



City of Harrisonburg

City Hall
409 South Main Street
Harrisonburg, VA 22801

Master

File Number: ID 20-059

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Type: PH-Special Use Permit

Status: Draft

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**Agenda
Section:**

In Control: City Council

File Created: 03/04/2020

Subject:

Final Action:

Title: Consider a request from Elite Land LLC for a special use permit to allow recreational and leisure time activities within the M-1 district at 60 Carpenter Lane

Internal Notes:

Sponsors:

Enactment Date:

Attachments: Memorandum, Site Maps, Application, applicant's letter and supporting documents, Public Input Received as of April 1, 2020, Site and Landscaping Plan, Surrounding Property Notices, Public Hearing Notice, PC Memorandum, PC Site Maps, PC Application, applicant's letter and supporting documents, PC Sheet C4.01 of ECSP dated 01-06-2020

Enactment Number:

Contact:

Hearing Date:

Drafter: thanh.dang@harrisonburgva.gov

Effective Date:

Related Files:

History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Planning Commission	03/11/2020	recommended to full council	City Council	04/14/2020		Pass
Action Text: A motion was made by Orndoff, seconded by Finnegan, that this PH-Special Use Permit be recommended to full council to the City Council, due back on 4/14/2020. The motion carried with a recorded roll call vote taken as follows:							
Notes: Chair Colman read the request and asked staff to review.							

Ms. Banks said that the Comprehensive Plan designates this area as Industrial. These areas are composed of land and structures used for light and general manufacturing, wholesaling, warehousing, high-technology, research and development, and related activities. They include the major existing and future employment areas of the City.

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

- Site: Undeveloped acreage; zoned B-2
- North: Manufacturing/warehouse use; zoned M-1
- East: Furniture warehouse and sales; zoned B-2, and undeveloped acreage; zoned M-1
- South: Across Carpenter Lane, recreational use, storage facility, and undeveloped parcels; zoned B-2
- West: Non-conforming multi-family dwelling, non-conforming storage of manufactured/mobile homes, and undeveloped acreage; zoned B-2

The applicant is requesting a special use permit (SUP) per Section 10-3-97 (10) of the Zoning Ordinance (ZO) to allow recreational and leisure time activities, which may include non-transient dwelling units within the M-1, General Industrial District at 60 Carpenter Lane. The +/-5.0-acre site is located along the northern side of Carpenter Lane, a cul-de-sac at the southern edge of the City limits. If approved, Black Bear Gymnastics, a gymnastics instructional and training facility, would construct a building and operate at the site. Given that the applicant does not intend to allow non-transient dwelling units and that staff does not believe in allowing such uses at this location, if there is a desire to allow this SUP, among other conditions, staff is recommending that the SUP shall not allow non-transient dwelling units.

In July 2019, the subject site was rezoned from B-2, General Business District to M-1, General Industrial District. During the rezoning it was described that the site would be developed as a parking lot and used for storage of over the road tractor trailers. A future phase for the site was planned to include construction of a storage/warehouse facility. The B-2 zoning district does not allow for the storage of over the road tractor trailers, and warehousing or storage facilities are allowed only by SUP. The M-1 zoning district allows standalone privately-owned parking lots, warehousing and storage, and storage of over the road tractor trailers as by right uses. Staff supported the rezoning request, Planning Commission unanimously recommended in favor of the rezoning, and City Council unanimously approved the request. At the time of the rezoning, the applicant did not have plans for a gymnastics facility, which is allowed by right in the B-2 district. An engineered comprehensive site plan for the parking lot and a proposed 12,000 square feet warehouse/storage building is currently being reviewed by city staff (a copy of the landscape and site plan page from the engineered comprehensive site plan is included within the packet).

Black Bear Gymnastics is described by the applicant as a dedicated facility offering gymnastics training for boys and girls, through private instruction and group classes. They would also offer tumbling classes, after school programs, birthday parties, and cheerleading classes. As well, they hope to become the primary training facility for several local high school gymnastics, cheer, and possibly dance teams. Black Bear Gymnastics will not be a

public gym; instead, participants must be registered with the training facility to participate in classes and activities. At this time, hours of operation are described as opening at 8:00 a.m. and to be open no later than 11:00 p.m.

