

REGULAR MEETING

FEBRUARY 11, 1997

At a regular meeting of Council held this evening at 7:30 p.m., there were present: Mayor Rodney Eagle; City Manager Steven E. Stewart; Assistant City Manager Roger Baker; City Attorney Earl Q. Thumma, Jr.; Vice-Mayor Hugh J. Lantz; Council Members John H. Byrd, Jr., Walter F. Green, III, and Larry M. Rogers; City Clerk Yvonne Bonnie Ryan and Chief of Police Donald Harper.

Council Member Green delivered the invocation and Mayor Eagle led everyone in the Pledge of Allegiance.

Vice-Mayor Lantz offered a motion to approve the consent agenda which included the second reading of a supplemental appropriation for the Public Transportation Department. The motion was seconded by Council Member Rogers, and approved with a unanimous recorded vote of Council.

The public hearing to consider Planning Commission's recommendation to a request for a conditional rezoning of 15.28 acres (located along Peach Grove Avenue), from R-1 Single-Family Residential to R-5 Planned Single-Family Residential (Conditional) was withdrawn by Jared S. Scripture from Harrisonburg Community Associates.

Planning and Community Development Director Turner introduced a request to rezone 1.34 acres located at 1416 South Main Street from R-3 to B-2 (Conditional). She explained that the purpose of the rezoning request is a desire to develop a Rite-Aid commercial use on the site. The subject property presently contains three buildings, two of those are multi-family dwellings units and the third is a single-family dwelling unit. The comprehensive plan recommends that this property be used for the professional land use category. The professional land use category is intended for areas designated for professional service oriented uses with consideration to the character of the area. These uses are found in the residential areas along major thoroughfares. This type of land use in the comprehensive plan, is used to provide a land buffer from residential uses, mainly single-family, against more intensely commercial uses. That also provides an alternative for some larger, older homes in the area to be used for something other than residential purposes. Because of the proximity of this site to the single family neighborhoods fronting on Bluestone Drive, staff did have many concerns about compatibility between this commercial use and the residential area nearby. In evaluating the impact of what this type of use would be on the surrounding areas, staff did look at some buildings within the City including commercial, free standing, and buildings of similar size. The only similar use was the one directly across the street which houses 7-11 and several other commercial uses. After the applicant heard about staff's concerns they proffered several more conditions and at the Planning Commission meeting, two additional conditions were proffered. Mrs. Turner reviewed the proffered conditions which the property could and could not be used for, limitations on hours of operation and deliveries, construction of a six (6) foot board fence, and landscaping between such board fence and the paved area of the subject property. In addition the applicant also proffered several conditions in connection with this rezoning request including that

the building will be no larger than 11,500 square feet and one story in height with a brick exterior. Limitation on hours of operation and deliveries will be between 7:00 a.m. and 11:00 p.m. Restrictions on outside storage of materials and all exterior light fixtures will be located in the rear portion of the property. The company developing the property will be responsible for the cost associated with the installation of a new or modified traffic signal since the current signal is a three-way signal and it will be necessary for this development to have a four-way signal. Mrs. Turner noted that since these conditions were proffered, staff did feel comfortable that the surrounding neighborhood will be amply protected. Planning Commission recommended that the request be approved. In addition two letters of support were received from adjacent property owners.

At 7:36 p.m., Mayor Eagle closed the regular session temporarily and called the evening's public hearing to order. The following notice appeared in the Daily News-Record on Monday, January 27, and Monday, February 3, 1997.

NOTICE OF PUBLIC HEARING

The Harrisonburg City Council will hold a public hearing on Tuesday, February 11, 1997, at 7:30 p.m., in the City Council Chambers, 345 South Main Street, to consider the following:

Rezoning

- 1. Request by SBL Corporation of Virginia, Inc. to rezone 1.34 acres located at 1416 South Main Street from R-3 to B-2 (Conditional). The property is identified on the Harrisonburg Block Maps as parcel 11-C-48 and 11-C-1, 2, & 3. The Comprehensive Plan recommends this area for professional use.**

Maps and other information are available for review in the Community Development Department, 409 South Main Street, Monday through Friday, 8:00 a.m. to 5:00 p.m.

All persons interested will have an opportunity to express their views at this Public Hearing. Any person requiring auxiliary aids, including signers, in connection with the Public Hearing shall notify the City Manager at least five (5) days prior to the time of the meeting.

