



CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

409 SOUTH MAIN STREET, HARRISONBURG, VA 22801

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

To: Eric Campbell, City Manager
From: Adam Fletcher, Director – Department of Community Development and Harrisonburg Planning Commission
Date: December 14, 2021 (Regular Meeting)
Re: Zoning Ordinance amendment to allow vehicle fuel stations by special use permit in B-1

Summary:

Public hearing to consider a request from 7-Eleven, Inc. to amend Section 10-3-85 of the Zoning Ordinance to add a new subsection to allow vehicle fuel stations by special use permit within the B-1, Central Business District.

Staff and Planning Commission (6-0) recommended denial of the Zoning Ordinance amendment.

Background:

Before getting into the specifics of the request it is helpful to understand the history of how vehicle fuel stations have been regulated within the City's downtown. In 1939, the City's first Zoning Ordinance (ZO) defined "gasoline or oil filling stations" and allowed them as a permitted use within the downtown area. In 1958, after a comprehensive rewrite of the ZO, "filling stations" were permitted within the downtown only by approval of the Board of Zoning Appeals (BZA).

In February 1963, after the 1962 City annexation, a comprehensive rewrite of the ZO was approved. The 1963 ZO defined "service stations," however, service stations were still not a permitted use within the City's downtown and the ability to have a service station approved by the BZA was removed.

Comprehensive rewrites of the ZO were approved in 1969 and 1987; where again, the updated use regulations did not allow service stations within the downtown. In 1996, the City completed its most recent comprehensive rewrite of the ZO and it was at this time that the City added the ability for special use permits (SUPs) to be requested in all zoning districts. Vehicle fuel stations were not permitted by right or by SUP within the City's downtown as part of the 1996 ZO rewrite.

It should be understood that the first time the Zoning Ordinance identified portions of the downtown as the Central Business District (CBD) was in 1958. The CBD was bounded by Rock Street to the north, Bruce Street to the south, Mason Street to the east, and the C & W Railroad to the west. The 1958 CBD boundary remained unchanged until January 1981, when it was expanded north to Johnson Street and east to a line approximately 400 feet east of Mason Street. Since 1981, there have been numerous rezonings around the fringes of the original CBD, creating the current district boundary. Over the years, filling/service/vehicle fuel stations within the CBD became nonconforming either due to being incorporated into the CBD during a comprehensive rewrite of the ZO or by a City-initiated expansion of the B-1 district approved by City Council.

Key Issues:

The applicant is requesting two, separate but simultaneous requests, which include 1) to amend the ZO within the B-1, Central Business District Section 10-3-85 by adding vehicle fuel stations as an allowable use through approval of a SUP, and 2) applying for the SUP to allow a vehicle fuel station on a B-1 parcel. The specifics of the requested SUP are addressed in a separate staff report.

The applicant has proposed to allow vehicle fuel stations by SUP, which include regulations that are intended to mitigate concerns regarding the use. The ZO defines a *vehicle fuel station* as “[a]ny building, structure, or land used for the dispensing, sale or offering for sale at retail of any vehicle fuels, oils or accessories. The text proposed by the applicant to be added to Section 10-3-85 of the ZO is as follows:

- (12) Vehicle fuel station as accessory use to a permitted use, subject to the following restrictions:
 - (i) allowed only on corner lots; (ii) may have no more than eight (8) fuel dispensers; and (iii) the footprint of the area encompassed by the canopy over the pumps may not exceed the size of the footprint of the principal structure.

If approved as proposed above, B-1 property owners would be able to apply for a SUP to allow for a vehicle fuel station only if it was as an accessory use to a by-right use of the B-1 district, the parcel was a corner parcel, there were no more than eight fuel dispensers, and so long as the footprint of the vehicle fuel station canopy did not exceed the building footprint of the principal use. To be clear, one fuel dispenser generally has two fuel pumps and can serve two vehicles concurrently (meaning that eight fuel dispensers could serve 16 vehicles simultaneously); and, although the fuel station would be accessory, its canopy could be the same footprint as the principal building.