Currently, the site is undeveloped and the applicant states that, if approved, the property owner would construct a 12,000 square foot building, which Black Bear Gymnastics would occupy. The building would have 24-foot high ceilings to allow for appropriate foam pits to be installed, with solid decking around, at a 6-foot elevation. This would then provide the needed 16 to 18 feet of ceiling clearance for training purposes. The applicant has been informed that they, or their architect, will need to work with the Building Inspections Division regarding Building Code requirements and necessary permits for construction.

Parking for the gymnastics facility would be calculated on the total occupancy of the facility and based on Section 10-3-25 (13) of the ZO, which would require off-street parking spaces calculated at 10 percent of the maximum occupancy of the fitness facility. All required off-street parking spaces would need to be installed and clearly delineated prior to occupancy of the building. Bicycle parking spaces would also be required per Section 10-3-25.1 of the ZO.

The entire area surrounding the Carpenter Lane cul-de-sac is designated in the 2018 Comprehensive Plan's Land Use Guide as General Industrial and, as previously noted, the subject site was unanimously rezoned to M-1 in 2019, which conforms with the Comprehensive Plan. In general, staff seeks to protect larger industrial zoned parcels, such as this 5-acre site, for economic development, where industries that produce a high number of jobs and/or above median income wage jobs could be located.

As indicated in the ZO, SUP uses are those uses which, if not specifically regulated, may have an undue impact on, or be incompatible with other uses of land within or adjacent to the zoning district. It is staff's understanding that, along with the gymnastics facility, the property owner intends to continue with the vision of using this site for storage of over the road tractor trailers and warehousing. Staff has concern with mixing trucking/warehousing uses with recreational uses on the property and with sharing entrances and parking areas. Furthermore, the recreational use is geared primarily towards K-12 students, presenting a potential safety hazard for those attending the gymnastics facility.

While staff believes a gymnastics facility is a good use in the city, we do not believe it is in the best interest to support this SUP request at this location and therefore recommends denial of the SUP request. However, should there be a desire to approve the recreational and leisure time activity SUP, staff suggests the following conditions:

- The special use permit shall be applicable only for the use, or a substantially similar use, as requested in this application;
- The special use permit shall not allow non-transient dwelling units;
- Any recreational and leisure time activity use permitted herein shall be constructed

so that the use has a separate parking lot which is physically separated from any other use or parking lot. The intent shall be to physically separate and prohibit traffic from other uses mixing with traffic associated with the recreational and leisure time activity use. The recreational and leisure time activity use must have a separate entrance from Carpenter Lane and shall not share any onsite traffic maneuverability with other uses.

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

Britt and Katrina Cleveland, owners, Black Bear Gymnastics, LLC, came forward to speak to the request.

Petr Borodin, owner, Elite Land, LLC, also came forward to speak to the request. He said he was here, last July, asking permission to use this site for parking. Now I realize that this property is larger than what I need. I can downsize my usage and develop different business opportunities for the City.

Mr. Cleveland said that he received the report regarding 60 Carpenter Lane and Community Development's recommendation to deny this special use permit. It was rezoned from B-2 to M-1, per Mr. Borodin's request, in July of last year. He was talking about doing over the road truck parking. That is his business. That is what he runs. That is what he is still intending to do; what he is honoring. As Commissioner Finnegan said, it is better to see some parking lots go away. We are looking at doing that by adding a business to the area.

I understand the concern about the segregation that would be required. We are focused on training children. We are focused on developing a prime opportunity for the children of the area. The area is growing rapidly, not just the City but also the County. We are looking at providing an outlet for young girls. I have two daughters. Petr has two daughters. All of them are under the age of ten. There are very few after school activities or athletic opportunities for our daughters. Broadway has the nearest full-scale gymnastics facility. Staunton also has one. We are looking to partner with Skyline Gymnastics. Kate is currently coaching there. They have been within the City for over 30 years, starting at JMU. We have been working hand in hand with them, combining with them and helping them grow. They are operating out of an elementary school. They set up one time a week. They have over 285 kids going. They run six-week sessions. We are looking to bring this opportunity to the local area and help expand that in a more dedicated fashion.