**CITY OF HARRISONBURG
Steven E. Stewart
City Manager**

Mayor Eagle called on anyone present desiring to speak either for or against this request: Roger Williams, attorney for SBL Corporation of Virginia, the contract purchaser for the lots in this rezoning request stated that the proposal before you tonight is a reasonable one. He also noted that Bob Mills, an officer with SBL Corporation of Virginia, and Jeff Hanson, area construction manager for Rite-Aid Pharmacy, were present to answer any questions. Mr. Williams stated that compatibility is a key issue. City staff has been very helpful with the fact that this is admittedly a B-2 use, but we

have attached many conditions to be cognizant of the fact that the R-1 Residential neighborhood is behind this lot. He said that he had spoken with all the six immediate adjoining property owners and significantly all six agreed with this rezoning request. Overall there are two reasons why these property owners favor this request -- one relates to the currently existing student housing use that would be replaced. The second reason is that the property owners can tell that a real effort has been made in trying to address all the concerns that had occurred to them. The proposal makes good zoning and land use sense. South Main Street is the main commercial thoroughfare in the southern part of the City and there is already commercial development along South Main Street even at this location. It is fair to indicate that it is probably no longer reasonable to expect that residential uses on the east side of South Main Street continue to be the most viable use of the property at this location. Mr. Williams displayed the architect's drawing of the Rite-Aid Pharmacy. This is an attractive one story building which will replace a very large three story student housing building. There is a drive thru on the south side, to accommodate drive thru prescription service. He stressed that the proffered conditions will apply to this property even if years from now Rite-Aid does not own this property. He reviewed the substantial buffer along the rear property lot. Mr. Williams reiterated that this would be an attractive development for the City, provide a good tax revenue and requested that Council vote in favor of the rezoning request.

Bob Mills, with SBL Corporation, stated that this project is about a two and one-half million-dollar investment on SBL's part. It will employ approximately ten to twelve new people and do a volume of three to four million-dollars in business. There are definite advantages for this store to be located in the City. Mayor Eagle acknowledged a letter received from Kathryn Atchison Clark, a resident from 1411 Bluestone Street, which stated that although her property was presently zoned R-1, "I feel that rezoning the above-mentioned parcels to B-2 Conditional will be an improvement to our neighborhood. I have studied the layout plan of the proposed Rite Aid store and the proffered condition, and feel that the project would be a plus for the community".

Judy Miller, a resident living at 1429 Valley Street, presented the following statement to City Council: *As a resident of the Purcell Park neighborhood for over twenty years, I have continually supported the neighborhood's efforts to remain a safe, viable low density single family residency. As a part of the City, we have recognized that growth and development is expected, and with this expansion, comes the inevitable problems of meeting the changing needs of the residents of the City. Our uniqueness as a part of the changing has been determined not only by its borders of expanded Port Republic Road and JMU, I-81, popular Purcell Park, and a well-traveled Route 11, but the residents - families that have raised their children and remain after 45-50 years, middle-aged residents, and increasingly new young families - all of which make a viable contribution to the City of Harrisonburg. Over the years, families and that is the key word for our neighborhood, have faced head-on the issues affecting our safety and viability and those visiting our area. Diligently, we continue to work with City officials concerning traffic and zoning. And now we face another major possibility that can greatly affect our Purcell Park neighborhood. My concerns are threefold:*

1. *In keeping with the Comprehensive Plan recommendation for professional offices to border our low density neighborhood on Route 11, why would the City even consider the placement of a high volume business such as Rite-Aide, and what would this action dictate for the future "recommendations" on our bordering Port Republic Road and the rest of the block on Route 11?*

2. *Although Rite-Aide can provide such services as pharmacy and food mart, the fact that such a volume of beer and wine as sold in other areas only reinforces my concern that a mixed message is being sent to students residing on and off campus. I am wondering when the City is going to be a part of the solution to the problem of rising use of alcohol among college students by not supporting every beer store that wants to locate near this University.*
3. *When the third stoplight was put in place on South Avenue and South Main Street, we expressed our concern that more traffic will want to avoid all the lights between the Port Republic Road and South Main Street. We envisioned more cut-through traffic as shown in the attached letters. A rise from 637+ to 1900+ over a four year period as documented by the Street Department confirmed our expectation. With an additional light, what does the City envision for our neighborhood? We already know.*

The families in my neighborhood accept growth and change, but controlled, reasonable and appropriate. Let's make sure our City crosses its bridge into the 21st Century with the farsightedness of our Comprehensive Plan as its foundation. Let's make sure that the neighborhood's quality of life is protected as well as Purcell Park.

Art Fovargue stated that he was opposed to Rite-Aid coming into this location. The selling of alcohol is a very big concern, and the traffic cutting through the neighborhood. To avoid the shoppers at Rite-Aid people will try to get around the bottleneck by using the shortcut through the neighborhood.

