



City of Harrisonburg, Virginia

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

STAFF REPORT

August 12, 2015

141 WEST BRUCE STREET REZONING—ZONING ORDINANCE AMENDMENT—SPECIAL USE PERMIT

GENERAL INFORMATION

- Applicant:** J-M Apartments with representative Jim Monger
- Tax Map:** 25-H-19A
- Acreage:** 17,777 +/- square feet
- Location:** 141 West Bruce Street
- Request:** Public hearing to consider a request to rezone one parcel from M-1, General Industrial District to B-1C, Central Business District Conditional.
- Public hearing to consider amending the Zoning Ordinance Section 10-3-85 Uses Permitted Only By Special Use Permit by adding warehousing and other storage facilities as a use permitted by special use permit in the B-1, Central Business District.
- Public hearing to consider a special use permit per Section 10-3-85 of the Zoning Ordinance to allow warehousing and other storage facilities within the B-1, Central Business District.
- Consider a request to deviate from the requirements of the Design and Construction Standards Manual Section 3.3.3.2 regarding sidewalk improvements.

LAND USE, ZONING, AND SITE CHARACTERISTICS

The Comprehensive Plan designates this area as Planned Business. This designation states that these areas are suitable for commercial development but need careful controls to ensure compatibility with adjacent land uses.

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

- Site:** Dilapidated Chesapeake and Western Railway building and warehouse, zoned M-1
- North:** Across West Bruce Street, Ice House parking lot, zoned B-1C
- East:** Parcel owned by the railroad containing railroad spurs, zoned M-1, further east and across Norfolk-Southern railroad, the Ice House, zoned B-1C
- South:** Chesapeake Avenue, and further south, industrial uses, zoned M-1
- West:** Across Chesapeake Avenue, parcel owned by the railroad containing railroad spurs, zoned M-1

EVALUATION

The applicant has submitted three separate applications for simultaneous review and approval. The first is a rezoning for the 17,777 +/- square feet parcel located at 141 West Bruce Street from M-1, General Industrial District to B-1C, Central Business District Conditional. The second application includes a Zoning Ordinance amendment to create a new special use permit to allow B-1 property owners the ability to operate warehousing and other storage facilities; and finally, they have applied for the special use permit they are requesting be created.

The property, located at the southeastern corner of the West Bruce Street/Chesapeake Avenue intersection, includes the historic Chesapeake and Western Railway building, which staff understands was built in 1913. The building was used by the railroad for many years and had suffered through several fires including the last and most destructive fire in 1982, which rendered much of the building unsafe and unusable. In 2005, the property was purchased by the applicant (J-M Apartments), where they have used portions of the building and outside property for warehousing and storage of materials—a use permitted by right in the M-1 district—for R.S. Monger and Sons, Inc.

Given the odd dimensions of the property and because it is a corner parcel, redeveloping it—including razing all structures and thus building on vacant property—under the M-1 zoning regulations would be difficult. A 30-foot setback would be required off of West Bruce Street, and then, even after utilizing the setback alleviations afforded by the Zoning Ordinance, a 21.875-foot setback would be required off of Chesapeake Avenue while a 10-foot setback would be needed from the eastern and southern boundary lines. This means the buildable area of the parcel is limited, where at its widest point it would only be 31.875-feet. Currently, the existing building is non-conforming to setback regulations while the size and shape of the property also makes it challenging to meet the required minimum on-site off-street parking regulations for many uses in the M-1 district. What may be the most burdensome zoning regulations for this property in particular, is associated with redeveloping/renovating non-conforming structures. The Zoning Ordinance's Article E provides the regulatory control for non-conforming structures and uses, where the intent is to limit how such properties can be used so that they will eventually develop into compliance with existing regulations. Since the applicant desires to redevelop the property by restoring the non-conforming historical building (which is highly desirable by many individuals in the City), Sections 10-3-20 (2) and 10-3-22 (a) together prohibit them from reconstructing and structurally altering the building. It should be understood that the Code of Virginia protects properties from non-conforming zoning stipulations when they are damaged by accidental fire so long as the damaged building is repaired within two years of the fire. In short, without rezoning the property or making amendments to the Zoning Ordinance, the historical Chesapeake and Western Railway building could not be reasonably restored.

All three applications applied for herein together is one way they can restore this historical asset while also being able to utilize it for their desired operations. Although the immediate plans for the property is to have a mixture of uses including retail floor area and warehousing space both in association with R.S. Monger and Sons, Inc. and unassociated business office space, the proffers submitted by the applicant would allow other uses. The submitted proffers include the following (written verbatim):

1. The property shall be redeveloped by improving and maintaining the existing structure, where all by-right uses of the B-1 district shall be permitted except for the following limitations:

- a. Residential uses shall be limited to multi-family residential uses, where one parking space shall be provided on-site per bedroom.
 - b. Restaurants and personal service establishments are not permitted without an amendment to these proffers.
 - c. No retail uses shall be allowed except those associated with R.S. Monger and Sons, Inc.
2. Special Use Permits shall be permitted as approved by City Council.
 3. The property shall maintain at least seven off-street parking spaces. Any number of these spaces may be used to meet the minimum required as specified in proffer “1a.”
 4. Exterior storage of materials associated with any warehousing component of the property shall only occur under the rear covered porch/dock and to the south of the building.