We have been looking for two and a half years for a suitable location. We started out in the County. We tried to get a special use permit by Freedom Church Road in Cross Keys. We were looking at putting in our own at the time. In Harrisonburg, we started at Divine Unity Community Church on Country Club Road. We tried to get the back of their 15,000

square foot building. We had issues with spacing. Our space requirements are 18-foot clearance for safety for the children to be able to do bars and trampoline type activities. We also need to have over 50-foot of open span clearance. With the floor that they perform on, both for gymnastics and for cheerleading, they are 54 foot and 48 foot. Being able to provide that clearance and that space is difficult in the City and in the local area. We need high space. We have also tried where the new Interstate Batteries is on Pleasant Valley Road, south of the City. Again, we had problems with space. Working with Suturs on Main Street, again, the main support structures in the middle of the facility interrupted the available 11,000 square feet. We were unable to use it. In Dukes Plaza between Ollie's and House of Oak and Sofa, there was a great high roof, but then the firewall gave us only about 5,000 square feet of usable space. It has been a challenge to find an area.

We happened to meet Mr. Borodin by chance. We were introduced to him. He said that he has daughters that would be interested in this and he has the land. He said he would build us the building. That is what led us to this. I know that it was rezoned to M-1. A lot of the area around both sides of Carpenter Lane is still B-2, which we would fit into. We also have the golf course, which is recreational, right across the way, as well.

Mr. Borodin said that we have another high school coming up on Route 11. This would be a huge help to the high school for after school programs. They would go only two miles down the road to the gymnastics facility. I am Eastern European. My wife is from Belarus. We have a big community in town, which takes their kids all the way to Broadway for gymnastics. It would be a great opportunity for Harrisonburg, Rockingham, Bridgewater areas to bring the kids to gymnastics and have a controlled environment for our kids to play and exercise.

Mr. Cleveland said that they are looking to partner with the three local high schools. Right now, Harrisonburg High School, Turner Ashby High School and Spotswood all practice together as one team in Harrisonburg. They were in the wrestling room. I believe that they have moved to the common room. All three programs have outdated equipment. They are not looking to invest in more. We have started talking with the coaches and athletic directors to house all three of the teams so that the schools can continue to offer that.

Mr. Borodin said that he respects staff's recommendation to separate the properties. It is a liability. My goal is to turn this building so that it is situated parallel along the property. It would reduce the area behind the building to the setback minimum, which I can close off with a fence. I would run fence from the entrance to the front of the building. They would have a separate driveway, parking and building. I am going to downsize the scope of the construction to about two acres from the other entrance. I am not going to use the area where it may potentially be hazardous to children. I am going to leave a lot of undisturbed land, for now. I do not know when it is going to be developed further.

Commissioner Finnegan asked if the trucks are empty trailers. Is there hazardous material on them?

Mr. Borodin said there would be freight of all kinds. About 10 percent of the time, drivers come in with a loaded trailer, overnight, then leave in the morning to continue their route. Over the weekend, there would be empty trailers, drop and hook opportunities for my business. We can park trucks, not at a truck stop that can cause congestion and accidents overnight. We can park trucks away from the truck stops. We can provide people in Harrisonburg who are in the trucking business a place to park safely. There is no fuel stored on the property, just regular freight of all kinds, such as paper, plastics, empty trailers primarily.

Chair Colman asked if the trucks would remain occupied. Do the drivers stay with the trucks? Do they park and leave?

Mr. Borodin said that they park and leave. The 1,500 square foot building will be my office. I will be there, monitoring during business hours. I might even put up a gate so that no strangers enter after a certain time. The only people who would have access to the building would be people that I know. No strangers would be allowed. We have different hours. I use the property from about 8:00 to 5:00, at the latest. Black Bear Gymnastics will use it from 3:00 to 8:00. We will be out of the area when they start. The tractor trailers would be there.

Commissioner Finks asked how many tractor trailers could be in that lot at one time.

Mr. Borodin said that he does not know. It depends on the needs. If I need more, then I can expand further. I just do not want to go into debt building everything out and not being able to use it. I want growth potential. If I have another business that is interested in coming in, I can limit myself to two acres for parking and use for warehousing for additional businesses. I do not know where time will lead me. There is a vision that the building can be extended if Black Bear Gymnastics needs more space or some other facility. On the east side of town, on Route 33, there is a jump or trampoline place. My vision would be a better facility for that kind of business on the south side of town. People from Bridgewater would not have to travel as far past Valley Mall.

Chair Colman asked if Mr. Borodin would be willing to proffer the separation.

Ms. Banks said that we, staff and planning commission, can offer conditions on a special use permit, but not proffers.

Chair Colman said that we could condition it to separate those properties by turning the building and providing fencing or buffers. If it is completely separated, then that could be acceptable.

