



# City of Harrisonburg, Virginia

DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT

409 South Main Street

Harrisonburg, Virginia 22801

Website: <http://www.harrisonburgcommdev.com/>

Telephone: (540) 432-7700 Fax: (540) 432-7777

August 4, 2015

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

### **SUBJECT:**

Public hearing to consider a request from Rawley Enterprises, LC with representative Dennis W. Rawley for a special use permit per Section 10-3-97 (2) of the Zoning Ordinance to allow for a convenience store within the M-1, General Industrial District. The 8,750 +/- square foot property is located at 210 Charles Street and is identified as tax map parcel 41-B-1.

### **EXTRACT FROM MINUTES OF HARRISONBURG PLANNING COMMISSION MEETING HELD ON: July 8, 2015**

Chair Fitzgerald read the request and asked staff to review.

Mrs. Banks said the Comprehensive Plan designates this area as General Industrial. This designation states that these areas are composed of land and structures used for light and general manufacturing, wholesaling, warehousing, high-technology, research and development and related activities.

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

- Site: Mercantile building, zoned M-1
- North: Vacant parcel and tire business, zoned M-1
- East: Church, zoned M-1
- South: Across Charles Street, vehicle repair business, zoned M-1
- West: Mercantile building and farm supply business, zoned M-1

The applicant is requesting a special use permit (SUP) per Section 10-3-97(2) to allow a convenience store in the M-1, General Industrial District. The property is situated on the northern side of Charles Street, near the intersection of Charles and Jefferson Streets, and is adjoined on all sides by industrial zoned property. If approved, El Chaparro would continue to utilize a portion of the building on site as a convenience store.

City staff became aware of the convenience store at this location last fall when the adjacent property to the east received a special use permit to operate as a church. Staff informed the property owner by certified mail that a store, such as El Chaparro, was not a use permitted by right in the industrial district and the violation would need to be resolved. After conversations with the owner, it was decided they would apply for the SUP to allow the convenience store. If approved, they could continue to operate as they currently are; as well, the store could apply for building permits for some improvements. If the SUP is denied, the store would be required to close and relocate to a site where it is permitted.

The applicant has been informed by staff that if they receive approval of the request, they would need to apply for a change of use permit from the Building Inspection Division. This would require that all Building Code regulations be met for the proposed use. If improvements are proposed to the store the applicant can include the improvements as part of the building change of use permit; it would not require a separate building permit. Staff has suggested to the applicant that they contact Community Development regarding questions, plans, and the application process.

Parking for the store would be calculated at one parking space for every 200 square feet of gross floor area. Per the applicant the store utilizes approximately 3,300 square feet which would require 17 parking spaces; all of which must be appropriately delineated. Currently, there are five on-site parking spaces available in front of the store which back out directly into Charles Street. There is available property in the rear of the site to create a new parking lot for the remainder of the required parking, or the possibility of a shared parking agreement between the subject parcel and the adjacent business to the west. Any construction of new parking must meet all the requirements of Article G, Off Street Parking. All parking plans would need to be finalized before issuance of any building/change of use permit.

With regard to the existing five on-site parking spaces that back out onto Charles Street, staff has discussed with the applicant that this creates an unsafe maneuver and that the applicant would be responsible for any issues that arise from the use of this parking area. Because of the unsafe maneuver, the Public Works Department has requested the applicant be required to remove the parking from the front of this portion of the building. After consulting with the City Attorney, staff recommends the following condition:

- any off-street parking spaces (existing or future spaces) on the subject property shall comply with Section 10-3-25 (5).

The uses along Charles Street are a mix of retail, non-conforming dwellings, warehousing, automotive repair, and moderate to minor industrial uses. Staff believes a convenience store at this location would be compatible with the existing uses. Staff recommends approving the request with the above condition.

Chair Fitzgerald asked if there were any questions for staff.

Mr. Way asked if the applicants could meet the requirements of Section 10-3-25 (5) if they were to install diagonal parking along the front of the building.

Mrs. Banks explained that would be something staff could look at. We would need to determine exactly where the property line is along the front of the property and make certain that a vehicle does not have to maneuver into the right-of-way while backing from a diagonal parking stall. The intent of 10-3-25 (5) is to not use any portion of the right-of-way for maneuvering the vehicle. There may be the possibility of placing some parallel parking spaces in the front.

Mr. Way said the nature of a convenience store is to come in and out of the store quickly, so if diagonal parking could be used it may work better.

Mrs. Banks said there is one other thing I wanted to add about the parking and Section 10-3-25 (5). If the special use permit is approved with the suggested condition, and the convenience store receives their permits and stays at this specific location for more than 24 consecutive months, the owner loses the ability to put the parking back in front of the building as it exists today. It is considered non-conforming and it cannot be re-established after more than two years.

Mr. Heatwole said the condition just applies to this property?

Mrs. Banks replied yes, only the convenience store property.

Chair Fitzgerald said thus, there can still be ninety degree parking straight in front of the church that we have no say over.

Mrs. Banks said yes.

Mr. Colman said they have the right to use those spaces?

Mrs. Banks said if they choose to use those spaces we would be looking for some type of shared agreement.

Mr. Way asked exactly how many spaces are in front of the convenience store.

Mrs. Banks said four or five; we do not know precisely where the property line is.

Chair Fitzgerald asked if there were any further questions for staff. Hearing none, she opened the public hearing and asked if there was anyone wishing to speak in favor of the request.

Heidi Thomas, Mount Crawford, said she is speaking on behalf of the convenience store, El Chaparro. We are willing to fix and comply with whatever is needed for the parking in order to ensure the safety of customers. We feel that the convenience store adds to the culture of the area and desire to stay there.

Chair Fitzgerald asked if there was anyone else desiring to speak regarding the SUP request. Hearing none, she closed the public hearing and asked if there were any further questions or perhaps discussion on the request.

Dr. Dilts moved to recommend approval of the SUP with the condition as presented.

Mr. Colman seconded the motion.

All voted in favor of the motion (6-0).

Chair Fitzgerald said this will move forward to City Council on August 11<sup>th</sup> with a favorable recommendation.

Respectfully Submitted,

Alison Banks  
Senior Planner