(Note that the submitted layout of the site is not proffered but rather illustrates how they plan to utilize the building and redevelop the property at this time. Proffer #1, however, states that the property “shall be redeveloped by improving and maintaining the existing structure,” which means the historical building must remain on the site.)

Along with the rezoning is a request to amend the Zoning Ordinance Section 10-3-85 Uses Permitted Only by Special Use Permit of the B-1, Central Business District by adding an additional subsection to allow warehousing and other storage facilities. The additional subsection would be stated as follows, which mimics the exact wording of the same set of uses allowed by right within the M-1, General Industrial District:

- Warehousing and other storage facilities; provided, that the size, volume, and contents shall be governed by applicable safety regulations.

The final application for this development project includes the applicant’s request for the special use permit that, as explained above, they are requesting be created.

First, it should be understood that the current use of the property and zoning do not conform to the Comprehensive Plan’s Land Use Guide as the site is designated Planned Business. Staff believes the proposed development project is in line with the Land Use Guide since this designation advocates that such properties may be suitable for commercial development when controls are in place to ensure compatibility with adjacent land uses. The applicant’s planned use of the property is a nice transition of the existing surrounding land uses as the northern front half of the property would be compatible with other B-1 zoned properties to the north and east of the site while the rear portion of the property, where they intend to operate warehousing and storage, transitions well toward the M-1 properties to the south. It should also be known that the subject property’s Land Use Guide designation, along with all of the properties on Chesapeake Avenue, was changed from General Industrial to Planned Business during the 2004 Comprehensive Plan update. At that time it was recognized to have these properties become something other than industrial uses; and further, the City recognized that these properties could not be planned for Mixed Use Development Areas (the designation typically associated with B-1 zoning) because there were too many variables to consider for having them become zoned B-1—likely due to setback issues as well as the impact of having no parking requirements on these properties.

In addition to staff’s belief that it conforms to the Land Use Guide, the Comprehensive Plan also illustrates that the property is within a quarter-mile radius of Court Square and that it is identified

within the Plan's Downtown Revitalization Area. Although there is no specified strategy or guideline for development for having such a designation, the Plan recognizes that developments and redevelopments in this area are highly desirable for continued efforts for reviving downtown.

Although public sidewalk exists along the property's West Bruce Street frontage and for about 130 feet southward from West Bruce Street along Chesapeake Avenue, the Design and Construction Standards Manual (DCSM) Section 3.3.3.2 requires "(s)idewalks [to] be constructed along the street frontage of all developing and redeveloped properties. In cases where insufficient right of way exists for sidewalk construction, appropriate right of way shall be dedicated and sidewalks constructed." In addition to these requirements, when redeveloping sidewalks in the downtown area, the Downtown Streetscape Plan (adopted by City Council in July 2014) demonstrates the style of sidewalks that should be installed.

What this means is that the DCSM requires sidewalk improvements along the subject property's entire public street frontages along West Bruce Street and Chesapeake Avenue—in all about 410 feet of sidewalk reconstruction and installation. However, staff recommends deviating from this DCSM requirement, and rather than providing all of the stated improvements and dedicating public street right-of-way (ROW), have the developer construct a seven feet wide decorative concrete sidewalk on West Bruce Street between Chesapeake Avenue and the at-grade railroad crossing per the Downtown Streetscape Plan specifications and construct a seven feet wide decorative concrete sidewalk on Chesapeake Avenue between West Bruce Street and the northernmost entrance of the warehouse portion of the building. In all, this is about 260 feet of sidewalk construction and reconstruction (150 feet less than required). Staff recognizes there will be challenges to achieve the desired sidewalk improvements/alignments stated above. The Department of Public Works will work with the applicant to determine feasibility and potential alterations to the sidewalk design as needed. The applicant is aware of these requirements and is agreeable to staff's recommended deviations; the submitted layout reflects the planned sidewalk reconstruction and installation desired by staff.

One other matter discussed with the applicant includes staff's concerns with the use of the Chesapeake Avenue public street ROW to maneuver vehicles for the warehousing operations. However, we recognize the ROW utilization has been occurring for quite some time and that trying to change the situation might mean the use of the building for the planned operations by R.S. Monger and Sons, Inc. would be severely limited. Staff will continue to work with the property owner towards potential improvements to this concern.

Overall, staff is very appreciative of the applicant's submitted proffers and the efforts the applicant made to listen to staff's concerns about how this property should be used. Staff believes the submitted proffers should alleviate any negative impacts the B-1 zoning might have to this area of the City. Given the wording of proffer #4, which stipulates where warehousing and storage of materials should be located on the site, and in considering the existing adjacent land uses and zoning, staff has no suggested conditions for the special use permit application. Staff is also supportive of the proposed Zoning Ordinance amendment as presented.

Staff is recommending all three applications be approved and for a variance to DCSM Section 3.3.3.2 be approved to allow for sidewalk improvements in lieu of the requirements as stated herein.

ORDINANCE AMENDING AND RE-ENACTING SECTION
10-3-85
OF THE
CODE OF ORDINANCES
CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of
Harrisonburg, Virginia:**

That Section 10-3-85 Uses Permitted Only By Special Use Permit of the B-1, Central Business District is amended by adding subsection (10) as shown:

- (10) Warehousing and other storage facilities; provided, that the size, volume, and contents shall be governed by applicable safety regulations.

The remainder of Section 10-3-85 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the ____ day of _____, 2015.
Adopted and approved this ____ day of _____, 2015.

MAYOR
ATTESTE:

CITY CLERK