Gary Cron, owner of the 7-Eleven store at 1435 South Main Street, presented a letter in which he strongly expressed his opposition to the proposed rezoning. He said to change the timing of the traffic signal will not solve the problem. The intersection is presently inadequate to handle those who patronize it. The current volume of traffic, both from South Avenue and from South Main Street, backups during many hours of the day at this intersection. People cut through our parking lot constantly to avoid the light and the congestion. Many folks take dangerous chances to get in or out of the lot due to the backup of traffic. Furthermore, there are no sidewalks on South Avenue to accommodate the hundreds of college students who commute on foot to JMU. Furthermore, many more students pass through the intersection on bicycle, frequently ignoring proper traffic laws, adherence, and common sense. "I believe logic and wisdom, when properly applied to this situation, strongly validates the wisdom of the comprehensive plan and of my objectives to this rezoning".

Tim Green representing Sonshine Coin Laundry expressed his opposition to the construction of a Rite-Aid Pharmacy. He said the proposed change in rezoning should be denied for three main reasons including traffic flow, necessity, and current options. The corner of South Main Street and South Avenue can be congested during critical times of the day. Difficulties in traffic flow already occurs and any addition in traffic would only increase the current problem and the spending of needless tax payer dollars to alleviate traffic congestion. The area abounds with convenience stores. The current pharmaceutical and convenience store needs of college students and community individuals are adequately supplied. If Rite-Aid's main interest is pharmaceutical, there are other locations already zoned commercially, which would be more suitable for this commercial development.

Marion Jameson stated that she did object to Rite-Aid being located at this location, but not to the southern end of the City. The store should be placed in a better location where traffic can easily be handled. She expressed concern about the site use and mentioned that since there is no back entrance to the store for deliveries, it will be necessary for all deliveries to come through the customer parking area. After living through the construction of Port Republic Road and South Main

Street intersection it is very dangerous for cars to use a shortcut through the neighborhood. There being no others desiring to be heard, the public hearing was declared closed at 8:26 p.m., and the regular session reconvened. Discussion included location selection, volume of business at the store, the 30 college students living in existing buildings, safety of the intersection, heavy traffic area, increased alcohol sales, and one business opposing another business coming into the area. Vice-Mayor Lantz offered a motion to refer this rezoning request to the Planning Commission for further study and recommendation. The motion was seconded by Council Member Rogers, and approved with a four to one vote with Mayor Eagle voting no.

Planning and Community Development Director Turner introduced a request for a special use permit to operate a business office for a 24-hour answering service in an M-1 Industrial District on Virginia Avenue. This property is located on the eastern side of Virginia Avenue, north of the intersection of Virginia Avenue and Sixth Street, which is actually a paper street. Mrs. Turner explained that Ms. Alicia Shoemaker, owner of People's Choice Answering Service, has requested a special use permit to operate a 24-hour answering service in the M-1 Industrial District. District regulations allow for business and professional offices only by a special use permit. The area surrounding the site is zoned M-1 General District Industrial containing a variety of land uses including single family residence, Culligan's Water Conditioning, Jerry's Auto Sales, and Senger's Refrigeration and Appliance Center. The land use guide generally recommends this area for residential uses; however, the comprehensive zoning is in M-1 General Industrial District. Staff did recommend approval of the special use permit, as the proposed answering service would not be a detriment to the surrounding area. This is proposed to be a small business and since the lot only contains 12,500 square feet in area really could not support a large use of any type of industrial or any other use. The applicant has stated that the office will average between six (6) and ten (10) employees, with fewer employees working during the evening hours. Likewise, customers seldom visit their office due to the nature of the business. There was some concern at the Planning Commission meeting about the number of parking spaces shown on the proposed site plan, however, the applicant has been made aware of the situation and they will work out details during the site plan review process. Planning Commission did recommend approval of this request.

At 8:45 p.m., Mayor Eagle closed the regular session temporarily and called the evening's public hearing to order. The following notice appeared in the Daily News-Record on Monday, January 27, and Monday, February 3, 1997.

NOTICE OF PUBLIC HEARING

The Harrisonburg City Council will hold a public hearing on Tuesday, February 11, 1997, at 7:30 p.m., in the City Council Chambers, 345 South Main Street, to consider the following:

Special Use Permit

- 1. Request by Stanley and Lois Simmers (owners) and Alicia N. Shoemaker (contract purchaser) for a special use permit to operate a 24-hour answering service in an M-1**

Industrial District. The site is located on the eastern side of Virginia Avenue, north of the intersection of Virginia Avenue and Sixth Street, which is a "paper street". The property is identified as parcel 40-F-5&6 on the City of Harrisonburg Block Maps. The Comprehensive Plan recommends this area for neighborhood residential use.

