

From: Tim Peifer <dseries4@gmail.com>

Sent: Friday, September 7, 2018 3:13 PM

To: Michael Layman <Mlayman@laymanlawgroup.com>

Cc: Bill Compton <compton1080@gmail.com>; Gretta Willis <gwillis@packagingcorp.com>; Linda Depoy <depoy@muhlenberglutheran.org>; Mark Radecke <radecke@muhlenberglutheran.org>; Paul Weber <weber@muhlenberglutheran.org>; Terry Looney <toonies116@gmail.com>

Subject: Concerns on Water Street (Urgie's)

Afternoon Mike, sorry our reply is later than you may have anticipated. In response to your letter dated August 3, 2018 to Alison B Banks, Planner for the City of Harrisonburg regarding rezoning at 245 East Water Street and the proffer removal for Urgie's I offer these comments for Muhlenberg Lutheran Church. We certainly understand the demand and delicate balance of parking in and around our neighborhood, encompassing East Market Street, Ott Street and Water Street. We are grateful for the long standing agreement we share with you over parking needs between our organizations and remain vigilant to keeping our word in using any shared space appropriately. We also share your concerns for people misusing and abusing parking in and around our neighborhood. We too have implemented parking signs that work to a degree but still find offenders that create issues for our congregants also. At one point we felt no other option but to revert to the same practice of towing vehicles that was imposed on several of our members and on occasion visiting guests at special services.

We also share your concerns for the changes coming before the City regarding Urgie's, especially the sale of alcoholic beverages, the loss of their parking and an enclosed eating space. Beyond the parking issue, and safety for your employees and customers is the concern about appropriate waste disposal and the possibility of inappropriate behavior of any Urgie's clientele into the later evening hours. We find several of your suggestions agreeable, notably: making Water Street one way from Ott Street down to Mason Street; eliminating all three (3) parking spaces in front of Wharton, Aldhizer & Weaver on Mason Street (these do create a hazard of not being able to see oncoming traffic when heading West on Water Street towards downtown) and creating several 30 minute parking spots along Water Street directly across from Urgie's. We see the value in encouraging participation from Wharton, Aldhizer & Weaver and hope that works out. And we see your gesture of offering to lease several of your parking spaces from your additional lot as a generous option.

Monday September 10th is our Ministry Meeting night and I'm not sure we have anyone from the Church who will be at the City meeting. Thank you for reaching out to us on this pending issue, please know that you can count on our support, and speak of it should you make a presentation before City Council on Mon, regarding the suggestions mentioned in this email. Should further conversations and/or actions be required on this topic please include us and we'll do our best to stay committed to keeping parking appropriately balanced in our neighborhood.

Best regards,

Tim Peifer
Congregational Council President
Muhlenberg Lutheran Church

MICHAEL LAYMAN LAW GROUP, P.C.

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Harrisonburg, Virginia 22801

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Michael L. Layman, Attorney/CPA

August 23, 2018

Newman Avenue Neighbors

Re: Information Concerning Rezoning, Parking, Noise and Traffic Flow on Water Street

Dear Neighbors:

As shown on the enclosed Notice from the City, on Tuesday, September 11, 2018, City Council will determine whether to:

- (i) approve a rezoning request by Urgie's Cheesesteak (Bar and Eatery) located in the little building on Water Street across from Urban Exchange and between our law firm and the law firm of Wharton, Aldhizer & Weaver,
- (ii) approve the elimination of a proffer that currently requires Urgie's to maintain three (3) parking spaces on the lot.

One of the big factors that Urgie's presents in support of eliminating the three (3) parking spaces is that visibility looking west (down toward Mason Street) when a vehicle backs out is non-existent until at least half of the vehicle is already in the street. This is currently a dangerous situation. However, if Water Street is changed to a one-way street running from Ott Street to Mason Street, this eliminates this concern. Visibility looking up the street is excellent, so this safety concern would be greatly reduced/eliminated provided Water Street is one-way (see later comments).

The purpose of this letter is to make sure everyone is aware of what changes may occur. Please read my letter to the Planning Commission for more background (also enclosed).

