



CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

409 SOUTH MAIN STREET, HARRISONBURG, VA 22801

OFFICE (540) 432-7700 • FAX (540) 432-7777

June 6, 2022

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

SUBJECT: *Consider a request from Nikolay and Augusta Bondaruk to rezone 1064 South High Street*

**EXTRACT FROM MINUTES OF HARRISONBURG PLANNING COMMISSION
MEETING HELD ON: May 11, 2022**

Chair Finnegan read the request and asked staff to review.

Ms. Dang said that the Comprehensive Plan designates this site as Commercial. Commercial uses include retail, office, professional service functions, restaurants, and lodging uses. Commercial areas should offer connecting streets, biking and walking facilities, and public transit services. Interparcel access and connections are essential to maintaining traffic safety and flow along arterials. Parking should be located to the sides or rear of buildings.

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

- Site: Automotive repair and vacant space, zoned M-1
- North: Blue Ridge Engraving, zoned M-1
- East: Rockingham Cooperative, zoned M-1
- South: CVS Pharmacy, zoned B-2C
- West: Across South High Street, commercial uses, zoned B-2, B-2C, and residential use, zoned M-1

The applicant is requesting to rezone a +/- 19,211 square foot parcel from M-1, General Industrial District to B-2C, General Business District Conditional. The property is located at the northeast corner of the intersections of South High Street (Route 42) and South Avenue. The property has one building in which an automotive repair business operates in the lower level of the building. The upper level of the building is currently vacant. If this request is approved, the applicant plans to continue leasing the lower level of the building for automotive repair and plans to lease the upper level of the building to another unknown tenant. The applicant believes that rezoning to B-

2C would make the space marketable to more potential tenants and uses that want to locate in this area.

Staff has discussed with the applicant that while automotive repair is allowed in both the M-1 and B-2 zoning districts, a rezoning from M-1 to B-2 could impact the automotive repair business' operations. The M-1 district states the following by right ability within Section 10-3-96 (19):

“Vehicles, recreation equipment, trailers, over the road tractors, their trailers, heavy equipment, manufactured homes, industrialized buildings, or agricultural equipment repair or storage served by a permanent building facility unless already incidental to an existing building. Any outside storage or repair shall be located within a designated area and screened.”

The B-2 district, while allowing automotive repair by right, does so differently and states within Section 10-3-90 (7):

“Repair of vehicles, recreation equipment, or trailers with all activities and storage of inoperable vehicles completely enclosed within a permitted structure. Vehicle excludes over the road tractors, their trailers, heavy equipment, manufactured homes, industrialized buildings, and agricultural equipment.”

In other words, in the M-1 district, operators can repair and store vehicles outside of a building within a screened area. In the B-2 district though, all activities must be completely enclosed within a permitted structure. Therefore, if the current operation performs outside repair and storage, then if the property is rezoned to B-2, all activities must take place inside of a building. Additionally, the following types of vehicles/equipment can be repaired and stored on a property zoned M-1 but cannot be repaired or stored on a property zoned B-2 without a special use permit approved by City Council: over the road tractors, their trailers, heavy equipment, manufactured homes, industrialized buildings, or agricultural equipment. The applicant did not believe this would cause issues for their automotive repair tenant.

Currently, there are no parking spaces delineated on the property and the property is in violation of off-street parking requirements. The 2001 engineered comprehensive site plan showed that a total of 13 off-street parking spaces were required. Whether the request to rezone is approved or not, the applicant is aware that they are required to delineate required off-street parking spaces and will work with staff on plans to address this. Additionally, the applicant is aware that any change of use(s) on the property will be evaluated to ensure that off-street parking requirements are met for the new uses.

Staff expressed concern to the applicant that rezoning the property to B-2 could allow future uses by right, that could generate a significant amount of vehicular traffic that could negatively affect the safety of adjacent public streets. An example of a by right use in B-2 that generates a significant amount of traffic is a fast-food restaurant with a drive through. To address staff's concern, the applicant has proffered the following (written verbatim):

All traffic generating uses shall be limited to a combined total of 100 vehicle trips in either the AM or PM peak hour based on the gross square footage or other unit of measure as calculated using the latest edition of the Institute of Transportation Engineer's Trip Generation Manual.

If, in the future, the property owner wants to put a use on the property that generates more than 100 vehicle trips in either the AM or PM peak hour, then the property owner can request to rezone the property to remove or modify the proffer and a traffic impact analysis (TIA) study could be required and mitigations to address increased traffic could be identified.

After the publication of the staff report, the applicant has offered a new proffer that still has the same limitation of combined 100 vehicle trips in the peak hour unless the property first, at their cost, completes a TIA approved by the Department of Public Works and implements all the identified mitigation measures. The new proffers state:

All traffic generating uses shall be limited to a combined total of 100 vehicle trips in either the AM or PM peak hour as calculated using the latest edition of the Institute of Transportation Engineer's Trip Generation Manual unless the property owner first, at its cost: (1) completes a Traffic Impact Analysis approved by the City Department of Public Works and (2) implements all identified mitigation measures or improvements. The City Department of Public Works may, in its sole discretion, waive completion of a Traffic Impact Analysis or any identified mitigation measures or improvements.