Mr. Borodin said that the site plan is not complete so changes can be made. I support that.

Ms. Banks said that site is still in review for engineered comprehensive site plan review. It is being reviewed as the July 2019 rezoning proposal. This facility was added conceptually. This has not been approved. It is still going through its different iterations. It has only been looked at once. There could be changes to the way the building is oriented. Our last condition is basically the same as what you are asking.

Ms. Dang said that the type of separation was not specified, only that there be separation.

Mr. Fletcher said that the idea of recommending a particular type of separation was discussed. We decided to leave it up to the applicant to determine how it would be separated. The condition was written in a way to convey the intent that it would be completely separate, no mixing of traffic and to have separate entrances.

Chair Colman said that his concern is to protect the children and ensure the separation.

Commissioner Finks asked if one entrance would be adequate for large amounts of tractor trailers.

Ms. Banks said that it is a commercial size entrance.

Commissioner Finks asked if there would be enough turning radius.

Mr. Fletcher said that it would be something that they have to figure out with their engineering. If they could not make it work, they would have to choose which business they want.

Chair Colman said that there is plenty of property there and it is not uncommon to have one commercial entrance. The entrances should not be shared.

Ms. Banks said that is the intent of the suggested condition.

Commissioner Orndoff said that since this is preliminary, and the site plan would be more detailed, the positioning of the building could become a condition; or is that left up to them with the idea that we like it better with the building turned around in order to provide more distance between the tractor trailer and the kids.

Mr. Borodin said that if we turn the building, the building itself will act as a barrier. The entrance would be on the west side.

Mr. Cleveland demonstrated on the screen the proposed rotation of the building. The front would face west, with the parking in front of the building. It would be like two separate properties.

Ms. Dang said that this is conceptually what they are offering, but it would be very difficult

to condition the specifics, without knowing the engineering requirements.

Commissioner Whitten said that she is uncomfortable with the location.

Mr. Cleveland said that if the location were where the furniture warehouse is (adjacent to this property), and if it were the right size, I could put this facility in without any segregation or fencing because of the (B-2) zoning. What we are proposing is to separate Mr. Borodin's property into a B-2 and an M-1. The way I look at it is that I could go in, just to the south, and put this into the furniture building if it met my requirements, it does not; but, if I went in there, right now, there would be no fencing and kids could run back and forth into the parking lot. It would be almost the same as what we are proposing, except we will design it per your recommendation for isolating so that kids do not run across.

Mr. Borodin said that across the street there is plenty of space, if the owners would allow them to put a building there. It is across the street.

Chair Colman said that the area is intended to be an industrial use according to the Comprehensive Plan. The proposed use is a great use. We would like to see it. It seems that you have looked around the City and have not found anything. We understand. That is why I am thinking about what we can do here to make it work. I do not know that we are in full support, yet, because of the two uses. We do not necessarily see mixed with an industrial use. We love the idea of having the gymnastics facility somewhere, but this location is not ideal.

Commissioner Orndoff said that this is not designated for this type of use in the Comprehensive Plan. When the Comprehensive Plan was designed and approved the location of the second high school was unknown. Now we have a second high school that is not far from this property. I can see the need, as they have also indicated with the other schools in the area, both the City and the County, for this kind of facility. The fact that we now have a second high school that is going to be in the same general vicinity as this, is something we need to take into consideration.

Mr. Borodin said that it is in a centralized location for the high schools in Bridgewater and Harrisonburg.

Chair Colman asked if there was anyone else interested in speaking to the request. Hearing none, he closed the public hearing and opened the matter for discussion.

Commissioner Finnegan said that this reminds him of the church on Mount Clinton Pike. It failed to get passed City Council on a 2-2 vote, with one abstention. There is a clear, enthusiastic group of people who want to use this land for this use. It does not fit with what is around it and what the City wants to see there, in the future. I struggled with that request, as I struggle with this one.

Commissioner Whitten said that is an important point. High school or not, that industrial land is valuable and needs to be protected.

Commissioner Orndoff said that directly across the street from this is a driving range, which is a recreational and leisure time activity.

Commissioner Whitten said that has been there for a very long time.