A. Changes I Suggest. The following are changes that I suggest be made:

1. Make Water Street one-way from Ott Street to Mason Street just as it is from Mason Street to Main Street and then from Main Street to Liberty Street.
2. If Urgie's is to eliminate the three (3) parking spaces in order to have an outside bar and eatery, then require them to obtain convenient replacement parking nearby (see suggestion in my letter to the Planning Commission), so that vehicles will not intrude in parking areas and lots serving our law firm and houses located on Newman Avenue.

3. Restrict hours of operation of the outside bar and eatery so that Larry and Ledhu Tynes and others living on Newman Avenue will not have to deal with the noise, including traffic noise and vehicular lights late into the evening. This is needed because allowing an outside bar and eatery will significantly increase volume of customers and would likely involve hours until late in the evening.

Note: While the "good neighbor attitude and cooperation" of the current owners of Urgie's reduces this concern, future owners/operators at this location may not have the same attitude and late operational hours may become the norm.

4. Because of the restricted sight of vehicles driving down Water Street when looking south at the corner with Mason Street, eliminate at least one (1) parking space, hopefully two (2) parking spaces, on Mason Street in front of Wharton, Aldhizer & Weaver (this parking was just allowed for the first time last year).

B. Changes That Should Be Considered. The following are changes that I believe should be considered with respect to parking and traffic on Water Street:

1. Currently Wharton, Aldhizer & Weaver blocks access into their parking lot from Water Street. This blocking was put in place because of unapproved parking usage in their lot, along with the associated safety concerns created by unwanted traffic flow.

Since Wharton, Aldhizer & Weaver sold the property to Urgie's, my suggestion is for Wharton, Aldhizer & Weaver to make available five (5) or six (6) spaces to Urgie's (i.e., rent to Urgie's) in their parking lot and open up the entrance from Water Street. There are 5 or 6 spaces to the right next to Urgie's building.

I am willing to rent to Wharton, Aldhizer & Weaver six (6) spaces (M through F) from the auxiliary parking lot that I own on Ott Street to replace the spaces made available to Urgie's. The north side of this lot is owned by Muhlenburg Lutheran Church and we have a shared usage agreement with respect to the 26 parking spaces. The south side of the lot is owned by me.

Opening up the Wharton, Aldhizer & Weaver entrance on Water Street may, again, create a concern about Urban Exchange residents/visitors using their lot, but signage could be used to minimize this.

Comment: Urgie's answer to my concerns with respect to their customers using our back parking lot which causes a safety concern for my staff and clients (especially my elderly clients) is that they will provide signage to deter unauthorized parking in our lot. If signage will work for my lot, then signage should work for the Wharton, Aldhizer & Weaver entrance on Water Street.

A formal request has been made to Wharton, Aldhizer & Weaver regarding the above, but this has been rejected.

2. Once Water Street is made a one-way street, I would also suggest the City switch parking from the right side of the street to the left side starting at Urgie's and continuing on to twenty (20) feet from Mason Street. This parking would be similar to what exists at the north end of North Liberty Street. I am aware that the City Fire Marshall would prefer to

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remove parking on the right side of Water Street because of the restricted access caused by parked cars to fire trucks (ladder trucks) serving the Urban Exchange building.

You may also have other concerns and/or suggestions.

Summary

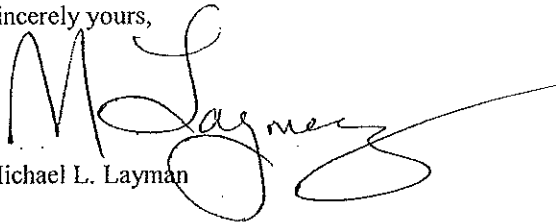
I thank you for your consideration. If you are in favor of changing Water Street (from Ott Street to Mason Street) to a one-way street, please sign the attached form and return to me at:

Michael Layman Law Group, P.C.
268 Newman Avenue
Harrisonburg, Virginia 22801

Please feel free to add any additional comments and please consider attending the City Council meeting on September 11, 2018, to voice any concerns you have regarding Urgie's rezoning and parking request.

Should you have any questions, please contact me at your convenience.

