



# City of Harrisonburg

City Hall  
409 South Main Street  
Harrisonburg, VA 22801

## Master

**File Number: ID 19-358**

<b>File ID:</b> ID 19-358	<b>Type:</b> PH-Special Use Permit	<b>Status:</b> Approval Review
<b>Version:</b> 1	<b>Agenda Section:</b>	<b>In Control:</b> City Council
<b>Department:</b>		<b>File Created:</b> 11/27/2019
<b>Subject:</b>		<b>Final Action:</b>
<p><b>Title:</b> Consider a request from The Norton Group, LLC for a special use permit to allow manufacturing, processing and assembly operations at 1043 and 1061 South High Street</p>		

### Internal Notes:

**Sponsors:**

**Attachments:** CC Memorandum 2 SUPs (1043, 1061 S High St), CC SUP Application, applicant letter, and supporting documents, Planning Commission Extract, CC SUP Site maps, Public Hearing notice, Surrounding property owners notice, PC Memorandum, PC Site maps, PC Application, applicant letter, and supporting documents

**Contact:**

**Drafter:** thanh.dang@harrisonburgva.gov

**Agenda Number:**

**Enactment Date:**

**Enactment Number:**

**Hearing Date:**

**Effective Date:**

### History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Planning Commission	12/11/2019	recommended to full council	City Council	01/14/2020		Pass

**Action Text:** A motion was made by Finks, seconded by Finnegan, that this PH-Special Use Permit be recommended to full council to the City Council, due back by 1/14/2020. The motion carried by a voice vote.

**Notes:** Chair Way read the request and asked staff to review.

Ms. Dang said that the Comprehensive Plan designates this site as Limited Commercial. These areas are suitable for commercial and professional office development but in a less intensive approach than the Commercial designation. These areas need careful controls to ensure compatibility with adjacent land uses. The maintenance of functional and aesthetic integrity should be

emphasized in review of applications for development and redevelopment and should address such matters as: control of access; landscaping and buffering; parking; setback; signage; and building mass, height, and orientation. It is important that development within Limited Commercial areas does not incrementally increase in intensity to become similar to the Commercial designation. Efforts should be made to maintain the intent as described.

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

- Site: Commercial and industrial uses including, a grocery store and carpet and upholstery cleaning service; zoned M-1
- North: Offices and retail uses; zoned M-1 and B-2
- East: Commercial and industrial uses including a restaurant, a grocery store, an HVAC contractor, and electrical equipment supplier; zoned M-1
- South: Office, nonconforming multi-family dwellings, and a nonconforming single-family detached dwelling; zoned M-1
- West: House of worship and single-family detached dwellings; zoned R-1

The applicant is requesting two special use permits (SUPs). The first SUP would allow manufacturing, processing and assembly operations per Section 10-3-91(1) of the Zoning Ordinance (ZO), and the second would allow warehousing and other storage facilities per Section 10-3-91(2). Described in a separate staff report being reviewed concurrently, the applicant is also requesting to rezone five parcels, including the subject parcel, totaling +/- 3.3 acres, from M-1, General Industrial District to B-2C, General Business District Conditional. If the rezoning and SUPs are approved for the subject parcel (TM 19-A-8), the applicant desires to lease space to Staff of Life Bakery and to GoPuff LLC. The parcel contains two buildings addressed as 1043 and 1061 South High Street. This parcel has no public street frontage and is located behind parcels along the western side of South High Street approximately 200 feet north of the intersection with South Avenue.

As described in the applicant's letter, Staff of Life Bakery desires to occupy approximately 4,000 square feet of space in the building addressed as 1061 South High Street. The bakery sells goods to farmers markets and markets and plans to operate between 4am-5pm. The applicant is aware that per Section 10-3-91(1), no more than 15 employees can work on a single shift and all storage and activities associated with the manufacturing use must be conducted within a building. Although Staff of Life plans to have about three employees working on any given shift, staff is comfortable allowing the applicant the flexibility to have the maximum number permitted by the special use.

GoPuff LLC desires to occupy approximately 4,600 square feet of space in the building addressed as 1043 South High Street. GoPuff is a digital convenience delivery service where customers order items online to have the items delivered

24 hours per day, seven days a week. Customers would not be coming to this location.

While the adjacent property to the west of this site (identified as tax map 20-G-1) is zoned R-1 and is designated Low Density Residential, at this time, staff is not concerned that the proposed uses on the subject site will adversely impact the adjacent property. Other than deliveries to and from the site, the proposed bakery and convenience delivery service operation will be conducted within a building. Additionally, approximately half of the adjacent +/- 2.6-acre parcel is undeveloped, and future development or use of that parcel could accommodate any desired screening or buffering between future uses permitted in the R-1 district and the proposed commercial uses on the subject site.