Maps and other information are available for review in the Community Development Department, 409 South Main Street, Monday through Friday, 8:00 a.m. to 5:00 p.m.

All persons interested will have an opportunity to express their views at this Public Hearing. Any person requiring auxiliary aids, including signers, in connection with the Public Hearing shall notify the City Manager at least Five (5) days prior to the time of meeting.

CITY OF HARRISONBURG
Steven E. Stewart
City Manager

Mayor Eagle called on anyone present desiring to speak either for or against this special use permit. Alicia Shoemaker, owner of People's Choice Answering Service, stated that she was here to request the special use permit. The answering service would be an access to the community, it is a low key business, would generate very little traffic, and because of the small lot would be limited to certain businesses.

Keith May, agent for the applicants, stated that he was supporting this request because of the 12,500 square foot lot which would limit its uses. It is a clean business with very little retail traffic. There being no others desiring to be heard, the public hearing was declared closed at 8:53 p.m., and the regular session reconvened. Vice-Mayor Lantz offered a motion to approve this request as presented. The motion was seconded by Council Member Rogers, and approved with a unanimous vote of Council.

Planning and Community Development Director Turner introduced a request to amend Section 10-3-22 of the Harrisonburg City Code. She explained that this request to the Zoning Ordinance would permit enclosure of existing porches with roofs which do not meet height or setback requirements. This request came to the Planning Commission from the Board of Zoning Appeals which had reviewed a request to enclose a screen porch which did not meet minimum setback regulations. The Board of Zoning Appeals thought that it should be permitted by right and could be remedied by a change in the general ordinance language. Planning Commission did review the request and discovered that Rockingham County has a very similar provision which allows non-conformance. She said that Planning Commission is recommending that the language of Section 10-3-22 be amended to read: Enlargement or restoration of nonconforming buildings as: An existing porch or carport with a roof that is nonconforming as to height or setback regulations but devoted to a conforming use may be enclosed, provided that such addition does not compound the existing nonconformity as to setback and height regulations. In an event that enclosing a porch or carport creates a public safety problem, such enclosure will not be allowed. Planning Commission did recommend approval of this provision to the zoning ordinance.

At 8:55 p.m., Mayor Eagle closed the regular session temporarily and called the evening's public hearing to order. The following notice appeared in the Daily News-Record on Monday, January 27, and Monday, February 3, 1997.

NOTICE OF PUBLIC HEARING

The Harrisonburg City Council will hold a public hearing on Tuesday, February 11, 1997, at 7:30 p.m., in the City Council Chambers, 345 South Main Street, to consider the following:

Amendment and Changes

- 1. The City Council will hold a Public Hearing to consider revision of Section 10-3-22 of the City of Harrisonburg Zoning Ordinance pertaining to enlargement and restoration of nonconforming buildings.**

Maps and other information are available for review in the Community Development Department, 409 South Main Street, Monday through Friday, 8:00 a.m. to 5:00 p.m.

All persons interested will have an opportunity to express their views at this Public Hearing. Any person requiring auxiliary aids, including signers, in connection with the Public Hearing shall notify the City Manager at least five (5) days prior to the time of the meeting.

**CITY OF HARRISONBURG
Steven E. Stewart
City Manager**

Mayor Eagle called on anyone present desiring to speak either for or against this amendment to the zoning ordinance. Council Member Byrd questioned whether the public safety problem was a matter of decision by the Zoning Administrator or Community Development Department, site vision, or habitable structure, fire codes, etc. Mrs. Turner replied that the decision will be made by the Zoning Administrator because that person is charged with making a decision in the administration of this issue. The City Engineer or Building Official will request more information from the applicant. There being no others desiring to be heard, the public hearing was declared closed at 9:00 p.m., and the regular session reconvened. Council Member Rogers offered a motion to amend Section 10-3-22 of the Harrisonburg Zoning Ordinance for a first reading. The motion was seconded by Vice-Mayor Lantz, and approved with a unanimous recorded vote of Council.