Sincerely yours,



Michael L. Layman

MLL/irf

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Michael L. Layman, Attorney/CPA

August 3, 2018

Alison B. Banks, Planner
City of Harrisonburg
Department of Planning & Community Development
409 South Main Street
Harrisonburg, Virginia 22801

Re: Rezoning – 245 East Water Street (Proffer Removal, B-1C to B-1)

Dear Ms. Banks:

I have several comments, concerns and suggestions with respect to the request by Urgies Cheesesteaks (herein "Urgies") to eliminate the only three (3) parking spaces on their property and also with respect to the traffic and safety issues on Water Street, in general, from Ott Street to Mason Street.

1. Background. My law office building, located at 268 Newman Avenue, sets immediately to the east of the parking lot which serves the law firm of Wharton, Aldhizer & Weaver, PLC, and my law office parking lot is at the back of my law office building and sits immediately to the east of Urgies. The home of Larry and Ledhu Tynes sits immediately to the east of my law office building. A driveway between my law office and the Tynes' home running from Newman Avenue to Water Street serves both my office and their home. Any change increasing traffic that decides to use this driveway creates a safety issue.

We have nine (9) parking spaces in the back lot (next to Urgies), which opens up to Water Street. Four (4) of the nine (9) parking spaces are extra wide to make parking easier for our many elderly clients. We also have three (3) spaces on the east side of my law office building, along the driveway as mentioned above (which runs from Newman Avenue to Water Street).

Further, some 20+ years ago, so that our clients and staffs parking needs would not encroach upon the parking lots of others, I purchased an old house which fronted on Ott Street (near Muhlenberg Lutheran Church) and added parking behind the house. Later, in combination with the Church (who bought an older house and lot next door on Ott Street), we together tore down both houses in order to develop a parking lot of twenty-six (26) spaces (which, by agreement, is available to my office during the week and the Church on the weekends and evenings). I also voluntarily allow the Church to use our office parking lot on Sunday mornings and later on Sundays as needed. .

2. Existing Encroachment by Customers of Urgies. Even with the existing three (3) parking spaces on the Urgies' parcel, and despite: (i) signs in our lot, and (ii) the cooperation of the staff of Urgies who cook outside in an area next to our office parking lot trying to stay alert to

tell customers not to park in our lot, we have had as many as four (4) cars at a time pull into our lot (in vehicles both large and small) and they remain parked in our lot while ordering and waiting for their food. This disrupts our private parking lot and makes it difficult for our staff and clients, (especially elderly clients) to squeeze in the remaining available spaces (if any).

Despite the "no parking signs" (we have recently increased the number and size of the signs), repeat customers to Urgies (who have been asked previously not to park in our lot) will return, and thinking that they are not causing a problem, ignore the signs, and park in the lot anyway. When we get a chance to approach them, they say "we will only be a few minutes". This, of course, is not acceptable to us because our parking needs can quickly change. Like many businesses, our parking needs vary during the day. For example, when a real estate closing occurs, as many as 4 to 5 additional vehicles may need to park in our lot and our clients often drop in at lunch time to sign and pick up documents, etc.

In addition, we often have clients at our office for conferences lasting past 5:00 p.m., and have frequent evening conferences (and sometimes evening seminars). We also have a cleaning crew who come in after hours and park in our back lot. So "outsiders" parking in our lot during the dinner hour is also not acceptable.

Should Urgies create a fenced-in outdoor eating/drinking area in their parking area, this will create an even greater number of customers which will, in turn, create an even greater amount of vehicle traffic, many of whom will ignore our signs and park in our lot.

Therefore, Urgies should not rely to any extent on their customers using our parking lot and should not eliminate the little parking that they do have.

3. Impact of Selling Alcoholic Beverages. Initially, we were under the impression that Urgies would only be selling sandwiches, with little or no emphasis on alcoholic beverages. However, we now know that serving alcoholic beverages will be a *significant* focus of their business. While the vast majority of their customers will not over indulge, no amount of oversight will guarantee the absence of an impaired driver. We do not want to expose our staff, our clients, our cleaning crew, etc. to even a slightly impaired driver who may be using our parking lot.