Staff believes that approval of the SUPs, with conditions, for the proposed bakery and convenience delivery services are consistent with good zoning practice and will have no more adverse effect on the health, safety, or comfort of persons living and working in the area and will be no more injurious, economically or otherwise, to property or improvements in the surrounding area. Staff recommends approval of the special use permits with the following conditions.

Recommended conditions for the SUP per Section 10-3-91(1), “[m]anufacturing, processing, and assembly operations when not employing more than fifteen (15) persons on the premises in a single shift and provided that all storage and activities are conducted within a building.”

1. The special use permit shall only be applicable for a bakery or a substantially similar operation.
2. If in the opinion of Planning Commission or City Council, the use becomes a nuisance, the special use permit can be recalled for further review, which could lead to the need for additional conditions, restrictions, or the revocation of the permit.

Condition #1 limits the SUP to only bakeries or substantially similar operations. If the applicant later wishes to have other manufacturing, processing, and assembly operations, they must return with a new SUP request to be vetted by Planning Commission and City Council. Condition #2 allows PC and CC to recall the SUP for further review if the use becomes a nuisance.

Recommended conditions for the SUP per Section 10-3-91(2), “[w]arehousing and other storage facilities.”

1. All storage and activities are conducted within a building.
2. Self-storage facilities are prohibited.
3. If in the opinion of Planning Commission or City Council, the use becomes a nuisance, the special use permit can be recalled for further

review, which could lead to the need for additional conditions, restrictions, or the revocation of the permit.

Condition #1 prohibits storage and warehousing activities from being conducted outside a building. Condition #2 prohibits self-storage facilities, which are buildings that contain separate, individual, and private storage spaces of varying sizes available for lease for varying periods of time. Condition #3 allows PC and CC to recall the SUP for further review if the use becomes a nuisance.

Chair Way asked if there were any questions for staff.

Commissioner Finks asked how far do you think you could stretch the word usage of “substantially similar” operation? Is that limiting enough to keep it to something that we would identify as something similar to a bakery? Does it have to be something edible, for human consumption?

Mr. Fletcher said that he would have to ask the Zoning Administrator.

Mr. Russ said that it would ultimately be the Zoning Administrator’s call, but I think the question is what would the Zoning Administrator be basing that on?

Mr. Fletcher said that we have talked about what “substantially similar” means. “Substantially similar” is very similar, almost the same. We even discussed the difference between a bakery and a confectionary and the sort. It has to be substantially similar.

Commissioner Whitten asked if it would be a bakery without a retail component.

Ms. Dang said that it could have retail because they are zoned B-2. We did not want the manufacturing, processing and assembly use to open the doors for any other type of non-bakery uses.

Mr. Fletcher said that it is difficult to discuss interpretation of a hypothetical that has not been present in this fashion.

Commissioner Finks said that what he was considering was the idea of a bakery that was not for human consumption.

Mr. Fletcher said that my experience and conversations with a former Zoning Administrator, “substantially similar” has always been pretty much the same thing.

Mr. Russ asked if Commissioner Finks was referring to an industrial scale dog treat bakery. Something along the lines of food, but not for human consumption?

Commissioner Finks said that when you think of living next to a bakery, it is

something that could be pleasant. If it is still a bakery, but not something pleasing to the human olfactory system, but still technically a bakery.

Mr. Fletcher said that we ask these things all the time.

Commissioner Finnegan said that, when we did the site visit, we did not leave out of the one side of the parking lot because it was too dangerous.

Ms. Dang said that there is a curve in the road that made the northernmost entrance difficult to exit into oncoming traffic. More difficult than the other entrances.

Commissioner Finnegan asked if there was any concern from staff about the potential increased traffic in and out of there at that particular entrance. Are there any line of sight violations? That section of South High Street seems dangerous.

Commissioner Colman said that anywhere there, even Ace Hardware, there are plenty of sight distances and a lot of traffic.

Commissioner Finnegan said that there is a blind corner in the northern entrance. Is that a safety concern?

Commissioner Colman said that those are existing entrances. As someone who drives there all the time because my office is up the street, traffic is always busy, and people are pulling into the various businesses. There is a lot of activity going on there, but I am not aware of any accidents there.

Chair Way opened the public hearing and invited the applicant or applicant's representative to speak to the requests.

Brian Diener, The Norton Group, LLC, came forward in support of the request.

Commissioner Finks clarified that his question was not intended to suggest that Mr. Diener or any of the current owners would push the idea of the "substantially similar" operation. I asked because the language would convey regardless of who owned the property in the future.

Chair Way asked if there was anyone else wishing to speak to the request. Hearing none, he closed the public hearing and opened the matter for discussion.

Commissioner Colman said that we have that "substantially similar" clause, but they could come back and ask for a SUP for something else.

Commissioner Finks moved to recommend approval of the two SUP requests,

with conditions, as presented.

Commissioner Finnegan seconded the motion.

All members voted in favor of recommending approval (7-0) of the special use permit requests, as presented. The recommendation will move forward to City Council on January 14, 2020.

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