Commissioner Finks said that he sees the similarities, but the difference is that the usage that is already proposed to happen on this property is so different. The property that we were looking at on the north end of town was cornfield. There were no tractor trailers parked there with a church next door. That is a big difference. It is two uses that you normally would not want to see right next to each other. In a perfect world, I would not want to see them next to each other, but I also understand that there are not a lot of areas where you can find property for a building of the size required. We have to weigh all those factors and not just look at it from a perspective of whether we want those two uses next to each other or not.

Commissioner Finnegan said that, when we looked at the parking plan for the new high school and the related discussions, and the fact that the high school is going in where it is going and is surrounded by car parking lots and car dealerships, I said that I see the south end of town changing because of the high school over time. I am not saying that is a reason to say “yes” to this, but having a high school in a place that is surrounded by car dealerships will cause it to change over time. We will see more requests like this. It is a tough call.

Chair Colman said that we approved a special use permit for an athletic facility on Acorn Drive, in an industrial area.

Ms. Banks said that one was approved on Red Oak Street. It later got approval for a larger facility on Acorn Drive and moved its operation. Recently, another one was approved on Acorn Drive.

Chair Colman said that there is precedent of establishing athletic facilities in the City. This request is related to a tractor trailer parking area, which is different from what we have on the north side. It is something to consider that this is not something that we have never seen before. We have seen it a couple of times.

Commissioner Finks said that there is a desperate need for these services. I would love to see it in Harrisonburg. It seems like it would be a great opportunity for a lot of students in the area. I think it would be great in Harrisonburg. I just struggle with the location. If it was not for the location, I would be very happy to vote in approval. In general, I agree that that area is a central location between schools. There is the golf course right across the street. The location makes sense to me. It comes down to the use next door. I struggle with that.

Commissioner Whitten said that we want to comply with the Comprehensive Plan.

Commissioner Finks said that we want to protect the M-1 district, but we also have to allow for flexibility when we see something that is going to benefit the City. I worry about being too protective of the M-1 if it is going to sit vacant. If we have a viable plan that comes in, that will make sense for the area, we should at least consider it.

Commissioner Finnegan said that the other piece that I am struggling with is vacant properties, such as the corn field in the north, where we can put the property to taxable use.

Commissioner Finks said that once we do that, from a planning perspective, we will not get that back. It will be difficult, with that use there, to have it as a viable M-1 property for a serious industrial business.

Commissioner Whitten said that various locations on Neff Avenue would be great for such a business.

Commissioner Finnegan said that it sounds like they have exhausted their options.

Commissioner Whitten said that across from the JMU Athletic Facility on Port Republic Road and Neff Avenue would be a good location.

Chair Colman said that they do not own that property. In terms of losing industrial property, the property will mainly be used for an industrial use. To me, that is not the issue. The issue is the mixing of the two uses. That is what concerns me. Given the separation, that could be something that I would be supportive of, and yet apprehensive.

Commissioner Whitten said that if it is successful, then they will want to grow. There will be other things that are complementary that would want to adjoin them.

Chair Colman said that would also require a special use permit.

Commissioner Orndoff said that if that were the case, the whole thing might go back to B-2.

Commissioner Finnegan said that the request was not dividing the property, if we use the conditions presented by staff, such as the language on the last conditions “substantially similar use.”

Mr. Fletcher said that the industrial use is not established. Any of the M-1 uses are permitted.

Chair Colman said that right now it is tractor trailer parking, but it is not limited to that.

Commissioner Orndoff made a motion to recommend approval of the special use permit with the suggested conditions.

Commissioner Finnegan seconded the motion.

Chair Colman called for a roll call vote.

Commissioner Finks: No
Commissioner Finnegan: Aye
Commissioner Orndoff: Aye
Commissioner Romero: Aye
Commissioner Whitten: No
Chair Colman: Aye

The recommendation to recommend approval of the special use permit, with conditions, passed (4-2). The recommendation will move forward to City Council on April 14, 2020.

Commissioner Whitten said that she has mixed feelings about this. I do feel like this is a wonderful opportunity. I know about the Skyline program. I have a child in Stone Spring Elementary School. I know that it is popular and needed. Children are spending too much time behind screens and inside. They need to be engaged, in play and in physical activity. I am a huge advocate of that. I am torn about this particular configuration in this location, and the M-1 and the Comprehensive Plan.

Commissioner Finks said that he would reiterate Commissioner Whitten's comments for his "no" vote on the motion.

Yes: 4 Colman, Finnegan, Romero and Orndoff
No: 2 Finks and Whitten
Absent: 1 Ford-Byrd