4. No Nearby Public Parking Lot. Unlike most other eateries in Harrisonburg, there is no public parking area near the Urgies' location, other than a few spaces next to the Urban Exchange, which is dominated by their renters, visitors, etc., which makes it a poor location from a parking perspective.

5. Safety and Traffic Suggestions. How can a "win/win" situation be created:

(a) Make Water Street One-Way. Change Water Street to a one-way street running from Ott Street to Mason Street (i.e., Mason Street to Main Street is already a one-way street). This would eliminate the existing safety concern caused when a vehicle parking in one of Urgies' existing 3 spaces backs out into Water Street. When backing up, because their building sits right next to the street, the driver is totally blind to vehicles driving up Water Street (west to east) from Mason Street to Ott Street until the vehicle is halfway out into the street.

(b) Eliminate Parking on Mason Street in Front of Wharton, Aldhizer & Weaver, PLC. Eliminate at least one (1), hopefully two (2) (and "wishfully" all three (3)) parking spaces in front of Wharton, Aldhizer and Weaver, PLC, on Mason Street so that drivers coming down Water Street have a clear view of

traffic coming north on Mason Street (heading toward Market Street). This has become a very dangerous intersection since the 3 parking spaces were recently added in front of Wharton, Aldhizer & Weaver, PLC, on Mason Street.

(c) Limit Parking on Water Street to Thirty (30) Minute Time Frame. With Urgies having many customers stopping for food who travel by vehicle, change the parking times across the street from them and along Water Street (located next to the Urban Exchange building) to 15 or 30 minute time frame.

(d) Use Six (6) Spaces of Wharton, Aldhizer & Weaver, PLC, Parking Lot. Request that Wharton, Aldhizer & Weaver, PLC (the previously owners of the small building and lot purchased by Urgies) to open up their parking lot entrance on Water Street (which they blocked off when Urban Exchange was built) in order to accommodate at least 6 vehicles coming to Urgies. Urgies can then provide significant signage directing traffic into the WAW lot.

Wharton, Aldhizer & Weaver, PLC, has 49 or 50 parking spaces, six (6) of which sit right next to Urgies and face Water Street. This would make a reasonable arrangement to accommodate their customers coming by vehicle. Note: I would be willing to rent six (6) spaces to WAW at our Ott Street lot so that WAW could rent six (6) spaces to Urgies.

(e) Create Angled Parking on Water Street. While unlikely, and I already know Larry and Ledhu Tynes would not want this alternative, determine if there are one or more residential owners along Newman Avenue (whose lots back up to Water Street) who would be willing to sell a strip of land along the back of their lots so that cars can park at an angle along Water Street and walk down the hill to Urgies.

6. Final Comments. From the "get go" we have encouraged others (including our own clients) to visit Urgies. We even put an Urgies' flyer in our reception and sitting area promoting their business. We also offered to allow Urgies to set up tables in our parking lot during JMU football weekends, etc.; but, since we now realize this would not be welcomed by our neighbors, Larry and Ledhu Tynes, due to noise and likely inappropriate language and behavior, we have rescinded this offer. Early on, I recognized the parking problems faced by Urgies and I met with the owners to see if there was any way to re-configure my law office parking lot to accommodate the needs of Urgies and no solution was possible in light of our own parking needs.

But, a bad situation (this location is just not suitable for an eatery attracting lots of customers) should not be made worse by eliminating what little parking Urgies' currently has. In my opinion, our firm, staff and clients should not have to bear the burden of a very poor decision made by the City in allowing an eatery and bar in this location and a very poor decision made by the owners of Urgies in purchasing this location without solving all parking problems beforehand.

Until all problems are satisfactorily resolved for all concerned, eliminating the existing parking spaces at Urgies should not be approved. There are solutions as mentioned above.

In the meantime, we will limit the parking in our lot Monday through Sunday to only our staff, clients and others using our building, and we will continue to honor our commitment to Muhlenberg Lutheran Church for their use of the parking lot on Sunday (which we have allowed since 1987). This will help to minimize the noise adversely impacting the Tynes' home in the evenings and on the weekends.

