permitted uses are hereby proffered:

- (1) Retail stores, personal service establishments, restaurants, food and drug stores.
- (2) Governmental, business and professional offices and financial institutions.
- (3) Hotels, motels and buildings used for dwelling unit(s), CBD, as defined under section 10-3-24. Dwelling unit(s), CBD, may be occupied by a family or not more than four (4) persons, except that such occupancy may be superseded by building regulations.
- (4) Theaters, community rooms, museums and galleries and other places of assembly for the purpose of entertainment or education. In addition, customary recreational and leisure-time activities which are compatible with surrounding uses are permitted.
- (5) Religious, educational, charitable and benevolent institutional uses which do not provide housing facilities.
- (6) General service or repair shops, when not employing more than fifteen (15) persons on the premises in a single shift (not including persons whose principal duties are off the premises) and providing that all storage and activities are conducted within a building. Examples: Cleaning and laundry establishments, printing and tailoring shops, appliance repairs, upholstery and furniture repairs.
- (7) Accessory buildings and uses customarily incidental to any permitted uses.
- (8) Small cell facilities, concealed wireless telecommunications facilities, industrial microcells, distributed antenna systems, and macrocells. Telecommunications towers are permitted only by special use permit. Wireless telecommunications facilities are further regulated by Article CC.
- (9) Public libraries.
- (10) Public uses.
- (11) Research and development activities which do not cause any more smoke, dust, odor, noise, vibration or danger of explosion other than uses permitted in this district and which involve no more than 15 percent of the gross floor area in the assembling or processing of products. Any

assembling or processing shall only involve products developed on the premises. All services and storage shall be conducted within the principal structure which is to be completely enclosed.

(12) Home occupations.

(13) Radio and television stations and studios or recording studios. All antennas and satellites and associated equipment shall be screened.

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

Additionally, we proffer:

*Please refer to Exhibit A.*

At minimum 22 parking spaces shall be located in the area at the corner of N. Liberty Street and W. Gay Street, currently identified as tax map parcel 35-L-5 and 35-L-6. The minimum 22 parking spaces shall be reserved for the sole purpose of supplying off-street parking spaces for any and all uses that are located on the properties in connection with this rezoning request. If townhouses or townhouse-style apartments are constructed on this site, 1 parking space per proposed townhouse or townhouse-style apartment shall be provided for the exclusive use by owners or tenants of the townhouse or townhouse-style apartment. These parking spaces may be counted to meet the minimum 22 parking spaces.

At minimum 12, parking spaces shall be located on tax map parcel 34-D-11. Such parking spaces shall be reserved for the sole use of supplying off-street parking spaces for any and all uses that are located on the property labeled "Apartments" currently identified as tax map parcel 34-D-10.

At minimum, 7 parking space shall be located in the area currently identified as tax map parcels 35-L-2, 3, 4. Such parking spaces shall be reserved for the sole use of supplying off-street parking spaces for any and all uses that are located on the property labeled "Professional Offices."

While the conceptual layout (Exhibit A) is not proffered, it illustrates what the applicant plans to do with the properties. The applicant understands that staff will review future engineered comprehensive site plans and building plans to ensure that all zoning, site design, and building code requirements are met.

With regard to the use proffers, the applicant would retain all the uses permitted by right in the B-1, Central Business District except for convenience shops. The applicant has removed this use from the list of by right uses in order to address staff's concerns about traffic generation and to stay below the threshold for the City to be able require a traffic impact analysis (TIA). The Institute of Traffic Engineer's (ITE) Trip Generation Manual (a tool used nationally by transportation engineers) assigns a trip generation rate to convenience stores that would have put the peak hour trip generation for this site over 100 vehicles in both AM and PM peak hours, thus triggering the requirement for the applicant to complete a TIA study for staff review. Staff acknowledges that a convenience store (without gas pumps) at this location could serve residents and visitors in this area of downtown well. While the TIA Determination Form, which is required as part of the rezoning application, uses the ITE Trip Generation Manual to calculate the number of peak hour trips, this is only a starting point. If the applicant was interested in having convenience stores on any property associated with this rezoning request, a TIA study could have been performed to assess the impact of the proposed uses to the traffic network. During this time, assumptions would have been made about a higher level of pedestrian activity and a lower rate of vehicular traffic generation for sites located in the downtown area. The applicant chose to instead proffer the exclusion of convenience shops from the list of permitted uses.

