



City of Harrisonburg, Virginia

DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT

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February 2, 2015

TO THE MEMBERS OF CITY COUNCIL
CITY OF HARRISONBURG, VIRGINIA

SUBJECT: *Special Use Permit – 1854 East Market Street (Section 10-3-91 (9) Reduced Side Yard Setbacks)*

Public hearing to consider a request from TAP Investments, LLC and DCW, LLC for a special use permit per Section 10-3-91 (9) of the Zoning Ordinance to allow for the reduction in the required side yard setback to zero feet along the lot line of an adjoining lot or parcel zoned B-2 or M-1. The 1.61 +/- acre property is located at 1854 East Market Street and is identified as tax map parcels 73-C-1 & 4.

**EXTRACT FROM MINUTES OF HARRISONBURG PLANNING COMMISSION MEETING
HELD ON: January 14, 2015**

Chair Fitzgerald read the request and asked staff to review.

Mrs. Banks said the Comprehensive Plan designates this area as Commercial. This designation states that these areas include uses for retail, office, wholesale, or service functions. These areas are generally found along the City's major travel corridors and in the Central Business District of the City.

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

Site: Commercial building and parking lot, zoned B-2

North: Across Terri Drive, commercial buildings and shopping center, zoned B-2

East: Financial institution, zoned B-2

South: Restaurant and shopping center, zoned B-2

West: Across East Market Street, shopping center, zoned B-2

The applicant is requesting a special use permit per Section 10-3-91 (9) of the Zoning Ordinance to allow a reduction in the required 10-foot side yard setback to zero feet along a property line adjoining a parcel zoned B-2. The property, which is comprised of two parcels, is located at the southeast corner of the East Market Street/Terri Drive intersection. Currently located on the property is a multi-tenant commercial building and a parking lot, which serves the commercial uses. If a special use permit is granted, the applicant intends to construct an uncovered loading dock and dumpster enclosure within five feet of the southeastern property line.

The existing building was constructed prior to annexation in 1983 and is situated approximately one foot from the southeastern property line. Within the B-2, General Business District a 10-foot building setback is required from side and rear lot lines; therefore, this structure is considered non-conforming to setback requirements and cannot be enlarged or structurally altered in any manner that would compound the setback encroachment. The property owners desire to build a loading dock on the rear

of the building to serve a proposed tenant and to enclose their dumpsters, but zoning regulations require that both the dock and the enclosure meet the 10-foot setback. After discussion with staff regarding how they could accomplish constructing the addition and still be in compliance with zoning regulations, the applicants decided to apply for a special use permit for a zero setback along the southeastern property line. If approved, the proposed dock and dumpster enclosure and the existing building would all be in conformance with setback regulations to the southeastern property boundary.

The owners must also apply for a minor subdivision because the new dock and enclosure would cross the existing property line between their two parcels; this can be done as a property line adjustment or a property line vacation. The minor subdivision would need to be approved and recorded prior to the release of any building permits for construction of the addition. This proposal has been discussed with the Building Official and, based upon the Virginia Construction Code, an unenclosed loading dock structure, constructed of the same material as the existing building, would be able to be built at the intended location.

Because the parking lot and travel area are rather tight, staff had concern with delivery truck movement to the proposed loading dock area. Section 10-3-30 of the Zoning Ordinance requires that loading and unloading of vehicles is provided on private property and shall not depend on public streets for the maneuvering of such vehicles. The applicant provided an engineered schematic illustrating a 32-foot delivery truck movement to the dock location. Should concerns arise regarding delivery vehicles using the public street for maneuvering; staff can approach it as a zoning violation.

Staff does not have concerns with the requested special use permit and recommends approval of the reduced setback as requested.

Chair Fitzgerald asked if there were any questions for staff.

Mr. Da'Mes asked why a 32-foot box truck was used; do we not usually require a tractor trailer for commercial building deliveries.

Mrs. Banks said that is what the applicant supplied to us; we do not have a requirement.

Mr. Fletcher said there is no requirement within the Zoning Ordinance or the Design and Construction Standards Manual that requires a site to accommodate an eighteen wheeled vehicle onto the site. What is provided is the intended type of delivery vehicle. The existing tenant, Harbor Freight, does utilize an eighteen wheeled vehicle to their loading dock.

Mr. Colman asked why we allow the applicants to do a property line adjustment, instead of vacating the entire property line.

Mrs. Banks explained there is not a requirement that says the line must be vacated; it just needs to be adjusted to rectify the encroachment. It is the applicant's choice how they would like to handle it.

Mr. Colman asked what would be the width of the remaining lot.

Mrs. Banks said if the applicants do an adjustment as shown, the remaining lot would be the same width as it currently is.

Mr. Fletcher said I had a conversation with the applicant regarding this and we recommended that it be vacated in order to clean things up; however, they said that the partners were concerned about losing the fact that they have two lots. Other localities treat things differently; for instance, once you get rid of a lot you might not be able to get it back. In our B-2 district there are no minimum size or width requirements, which I did explain to the applicants. But again, it is up to the applicant how they would like to handle this. They do have a shared parking arrangement in place already for the two parcels.

Chair Fitzgerald asked if there were any further questions. Hearing none, she opened the public hearing and asked the applicant or the applicant's representative if they would like to speak.

Mr. Bob Pingry of Fishersville, VA, said he works with the owners of the property. This has been an exciting project. It was originally a Schewels Furniture Store, in rather rough condition, and it has been an exciting project changing this into a vibrant new building. We need the ability to have deliveries to remaining vacant space at the north end of the building for a future tenant. That led us to meeting with City staff; who was very helpful when discussing workable solutions. On the comment regarding vacating the property line – that was the first thing the City recommended; however, it is the preference of the owners, who feel they have value with two separate lots, to just do a property line adjustment. On the matter of the delivery truck, we did look at a larger truck for deliveries and there were some issues with the ingress and egress, so we went back to the smaller truck. With that, I am here to answer any questions you may have.

Dr. Dilts asked if the prospective tenant would be happy with deliveries from the smaller, box truck.

Mr. Pingry replied yes. We are working with existing conditions and if those conditions restrict an eighteen wheeled truck, then that is the way it must be for a tenant.

Dr. Dilts asked if the prospective tenant could share a dock with Harbor Freight.

Mr. Pingry said no. There is a demising wall within the building, between the two tenants, and there are no doors for access.

Chair Fitzgerald asked if there were any further questions for Mr. Pingry. Hearing none, she asked if there was anyone else who would like to speak either in favor or in opposition of the request. Hearing none, she closed the public hearing and asked for discussion or a motion on the SUP request.

Dr. Dilts moved to recommend approval for the special use permit, Section 10-3-91 (9), at 1854 East Market Street.

Mr. Colman seconded the motion.

Chair Fitzgerald asked if there was any further discussion. Hearing none, she called for a voice vote on the motion to recommend approval.

All voted in favor (7-0).

Chair Fitzgerald said this item will move forward to City Council on February 10, 2015, with a favorable recommendation.

Respectfully Submitted,

Alison Banks
Planner