

Portion of Minutes from the October 12, 2022 Planning Commission Meeting to be considered for re-approval

Consider a request from Gary L. Beatty for a special use permit to allow manufacturing, processing and assembly at 26 Pleasant Hill Road

Consider a request from Gary L. Beatty for a special use permit request to allow reducing required parking areas at 26 Pleasant Hill Road

Chair Finnegan read the requests and asked staff to review.

Ms. Dang said there are two uses currently operating on site, which are not meeting specific components of the Zoning Ordinance, which is what generated the need for both of the special use permits applied for herein.

Starting in February 2022, staff began communicating with the property owner and potential tenants about uses that could operate on the property. After some time, staff visited the site and learned more about the property and its history. Staff eventually learned that one of the operating uses, Smith Glass, necessitates a special use permit per Section 10-3-91 (1) to legally operate in the B-2 district. The other use that is operating is Kruschiki Supply Company, which is classified as a by right retail operation. Unfortunately, the site does not currently supply enough off-street parking for the uses.

The property owner disagrees with staff's interpretation of the above noted matters, and while he could appeal staff's interpretation to the Board of Zoning Appeals, the property owner is attempting to rectify the situation by applying for the two SUPs described below. If the SUPs are approved, the property owner must also apply for building permits to change the recognized use of the structure per the Building Code.

The Comprehensive Plan designates this site as Commercial. Commercial uses include retail, office, professional service functions, restaurants, and lodging uses. Commercial areas should offer connecting streets, biking and walking facilities, and public transit services. Interparcel access and connections are essential to maintaining traffic safety and flow along arterials. Parking should be located to the sides or rear of buildings.

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

- Site: Retail use and a manufacturing, processing, and assembly operation, zoned B-2
- North: Single-family detached homes, zoned R-1
- East: Commercial uses, zoned B-2
- South: Multi-family dwellings, zoned R-2
- West: Single-family detached homes, zoned R-1

The applicant is requesting two special use permits (SUPs) for a +/- 26,194 sq. ft. property addressed as 26 Pleasant Hill Road. The first SUP would allow manufacturing, processing and

assembly operations when not employing more than 15 persons on the premises in a single-shift and provided that all storage and activities are conducted within a building. The second SUP would allow reducing required parking areas to permit fewer than the required number of vehicle parking spaces for any use, provided that an amount of open space equal to the amount of space that would have been used for the required number of vehicle parking spaces is left available for parking in the event that, at the discretion of the City Council, it is needed at some time in the future.

The first SUP would allow Smith Glass, a contractor specializing in custom commercial and residential glass and window installations, to operate at the subject property. Smith Glass has one employee with operations contained within the building or at off-site locations. The business does not typically have customers coming to the property and it relies on a freight carrier to bring glass and aluminum frames at a frequency of about once per month.

Staff believes with appropriate conditions, Smith Glass' operation is 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 than would any use generally permitted within the district. Staff recommends approval of the special use permit with the following conditions:

1. The special use permit shall only be applicable for the current operation (by Smith Glass) 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.

The second SUP would allow the property to not construct all the required off-street parking areas for both uses. The applicant states in their letter that “[t]he current parking in front of the building is sufficient since there are few customers coming to the location... [a]dditional parking can be created in the back of the building, but current needs do not justify the implantation [*sic*] of additional parking.”

According to the City's Real Estate property card, the gross floor area in the rear of the building that Smith Glass occupies is +/- 2,801 square feet. The property owner states that Smith Glass has one employee with one work truck. Per Section 10-3-25 (18) of the ZO, the use requires one parking space for each two persons working on the premises on a maximum shift, plus one parking space for every vehicle used in connection therewith. Thus, Smith Glass necessitates the site having two parking spaces.

The remaining +/- 3,731 square feet of the building is occupied by Kruschiki Supply Company (KSC), an online retailer of military surplus and outdoor equipment, which is classified as a retail use. Parking requirements for the retail use are calculated at one parking space for every 200 square feet of gross floor area when the gross square footage of the building is 10,000 square feet or less. In this case, KSC needs 19 off-street parking spaces, and thus the site needs a total of 21 off-street parking spaces for both uses.

The applicant has submitted a drawing that illustrates how 23 off-street parking spaces (more than the minimum required) could be provided on the property. For the SUP request, the applicant proposes to only supply the existing five parking spaces between the building and the public street and to not construct any of the remaining required parking areas unless or until City Council decides they are needed in the future. Given the type of uses and the way they operate, staff agrees that a minimum of five parking spaces should be sufficient for the two uses described herein, but only with the conditions as described in the following paragraphs.