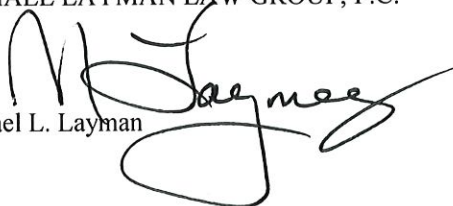
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August 3, 2018

Should you have any questions, please contact me at your convenience.

Sincerely yours,

MICHAEL LAYMAN LAW GROUP, P.C.

Michael L. Layman

A handwritten signature in black ink, appearing to read "Michael L. Layman", written over the printed name. The signature is stylized and cursive.

MLL/lrf

Alison Banks, Planner
City of Harrisonburg
Department of Planning & Community Development
209 South Main Street
Harrisonburg, Virginia 22802

Re: Rezoning – 245 Eat Water Street (Proffer Removal, B-1C to B-1)

Dear Ms. Banks:

As managing agent and property owner of the Urban Exchange, we support the request by Urgies Cheesesteaks to remove the proffer of on-site parking for their business. While we will be directly impacted by the increased use of this facility and the elimination of parking at Urgies, we believe this will be a net positive for the community.

Any loss of parking should be carefully considered against economic growth. Urgies believes foregoing its on-site parking for outdoor dining space is critical for the success of its business model, and by doing so, Urgies is taking a calculated risk that its customers will either walk, ride, have food delivered, or find available City parking. Given its large client base already built within walking distance, this seems like a reasonable assumption.

Prior to the Urban Exchange's construction in 2008, there was parking throughout Water Street between Mason and Ott. It was not until a year after the Urban was occupied that the City/HFD decided to limit parking. The City's parking plan for this area should be revisited. It is our opinion; the highest and best use of Water Street would be to maximize on-street parking by reducing distance restrictions to Mason Street as well as the parking lot entrance of Urban Exchange. Making some of these new spaces 30-minute parking would help Urgies' grab-and-go clients. The existing, limited 2-hour parking is essential for the success of the Urban. Visiting guests, prospects, and delivery vehicles are its primary users. The potential for additional 2-hour parking would be positive for the 400 Urban Exchange residents along with Urgies. There are other areas of the Downtown where increasing on-street parking would also boost economic growth and support increased density while positively shaping Downtown parking perceptions.

The present policy of limiting street parking is driven by potential pedestrian accidents along with fire truck access. By reducing the volume of underutilized, existing public pavement as well as the growing space requirements of life safety personnel, we can build a vibrant marketplace that encourages economic growth through density and accessibility. Traffic calming, lower speed limits and defined pedestrian areas can further address safety concerns in high-traffic areas.

In conclusion, Urgies presents an opportunity. Our updated Land Use will be presented to the City in the coming months. As a Land Use committee member, I am excited with the near universal agreement of the committee for promoting greater density in Downtown. Downtown is in transition from thoroughfare to destination. Urgies is one of the markers.

Thanks,

Barry K. Kelley
CEO Matchbox Realty

Donald E. Showalter
Glenn M. Hodge
Gregory T. St. Ours
Charles F. Hilton
Daniel L. Fitch
Thomas E. Ullrich
Stephan W. Milo
Humes J. Franklin, III
Jeffrey R. Adams

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Reply to the Harrisonburg office

August 8, 2018

By Hand Delivery

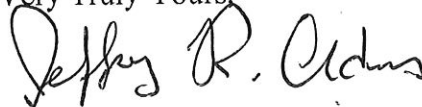
City of Harrisonburg Zoning Commission
245 East Water Street
Harrisonburg, Virginia 22802

Re: Petition of Urgie's Cheesesteaks, LLC

To the Members of the Commission:

It has come to my attention that the Commission may have received a letter to the effect that Wharton, Aldhizer & Weaver, PLC has "informally permitted" customers of Urgie's Cheesesteaks, LLC "to use [our] parking lot during non-business hours as well as throughout the day on weekends." This is not correct. WAW has not taken any position or made any commitments regarding the use of our parking lot, and WAW takes no position on the petition of Urgie's Cheesesteaks, LLC currently pending before the Commission.

Very Truly Yours,



Jeffrey R. Adams
Managing Partner

JRA
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