As stated in the applicant's letter, one of their considerations "has been to avoid impacting an already perceived shortage of on and off-street parking." Previous versions of Exhibit A submitted by the

applicant illustrated the possibility of providing more parking spaces than what is currently shown. The applicant suggested proffering about 54 parking spaces on the site. However, staff had concerns about accepting proffers for minimum numbers of parking spaces that appear to take up most of the land area on the site when a survey of the site has not been done along with dimensioned drawings to show the ability to comply with the Off-Street Parking Requirements of the Zoning Ordinance. To address staff's concerns, the applicant has reduced the number of parking spaces proffered to 41 parking spaces on the properties associated with this rezoning request. I incorrectly noted it as 42 spaces within the written staff report. The applicant has stated that after the parcels are surveyed, they plan to provide more parking than what has been proffered.

Since there are no minimum parking requirements in the B-1 district, if the City approves any B-1 rezoning requests without proffers to provide off-street parking, then additional parking demand may be placed on the downtown area. While it has been suggested that a private developer or a public-private partnership could be involved in the construction of one or more parking garages in downtown to help alleviate parking demand, staff also recognizes that encouraging property owners who seek rezonings to B-1 to consider proffering off-street parking spaces could inadvertently reduce the opportunities for viable investments in new parking. It is a careful balancing act of addressing today's needs with the needs and opportunities of the future.

As previously stated, the Comprehensive Plan designation of Mixed Use Development Area. Mixed Use Development Areas are intended to combine residential and non-residential uses in planned neighborhoods where the different uses are finely mixed instead of separated. Mixed Use Development Areas encourage traditional neighborhood design (TND), which combines residential, retail, office, and employment uses to create a neighborhood with the following characteristics:

- “The design of the neighborhood allows residents to work, shop, and carry out many of life’s other activities within the neighborhood.
- A mix of land uses is provided. The proximity of uses allows residents to walk ride a bicycle, or take transit for many trips between home, work, shopping, and school.
- A variety of housing types is provided at a range of densities, types (multifamily, townhouse, and single family), and costs. Neighborhoods are heterogeneous mixes of residences in close proximity to commercial and employment uses.
- The neighborhood includes a retail, office, employment and/or entertainment core to provide economic and social vitality, as well as a major focus and meeting place in the community.
- The circulation system serves many modes of transportation and provides choices for alternative transportation routes. Streets, alleys, and pedestrian and bike paths connect to the surrounding area. Streets and alleys generally follow a grid pattern to provide these route choices and connections. Traffic calming techniques may be used to reduce vehicle speed and increase pedestrian and bicycle safety.
- The overall intensity of development is designed to be high enough to support transit service.
- A system of parks, open spaces, and civic, public, and institution uses is included to create a high quality of life and civic identify for the community.
- The cluster concept is embraced so as to concentrate development in environmentally suitable areas and to preserve and protect important environmental and cultural resources.”

Similarly, the draft Comprehensive Plan designates this area as Mixed Use which is described as:

“[I]ntended 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 Mixed Use Development Area designation of the current Comprehensive Plan and the Mixed Use designation of the draft Comprehensive Plan supports the idea for the B-1 zoning classification for this parcel.

This area also falls in the Edom Road Revitalization Area identified in the Comprehensive Plan. Although a small area plan for this area has not been developed, staff believes the rezoning and intent of this project helps the City achieve the goal to, as identified in Chapter 14, Revitalization of the Comprehensive Plan, “to encourage reinvestment and to seek coordinated redevelopment of the area transforming it into an attractive and vital City asset.” Having these properties zoned M-1, General Industrial District creates conflict with the overall plans for this area, which “current exhibits low quality and deteriorating building stock and conflicting land uses.”

Lastly, while the applicant has not proffered the number of bedrooms in each dwelling unit, the planned addition of more one- and two-bedroom apartments in the City could help address the need for more one- and two-bedroom apartments that staff continues to hear from community members.

Staff recommends approval of the request to rezone the subject parcels to B-1C.

Chair Way asked if there were any questions for staff at this time.

Mr. Finnegan said I have a question regarding the statement in the staff report where it reads “[w]hile it has been suggested that a private developer or a public-private partnership could be involved in the construction of one or more parking garages in downtown to help alleviate parking demand, staff also recognizes that encouraging property owners who seek rezonings to B-1 to consider proffering off-street parking spaces could inadvertently reduce the opportunities for viable investments in new parking”. If these developments work and we are getting them successfully in the downtown area; hopefully, we can reduce the need for parking required for downtown overall, to some degree. Is that not the goal of “live work” areas, to reduce the number of cars on the road?

Ms. Dang said I agree. The reason I wanted to bring that point up, and how I phrased it was not meant to conflict with what you are suggesting; but, regarding more of the history with this body, and as a City, of encouraging off-street parking with rezoning requests and helping to alleviate the concerns we have about parking demand and pressures for parking. Another thing we often hear about is that a structured parking garage would be a better use of space. Does proffering additional surface parking take away from that? Perhaps it was not clear in that statement, but that was the intent. There is a careful balance to strike.