✓ Jeff Obenschain reported on the Harrisonburg Rescue Squad. He said the Harrisonburg Rescue Squad was first organized in 1949, to work in conjunction with Harrisonburg Fire Company. The all volunteer organization provides emergency medical, rescue, and transport services to the residents of the City. With limited equipment and little training, but tremendous dedication they excelled at their task setting high standards for those who would follow in their footsteps. Today the Harrisonburg Rescue Squad is still faithfully and proudly providing that essential service, only it is not as easy as it once was. The year of 1996 was one of record growth and challenges for the

Harrisonburg Rescue Squad. It now struggles to be not only a competent, caring neighbor during times of trouble, but also an efficient business during times of decreased funding. He reviewed the various equipment which has increased in cost. Greater calls obviously require greater resources, hospital and field training, specialized training, cardiac life support training and updated specialized equipment. He appealed for additional financial assistance for the Harrisonburg Rescue Squad to achieve their goals both now and in the future. The Harrisonburg Rescue Squad is committed to providing the best pre-hospital care to the citizens and visitors of Harrisonburg. Mayor Eagle commented that the report contained many facts and that the Harrisonburg Rescue Squad does a tremendous job and it is a valuable service.

Fire Chief Shifflett presented an updated report on the "Two In-Two Out" rule. He explained that there have not been many follow-ups concerning the rule. The department does have the information and it is just a matter deciding how to deal with the situation. He reviewed the list of cities that are similar to Harrisonburg in their manning level.

Bill Blessing, Chairman of the Transportation Safety Commission, clarified part of the proposal presented to City Council in November 1996. He said restructuring the membership of the commission by adding several voting members from the business and industrial community was very important. He questioned the responsibilities of the Transportation Safety Commission since the City Code only spoke about membership and tenure. The commission has not focused on safety in the community. He suggested that the commission become pro-active rather than a reactive entity. Other safety commissions in Virginia have gone beyond being reactive and only responding to certain issues. Following further discussion and comments, Vice-Mayor Lantz suggested that Council Member Green represent City Council in discussing these issues with the Transportation Safety Commission.

City Manager Stewart presented a request for a supplemental appropriation for FEMA funds. This will put FEMA funds in the accounts that paid for flood repairs from both the January 1996 and September 1996 floods. Council Member Rogers offered a motion to approve this request for a first reading, and that:

\$160,589 chge. to: 1000-33525 FEMA reimbursement - Flood damage

\$ 634 approp. to: 1000-310111-41020 Salaries & wages - Overtime
 2,320 approp. to: 1000-320132-48181 Building & grounds
 43,366 approp. to: 1000-410211-43374 Maint. & repairs - Allowable
 1,130 approp. to: 1000-410741-46070 Maint. & repairs - Supplies
 19,876 approp. to: 1000-710171-43360 Maint. & repairs - Buildings & Grounds
 87,661 approp. to: 1000-990111-49241 Transfer to Water Fund
 3,309 approp. to: 1000-990111-49242 Transfer to Sewer Fund
 2,293 approp. to: 1000-990111-49260 Transfer to Central Stores operating Fund

The motion was seconded by Council Member Green, and approved with a unanimous recorded vote of Council.

Vice-Mayor Lantz presented a brief report on the Deer Population Task Force. He explained that three deer have been killed by using the kill permit. The Deer Population Task Force has presented an educational program on a local radio station, they have supplied landowners with the ordinance and signs have been erected in the major deer crossing areas. Assistant City Manager Baker stated that several members of the group hope to present a program on the local television station. The group is collecting data to be used for information in a report. The next City Hall Update article that appears in the Daily News-Record will contain information about discouraging deer from getting into flower and vegetable gardens. The group also hopes to have a one page handout available soon.

At 9:42 p.m., Vice-Mayor Lantz offered a motion that Council enter an executive session for discussion and consideration of personnel and prospective candidates to be appointed to the Industrial Development Authority, exempt from the public meeting requirements pursuant to Section 2.1-344(A)(1) of the Code of Virginia. Consultation with the City Attorney and briefings by staff members pertaining to two (2) new contracts requiring the provision of legal advice by the City Attorney, exempt from the public meeting requirement pursuant to Section 2.1-344(A)(7) of the Code of Virginia. Discussion and consideration of the acquisition of real estate to be used for a public purpose, exempt from public meeting requirements pursuant to Section 2.1-344(A)(3) of the Code of Virginia, 1950, as amended. The motion was seconded by Council Member Rogers, and approved with a unanimous vote of Council.

At 11:32 p.m., the executive session was declared closed and the regular session reconvened. City Clerk Ryan read the following statement which was agreed to with a unanimous recorded vote of the Council: I hereby certify to the best of my knowledge and belief that (1) only public matters lawfully exempt from open meeting requirements pursuant to Chapter 21 of title 2.1 of the Code of Virginia, 1950, as amended, and (2) only such public business matters as were identified in the motion by which the executive or closed meeting were convened were heard, discussed or considered in the executive session by the City Council.

At 11:33 p.m., there being no further business and on motion adopted the meeting was adjourned.



 CLERK



 MAYOR