The intention is that it allows the property owner some flexibility to put uses in here that could generate more than 100 vehicle trips while at the same time protecting the City, the public infrastructure and the safety of the travelling public in the streets by requiring that the property owner install or construct or do whatever is identified within that TIA that would be in the future approved by the Department of Public Works. The final sentence gives Public Works the discretion that if there is some circumstance where it is either not ready or the mitigation does not need to be installed for whatever reason, they could waive that requirement. We felt that this protected the City while granting the applicant or property owner a little bit of flexibility. It also retains the ability to come back and rezone the property again if they wanted to remove or amend the proffer.

The Comprehensive Plan's Land Use Guide designation for this stretch of the South High Street corridor is Limited Commercial on the northwest side and Commercial on the southeast side. The subject property is designated as Commercial, which typically means a rezoning to B-2 would be more conforming with the City's long-term goals, rather than having properties used for industrial purposes. This area of South High Street between Hillandale Avenue to Sunrise Avenue has also had a number of requests approved for properties to be rezoned to B-2 and B-2C during the last 17 years as illustrated in Exhibit A.

Staff believes the requested rezoning is consistent with the Comprehensive Plan and the proffer addresses potential concerns with future redevelopment of the site. Staff recommends approval of the rezoning request as submitted.

Chair Finnegan asked if there were any questions for staff.

Commissioner Byrd said that the change to the proffer would cover a situation in the future that if there is a traffic issue that is related to whatever business is there, then Public Works can ask them to pay for a TIA?

Ms. Dang said that we do not know yet what the future uses will be in that vacancy. Without any proffers on this, if they rezone to B-2, the City and the Public Works analysis could have required a TIA that would have evaluated the worst case scenario, the most high intensity use that could go there. With this proffer, as originally stated, it protected the City by saying that it is limited to 100. The second part that is added, the proffer is intended to describe that you can move other uses or extend the uses within the space as long as the total calculated trips would be 100 vehicles or less. You cannot exceed that unless you do a TIA. It would require it.

Commissioner Whitten said that was one of the things we talked about yesterday when we looked at the property. My understanding is that with this addition, they would not have to come back for a rezoning. They prevent having to come back for a rezoning if they want to generate more trips.

Ms. Dang said so long as they do the TIA, and they are responsible for any mitigations that are identified, unless Public Works says, for example, if the TIA analysis has background growth and it is such that the mitigations that are identified are attributed primarily to other growth, then the Department of Public Works might say that the City has some share into that. Or maybe there is another project underway that the City has that they could waive that requirement. It is an unknown.

Commissioner Whitten said it is interesting. That is the scenario that we talked about yesterday. If they had to do this, if they wanted something that was a more intensive use, they would have to come back for a rezoning and you said yes. I wanted to be clear about that.

Councilmember Dent asked who usually pays for a TIA.

Ms. Dang said the property owner, applicant, or developer.

Councilmember Dent said that across South Avenue is a CVS. That must be one that has a very high traffic intensity.

Ms. Dang said I do not remember the details of that when that was constructed or rezoned.

Commissioner Whitten said it probably does not meet that peak hour 100 car trips.

Councilmember Dent said it is more constant. I do not think that it has any direct effect on this. I am just noticing the difference.

Chair Finnegan asked if there were any more questions for staff. Hearing none, he opened the public hearing and invited the applicant or applicant's representative to speak to their request.

Tim Bondaruk, son of the applicants, came forward speak to their request. My siblings and I manage the property. It is a rental property. I want to thank you for your consideration to rezone it. It seems to make sense to us. It would open it up a little more. The type of property that it is, it seems that under B-2 it would open it up to a larger category of potential tenants. Properties across South High Street are B-2. I do not foresee that the traffic limitation would be a problem for us. We do not have a specific intent at this point, but rezoning will help us make the property a bit more marketable.

Chair Finnegan asked if there were any questions for the applicant.

Chair Finnegan said in the staff report it said the applicant plans to lease the upper level of the building to another unknown tenant. Is that still unknown?

Mr. Bondaruk said it is still up for rent. We had three requests. All three were not able to lease because of the zoning. They wanted to have regular office space and under M-1 that was not allowed. That is why decided to pursue the rezoning.

Councilmember Dent asked if the added restrictions on auto repair in moving from M-1 to B-2 would affect the current business?

Mr. Bondaruk said we discussed the limitations with the current tenant. All the business he does is with automotive, so that will not change anything for him.

Chair Finnegan asked if there were any questions for the applicant's representative. Hearing none, he asked if there was anyone in the room or on the phone wishing to speak to the request. Hearing none, he closed the public hearing and opened the matter for discussion.

Chair Finnegan said I looked at the site. It seems like a fairly straightforward request. I understand the reasons for the change in the proffers.

Commissioner Whitten moved to recommend approval with the proffers, as submitted.

Commissioner Byrd seconded the motion.

Chair Finnegan called for a roll call vote.

Commissioner Armstrong	Aye
Commissioner Baugh	Aye
Commissioner Byrd	Aye
Councilmember Dent	Aye
Commissioner Orndoff	Aye
Commissioner Whitten	Aye
Chair Finnegan	Aye

The motion to recommend approval of the rezoning request passed (7-0). The recommendation will move forward to City Council on June 14, 2022.