While staff is in support of allowing the reduction in required parking areas, staff has significant safety concerns about the configuration of the front parking area as it does not meet City standards for access and maneuvering. Currently, there is no defined entrance along the property's frontage and vehicles that park in front of the building must use the public street to back out of the parking stalls. Adding to this concern, the site is located at the bottom of a hill and the entire site's frontage lacks adequate sight distance to the east.

If the SUP is approved, staff recommends a condition to require the property owner to modify the property frontage along Pleasant Hill Road with curb, gutter, and a standard commercial entrance. The required modifications, however, will cause changes to the design of the parking layout in front of the building and create the need for parking areas to be constructed and reserved elsewhere on the property. Importantly, if staff's recommended condition is approved with the SUP, and if the property is unable to accommodate all of the required off-street parking spaces, then one of the uses will likely be unable to operate at this property. This matter has been discussed with the property owner.

Staff believes that with appropriate conditions, a reduction of required parking area for the proposed uses is consistent with good zoning practice and will have no more adverse effect on the health, safety or comfort of persons living or working in the area and will be no more injurious, economically or otherwise, to property or improvements in the surrounding area than would any use generally permitted within the district. Staff recommends approval of the special use permit with the following conditions:

1. The special use permit shall be applicable only to uses that are substantially similar as the operations (an online retail operation and use allowed per Section 10-3-91 (1)) and size of the two current uses described in the application.
2. A minimum of 5 off-street parking spaces shall be provided on the property to serve the uses.
3. The property owner shall improve the property frontage along Pleasant Hill Road with curb and gutter to ensure that the public street right-of-way is not needed to maneuver in and out of any off-street parking spaces. A plan detailing how the property frontage will be improved shall be submitted with the required building permit. The number and width of entrances shall be accepted and approved by the Department of Public Works. Certificates of Occupancy for the building will not be issued until the frontage improvements are completed.

Ms. Dang said that since last Friday when the staff report was published, the property owner had asked if the City would be willing to allow the property to have one 40-ft wide entrance and a

second one-way in entrance so that the front area could be used for deliveries and there would be no parking in the front. Staff is willing to consider this, but is unable to commit to allow two entrances at this time. Therefore, staff is recommending a revised condition as shown which states “the number and width of entrances shall be accepted and approved by the Department of Public Works.”

that condition #3 has been modified since the time the staff report was originally published. The property owner is aware that since both Smith Glass and KSC are operating illegally at the subject property as they do not have proper zoning or building codes approvals, the property owner must continue to demonstrate a good faith effort to diligently pursue legally establishing the uses or the City will proceed with legal action. If the SUPs are approved, staff expects the property owner to submit building permits within 30 days of approval.

Chair Finnegan 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 their request.

Gary Beatty, owner of the property at 26 Pleasant Hill Road, came forward in support of his request. I am requesting that Planning Commission support the recommendations of City staff and approve both SUPs for the property. I had reservations, originally, because staff talked about a 30-foot entrance, but I understand that is the minimum entrance. A 50-foot entrance would address some of my concerns to be able to back up to the loading dock. Both of these businesses are perfect businesses for this location. First, there are no environmental concerns. Neither business is dealing with any kind of solutions, solvents or chemicals that would cause an environmental issue in that area. Second, there is no noise being created by the businesses. We are not creating loud noises that would be troublesome to the neighborhood. Third, traffic has been significantly reduced to this building. Kruschiki Supply Company has no customers at the property. They are strictly an online supply company. Smith Glass also does not receive customers at the property. They do business at their customer’s locations. We do not have a traffic problem. Very seldom we have more than two cars at that location. Fourth, they do not create any trash. Smith Glass has a by-product of metal, aluminum, which they recycle, and cardboard boxes. The same with KSC. They only generate paper boxes. Once a month, we collect those and take them to recycle. We do not have a need for a dumpster at that location. I do not know that the neighbors even know that those businesses are in those buildings. There is not a lot of traffic or activity. For those reasons, I hope that the Planning Commission would support the request and approve the SUPs for the property.

Chair Finnegan asked if there were any questions for the applicant’s representative. He asked if there was anyone in the room or on the phone wishing to speak to the request. Hearing none, he closed the public hearing and opened the matter for discussion.

Commissioner Whitten asked could we request a proffer where there could be a timed proffer on the retail so that it does not remain open ended? It could be up to interpretation. We did not know that online would be something that needed to be considered. It is far different from retail in terms of their needs for parking. I wonder if five years from now, it would make sense to put a timed proffer so that it would have to be reevaluated on the merits of the business and not just a staff decision.

Ms. Dang said the condition that is written describes that it is “substantially similar” in its operations, specifically the online retail operations and the use described in the other section, which is Smith Glass. This condition says that as long as it was an online retailer, there would be no need for an expiration. If some other retail use comes that is not similar to operating with online retailing, such as selling clothes with a lot of customers coming there, it would not be substantially similar. The SUP would not apply to a different retailer.