Mr. Finnegan said currently I believe it is a gravel lot where the townhouses and parking is proposed. We would be going from a gravel lot to presumably a paved parking lot, another impermeable surface, near Blacks Run.

Ms. Dang said it could be paved or graveled as long as it is delineated for the proffered number of parking spaces.

Mr. Fletcher said from a stormwater perspective, graveled parking is considered impervious, no different from pavement, because it is compacted.

Chair Way asked if there were any further questions. Hearing none, he opened the public hearing and invited the applicant, or the applicant's representative to speak.

Mr. John Sallah, partner in BISMARCK LLC, said I just want to say a few words and answer any questions you may have. I live and work in downtown Harrisonburg and have for a long time. I have invested a lot of money in the downtown since 2006, long before it looked anything like it does now. I own and keep my office in a building that is approximately 100 yards from this site and I am very local to the area. The Liberty Street corridor is in need of something like this. Our goal is to provide housing and services that the public wants and needs. This section of town is currently rather industrial, there are lots of auto repair shops and processing mills; but, there is also high-density housing very close by, and it meshes very well in the area. That is actually what I own, high-density housing in this area. I have a long, verifiable local track record of operating my businesses in a manner that does not create problems for neighbors, local law enforcement, or parking. We would like to do the same here. We feel that it will benefit not only us, but the City, the neighbors, and move the City in the direction of being a better place to play, live, and work.

Mr. Finks said after you complete the survey of the properties and then if you do the 22 one-bedroom apartments, I would encourage and hope that you are able to do more than the 41 parking spaces total. As you know, since you work in that area, that part of town is desperate for parking and if we are going to have 22 new people, potentially with vehicles, that does not leave a lot of space for patrons of the restaurants, businesses, or shops in the area.

Mr. Sallah replied that is a valid comment. As mentioned, we have not done a survey. I have been out there and pulled a tape measure on the lot; it is very close to being able to get two rows of parking bays on the lot next to the planned apartments. So essentially double the amount of parking shown here. But we did not want to reflect that, not knowing for sure if it would work. I am fully aware of the need for parking; I have a 48-unit building and we only have 44 available parking spaces, so I hear it from my tenants all the time. There are more people now that live downtown and do not own cars; they ride bikes or walk, and that is fantastic. That is the niche with the kind of clientele that I cater to. I will be the first to admit that the total number of proffered spaces is probably not going to be fantastic for 22 apartments. We do plan to put as much parking on the site as possible. We do not plan to add any additional buildings or uses, other than what we stated here.

Chair Way asked if there were any further questions. Hearing none, he asked if there was anyone else wanting to speak for the application.

Mr. Barry Kelley, Hillcrest Drive, said I am one of the owners of the City Exchange, which is directly across the railroad tracks from this proposal. We have been in that area since 2005, and it has been kind of a lonely existence; so, we are very excited for BISMARCK to join that end of town. I applaud the projects that they have previously done and look forward to this. As far as parking is concerned, we have been discussing with city staff the possibility of better utilizing the existing street corridor for angled parking, or backing in parking, there are a lot of things that we as a City can expand on to better service parking for these buildings and increase our tax base.

Chair Way asked if there was anyone else desiring to speak in favor, or in opposition of the rezoning request. Hearing none, he closed the public hearing and asked for discussion or perhaps a motion.

Mr. Finnegan asked what would it take to do that type of diagonal parking along that street corridor and how many spaces would you pick up. Perhaps it causes a safety issue because of the two lanes of traffic and people having to back up out of the parking.

Ms. Dang said I cannot provide you a number as to how many parking spaces would be gained. I can speak to this section of Liberty Street that the Public Works Department has already commented that when BISMARCK redevelops the area they would like to discuss with them opportunities to evaluate adding on street parking as some of the existing entrances and curb cuts are closed. Once you have curbing instead of an entrance, maybe there could be some on street parking; but it needs to be further explored once we know the complete plan for the proposed project.

Mr. Fletcher said I believe the angled parking was not proposed for this particular stretch of the corridor, because it is two-way traffic; but further south on Liberty Street where it is two lanes of traffic going one way.

Mrs. Whitten said it is nice to have a mixed use project we can get behind and I would like to recommend approval of the request as presented by staff.

Mr. Colman seconded the motion.

Chair Way said I concur with the statement and motion, this is a wonderful location. We have a motion and a second to recommend approval. He then called for a voice vote on the motion.

All voted in favor (7-0) of the motion to recommend approval.

Chair Way said this will go forward to City Council on November 13, 2018.

Respectfully Submitted,

*Alison Banks*

Alison Banks  
Senior Planner