



# City of Harrisonburg, Virginia

## Department of Planning & Community Development

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Building Inspections  
Engineering  
Planning & Zoning

April 30, 2018

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

**SUBJECT:** Public hearing to consider a request from BB Nectar LLC to rezone one parcel zoned R-3, Medium Density Residential District to B-2C, General Business District Conditional. The 41,905+/- square foot property is located at 2105 Evelyn Byrd Avenue and is identified as tax map number 77-A-1A.

### EXTRACT FROM MINUTES OF HARRISONBURG PLANNING COMMISSION MEETING HELD ON: April 11, 2018

Vice Chair Colman read the request and asked staff to review.

Mrs. Banks said the Comprehensive Plan designates this area as Planned Business. This designation states that these areas are suitable for commercial development but need careful controls to ensure compatibility with adjacent land uses. The following land uses are located on and adjacent to the property:

Site: Professional office, zoned R-3

North: Across Evelyn Byrd Avenue, furniture showroom and warehouse, zoned M-1; and commercial shopping areas, zoned B-2

East: Vacant parcel, zoned B-2C; and professional offices, zoned R-3

South: Professional office, zoned R-3

West: Across Lucy Drive, furniture showroom, zoned B-2

The applicant is requesting to rezone a 41,905+/- square foot parcel from R-3, Medium Density Residential District to B-2C, General Business District Conditional. The property is located on the southeast corner at the intersection of Evelyn Byrd Avenue and Lucy Drive. Currently, a medical practice operates within the existing building on the site. As explained within the letter submitted by the applicant, they believe the current R-3 zoning is restrictive for this site, and for the area in general; thus, they are seeking the rezoning to B-2 conditional.

The applicant has submitted the following proffers:

1. The site shall only permit the following uses, as referenced from the Harrisonburg City Code Zoning Ordinance, Title 10 – Planning and Development, Chapter 3 – Zoning, Article Q – B-2 General Business District, Section 10-3-90 – Uses Permitted By Right:
  - a. Mercantile establishments which promote the show, sale and rental of goods, personal service establishments, restaurants and other shops and stores customary to shopping centers and convenience outlets.

- b. Governmental, business and professional offices and financial institutions.
  - c. Religious, educational, charitable or benevolent institutional uses which do not provide housing facilities.
  - d. Pet shop or pet grooming establishment and animal hospitals.
  - e. Radio and television stations and studios or recording studios.
  - f. Public uses.
  - g. Accessory buildings and uses customarily incidental to any of the above listed uses.
2. All uses allowed by an approved special use permit shall be permitted.
  3. Right-of-way dedications and easements as follows:
    - a. 7.5 feet of right-of-way, as measured from back of curb along the entirety of Lucy Drive, shall be dedicated for future public sidewalk;
    - b. Right-of-way for a future traffic signal shall be dedicated at the intersection of Lucy Drive and Evelyn Byrd Avenue by removing the “arc” in the North corner of the property and connecting the points of tangency;
    - c. In addition, a 15-foot temporary construction easement, as measured from back of curb along the entirety of the proposed new right-of-way, shall be dedicated for the construction of the sidewalk and the traffic signal.
    - d. Such dedications shall be completed and recorded within 90 days of approval.

As noted above, the Comprehensive Plan identifies the subject property as Planned Business, a designation that is suitable for commercial development; however, careful controls are necessary to ensure compatibility with adjacent land uses. The applicant’s proffers limit the B-2 permitted uses that would be allowed on the site if the rezoning is approved, some of the more intensive uses, such as vehicle sales, vehicle repair businesses, stand-alone parking lots, gas stations, warehousing, plant nurseries and green houses, have been excluded. All special uses are still allowed as they would require further evaluation and public hearings.

The applicant is also proffering to dedicate right-of-way along Lucy Drive and at the intersection of Lucy Drive and Evelyn Byrd Avenue. If approved, 7.5 feet of right-of-way, as measured from back of curb, would be dedicated along Lucy Drive for future sidewalk construction. The applicant would not be required to construct the sidewalk. Additionally, right-of-way at the corner of Lucy Drive and Evelyn Byrd Avenue, for a future traffic signal, would be dedicated. The applicant would also provide a 15-foot, as measured from back of curb, temporary construction easement along the dedicated right-of-way. (A site drawing is provided for reference.)

During the review process, staff explained to the applicant that if the rezoning is approved, the site will be encumbered by additional minimum building setback regulations along the southern property boundary due to the adjacent property being zoned residentially. As identified within the Zoning Ordinance, the B-2 zoning district’s side and rear yard building setbacks are 10 feet; however, when a shared line abuts a residential district, the minimum setback then increases to 30 feet. Furthermore, if any structure is to be greater than 35 feet in height, then one additional foot of setback is required for each foot above 35 feet adjacent to shared lines of residentially zoned property. Because the adjacent property to the south is zoned R-3, Medium Density Residential District, the additional setback requirements apply. Parking lots however, can be within the setback and can be constructed right up to the property line if fencing or a wall is provided.

The subject parcel is a corner lot and has adjacent parcels of industrial, general business, general business conditional, and residential zoning; however, it is not directly adjacent to any residential use. Staff believes the request is conforming with the Planned Business designation of the Comprehensive Plan

along this corridor. Staff recommends approval of the rezoning request to B-2, General Business District Conditional.

Vice Chair Colman asked if there is a sidewalk along the front of the property.

Mrs. Banks said there is no sidewalk along Evelyn Byrd Avenue.

Vice Chair Colman asked if the only interest is to have room for a sidewalk along Lucy Drive.

Mrs. Banks said yes, only along Lucy Drive.

Vice Chair Colman then asked if anyone else had questions for staff. Hearing none, he opened the public hearing and asked if the applicant would like to speak.

Shawn Thompson, 1181 South Dogwood Drive, said I am here to answer any questions you may have about the property or why we are wanting to rezone it. We worked closely with the Planning Department; both Mr. Fletcher and Mrs. Banks were great while going through the process and working with Public Works to establish the easement and dedication.

Vice Chair Colman asked if anyone else would like to speak on this request. Hearing none, he closed the public hearing and asked Planning Commission for a motion on the request for discussion.

Mrs. Whitten moved to approve the rezoning at 2105 Evelyn Byrd Avenue from R-3 to B-2C, as presented by staff.

Mr. Finnegan seconded the motion.

Vice Chair Colman said we have a motion and a second for approval. He called for a voice vote on the motion.

All voted in favor (6-0) to approve the rezoning at 2105 Evelyn Byrd Avenue from R-3 to B-2C, as presented by staff.

Vice Chair Colman said this will go forward to City Council on May 8, 2018.

Respectfully Submitted,

*Alison Banks*

Alison Banks  
Senior Planner