As described by the ZO, “[t]he B-1, Central Business District is intended as an urban and regional center for the conduct of commercial, financial, professional and governmental activities to which the public requires direct and frequent access. [The B-1] regulations are intended to protect and improve activities, and to prevent uses not requiring a central location which would create friction in the efficient performance of the primary activities of an urban and regional center.” Most of the CBD is designated in the Comprehensive Plan’s Land Use Guide as Mixed Use. Mixed Use areas are areas where more walking, biking, and public transit is encouraged; where community members, if they must drive, should not have to drive directly to a use but could park on-street, in a public parking lot, or in a privately owned but publicly accessible parking lot and walk to their destination. Vehicle fuel stations specifically serve people who are driving cars to and from that specific site and who generally are there for a short period of time. This brings increased traffic generation and frequency of vehicles crossing and disrupting pedestrian spaces (i.e. sidewalks) and generally places the vehicle uses (parking and fueling stations) between pedestrian spaces and principal buildings. In downtown areas, communities typically desire to mass buildings close to the street to promote a more pedestrian friendly design. As well, the City’s B-1 zoning district is relatively small; +/- 97-acres, which is approximately 1 percent of the City’s land area not in roads or railroads. Staff has identified 17 vehicle fuel stations within two miles of Court Square by way of driving on City streets.

As stated above in the background information, vehicle fuel stations have not been a use permitted by-right within the City’s downtown since before 1958. The few vehicle fuel stations located in the CBD that were nonconforming to the ZO, are now all closed and have lost their nonconforming status.

Staff believes it is not in the best interest of the City’s downtown to add vehicle fuel stations in the B-1 district and recommends denial of the request to amend the ZO to add vehicle fuel stations as a use permitted by SUP.

However, should there be a desire to approve the ZO amendment to allow vehicle fuel stations by SUP, staff suggests the following amendments, which could help to further reduce the impacts of a vehicle fuel station located in the B-1 district:

- (12) Vehicle fuel station as accessory use to a permitted use, subject to the following restrictions:
 - (i) allowed only on corner lots; (ii) may have no more than four (4) fuel dispensers; and (iii) the footprint of the area encompassed by the canopy over the pumps may not exceed 75 percent of the size of the footprint of the principal structure.

Comparing the applicant’s proposed amendment and staff’s suggested amendment, both would only allow vehicle fuel stations on corner lots and as an accessory use. The differences include that staff recommends reducing the maximum number of fuel dispensers from eight to four (meaning that eight vehicles could be served simultaneously), and rather than allowing the canopy over the fuel pumps to be of equal size to the principal structure, staff recommends limiting the canopy to 75 percent of the size of the footprint of the principal structure. Being that the vehicle fuel station is to be an accessory use to a permitted use, staff believes that the vehicle fueling area should be of a smaller footprint than the principal building.

Environmental Impact:

N/A

Fiscal Impact:

N/A

Prior Actions:

N/A

Alternatives:

- (a) Approve the Zoning Ordinance amendment as requested by the applicant;
- (b) Approve the Zoning Ordinance amendment as suggested by staff;
- (c) Approve the Zoning Ordinance amendment with other provisions; or
- (d) Deny the Zoning Ordinance amendment.

Community Engagement:

As required, the request was published in the local newspaper twice advertising for Planning Commission’s public hearing and twice advertising for City Council’s public hearing. The advertisement was published as shown below:

Zoning Ordinance Amendment to Allow Vehicle Fuel Stations by Special Use Permit in B-1

Public hearing to consider a request from 7-Eleven, Inc. to amend Section 10-3-85 of the Zoning Ordinance to add a new subsection to allow vehicle fuel stations by special use permit within the B-1, Central Business District.

In addition, the public hearing was also provided on the City’s website at <https://www.harrisonburgva.gov/public-hearings>.

Recommendation:

Staff recommends (d) denial of the Zoning Ordinance amendment.

Attachments:

1. Extract from Planning Commission
2. Application, applicant letter, and supporting documents
3. Ordinance amendment proposed by the applicant
4. Ordinance amendment proposed by staff
5. Map of B-1, Central Business District

Review:

Planning Commission recommended (6-0, Whitten absent) option (d) to deny the Zoning Ordinance amendment to allow vehicle fuel stations by special use permit within the B-1, Central Business District.