Commissioner Whitten said you feel that it covers my concern. As long as it is that business in existence, there would be no need to have time limit, but if it did change... That answers my question. The other thing is the backing-in maneuver from Pleasant Hill Road. I know that truck drivers drive in all kinds of conditions, and they can back a truck into wherever they need it to be, but that place is a bit hairy, I think. I am sure that transportation has looked at that and thought that through. How many trucks do they have in? I would guess it is not frequent.

Ms. Dang said Mr. Beatty had described that freight deliveries are about once a month.

Commissioner Whitten said maybe they time that so it is at a quieter time. I would hope that would be the case.

Mr. Beatty commented from his seat that it is unlikely that there would be much control over the timing of the trucks.

Chair Finnegan said that is a blind hill. People drive fast.

Commissioner Whitten agreed and said that is a concern that I have.

Ms. Dang said that it is not a situation that we would allow with new construction. As you saw, there is a loading dock. That type of delivery has occurred as long as that portion of the building has been constructed.

Commissioner Whitten said I love seeing a building like that being put to good use.

Councilmember Dent said the first SUP is for manufacturing, processing and assembly. That is for Smith Glass, correct?

Ms. Dang said that is correct.

Councilmember Dent said there is a statement in the staff report “the property owner is aware that since both Smith Glass and KSC are operating illegally.” I was puzzled by that because they do not have the proper zoning or building. I thought that KSC was by-right retail.

Ms. Dang said they are by-right retail, but we would not allow a use to occupy a space until they get the required parking in place. In this case, they moved in without getting that taken care of. The property owner is trying to rectify the situation.

Commissioner Whitten asked how long has KSC operated?

Mr. Beatty said about three months.

Mr. Finnegan said Commissioner Whitten and I were on the staff tour, yesterday. Everything that staff said is accurate. Looking at the grassy spot in the back, where the parking lot would be, that area looks like asphalt, but it is grass. Commissioner Armstrong has mentioned not paving over grassy areas, and I support that we are not asking them to pave that over. I support that.

Commissioner Byrd said I would be in favor of reducing the parking and going along with the City's added details about how to ensure that the frontage is correctly produced to address the issue. The idea of asking a business to create more parking when they clearly could start the business without needing the parking is a very strange thing. It would be different if the new business was causing people to park all around the neighborhood. Then I would be more concerned with addressing the parking at the location. Also, the SUP mentions the current operations, names the company, and then adds "or a substantially similar" operation. That means that staff would be referencing the previous business if another business were to move into that location. I think that is enough of a reference point for that line to hold.

Chair Finnegan said we are looking for a motion for each of the SUP separately, 4.a. to allow manufacturing, processing and assembly and 4.b. to allow reduced parking.

Commissioner Whitten moved to recommend approval of 4.a. SUP to allow manufacturing, processing and assembly, as presented.

Commissioner Armstrong seconded the motion.

Chair Finnegan called for a roll call vote.

Commissioner Armstrong	Aye
Commissioner Byrd	Aye
Councilmember Dent	Aye
Commissioner Orndoff	Aye
Commissioner Washington	Aye
Commissioner Whitten	Aye
Chair Finnegan	Aye

The motion to recommend approval of the SUP request passed (7-0). The recommendation will move forward to City Council on November 8, 2022.

Councilmember Dent said I am confused with the amendment. We are okay with reducing the parking, but we are requesting that they reconfigure it so that people are not backing out into the street. Is that the idea?

Ms. Dang said that is correct. It will result in having to reconfigure the parking spaces. There will not be enough space in the front the way that it is shown. Five spaces will have to be delineated

elsewhere on the property. We discussed different possibilities with the applicant. It is still to be determined.

Councilmember Dent said that leaves a fair amount of... The onus is on the developer to reduce parking, provided they can figure out how. That is acceptable?

Commissioner Whitten said they will not get their Certificate of Occupancy until that is done.

Councilmember Dent asked if Public Works will be in on the discussion.

Ms. Dang said yes.

Commissioner Byrd moved to recommend approval of 4.b. to allow reduced parking, as presented.

Commissioner Orndoff seconded the motion.

Chair Finnegan called for a roll call vote.

Commissioner Armstrong	Aye
Commissioner Byrd	Aye
Councilmember Dent	Aye
Commissioner Orndoff	Aye
Commissioner Washington	Aye
Commissioner Whitten	Aye
Chair Finnegan	Aye

The motion to recommend approval of the SUP request passed (7-0). The recommendation will move forward to City Council on November 8, 2022.