



CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

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June 28, 2024

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

SUBJECT: *Consider a request from Farhad Koyee and Bahar Mikeal for a special use permit to allow manufacturing, processing and assembly operations on a portion of 50 Baxter Drive*

Consider a request from Farhad Koyee and Bahar Mikeal for a special use permit to allow multiple-family dwellings on a portion of 50 Baxter Drive

Consider a preliminary plat with variance to subdivide a +/- 1.14-acre property at 50 Baxter Drive

**EXTRACT FROM THE DRAFT MINUTES OF HARRISONBURG PLANNING
COMMISSION MEETING HELD ON: June 12, 2024**

Note: During the meeting, two special use permit requests and a preliminary plat request for 50 Baxter Drive were presented together by staff and public hearing and comment was received at one time.

Chair Finnegan read the requests and asked staff to review.

Ms. Rupkey said the applicant is requesting two special use permits (SUPs) within the B-2, General Business District on a +/- 1.14-acre site addressed as 50 Baxter Drive and identified as tax map parcel 1-C-10A. The SUP requests include:

1. A +/- 0.52-acre portion of the site to allow manufacturing, processing, and assembly operations per Section 10-3-91 (1) of the Zoning Ordinance (ZO), and
2. A +/- 0.65-acre portion of the site to allow multiple-family dwellings and/or mixed-use buildings per Section 10-3-91 (17) of the ZO.

The applicant is also requesting to preliminarily subdivide the +/- 1.14-acre site into two parcels with a Subdivision Ordinance (SO) variance request to allow a parcel to not have public street frontage.

Special use permit for manufacturing, processing, and assembly in B-2

The first SUP request is to allow for manufacturing, processing and assembly in the B-2 district. The applicant is proposing to construct a new building for the manufacturing component for a dietary supplement business. The proposed facility will primarily be a production center with mainly online sales and direct to store sales for brick-and-mortar stores. If approved, staff recommends the following conditions:

1. The special use permit shall only be applicable for a dietary supplement manufacturing operation or a substantially similar operation.
2. The special use permit shall be restricted to no greater than 6,000 square feet of gross floor area.
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

As is already controlled by the ZO, this particular SUP limits the number of employees to no more than 15 people on a shift and requires that all storage and activities are conducted within a building. The applicant plans to have no more than two or three employees on a shift. For deliveries to the property, most ingredients that are planned to be used will be delivered by smaller delivery trucks on a weekly or biweekly basis.

Special use permit for multifamily dwellings in B-2

The second SUP request is to allow for a multi-family building in the B-2 district. As required by Section 10-3-93 (d) of the ZO, the applicant has submitted a development plan. Section 10-3-93 (d) states that “[f]or multiple-family dwellings and mixed use buildings, the development plan submitted with the special use permit shall govern development on the site and shall be used as a basis for subdivision and engineered comprehensive site plan approval.” If the SUP is approved, then details of the development plan would be used to ensure the multi-family and/or mixed use project that was evaluated during the SUP review is what is developed. If significant deviations are desired by the property owner in the future, then the property owner must amend the development plan by going through the SUP process again.

Features of the development plan submitted with the SUP that would be used as the basis for engineered comprehensive site plan and/or building permit approval include, but are not limited to:

1. The general location of buildings and structures.
2. The general number of stories within proposed buildings and structures.
3. The general location of parking areas.

4. The general location of pedestrian connections.

As previously stated, the applicant is concurrently requesting to preliminarily subdivide the site. The applicant has submitted one drawing for both the preliminary plat and for the multi-family SUP development plan. The development plan for the multi-family SUP only applies to the area labeled as Lot #2 where the multi-family building is proposed and for the proposed private access easement that encroaches onto Lot #1 where parking spaces are proposed to support the multi-family building.

The development plan shows that they intend to build a two-story building with 18 one-bedroom residential units and that there will be 36 parking spaces for the multi-family use. The development plan shows that one row of parking spaces will straddle the proposed new property line. The applicant plans to provide a shared access easement and shared parking agreement that would allow for access for both lots to use the parking spaces, which is identified on the development plan as "proposed private access easement." The ZO requires multi-family units within the B-2 district to have at least one off-street parking space for each dwelling unit. While the applicant shows that 36 parking spaces will be provided for the apartment use, staff recommends the following condition to provide clarity of and flexibility for parking requirements:

1. Between 18 and 36 parking spaces shall be provided.

Subdivision Ordinance Variance Requests

The applicant requests a variance from SO Section 10-2-42 (c), which requires "[a]ll lots shall front on a public street and no lot shall embrace any portion of a street or alley." While Lot 2 would not have public street frontage, the property is party to a street maintenance agreement with the surrounding property owners that allows them the right to use the access easements along Tasha Circle.

Land Use

The Comprehensive Plan designates this site as commercial and states:

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.

Given the size of the planned facility and the type of manufacturing, staff believes the use would have no more adverse effect on the health, safety, or comfort of persons living or working in the surrounding area. Staff is comfortable recommending approval of the manufacturing, processing, and assembly SUP with conditions.

Transportation and Traffic

The Determination of Need for a Traffic Impact Analysis (TIA) form ("TIA determination form") for the proposed SUP is attached. The TIA determination form indicated that the project would not generate 100 or more new peak hour trips, which is the threshold for staff to require a TIA. Therefore, a TIA was not required by staff for the SUP requests.

The plat shows that along Baxter Drive a sidewalk will be built and that up to 7.5 feet from the back of the curb will be dedicated as public street right-of-way. The applicant is also showing that a private sidewalk connection would be built along Tasha Circle (a private street) to connect to Baxter Drive, where sidewalk would be built across the subject property's public street frontage.

Public Water and Sanitary Sewer

Staff has no concerns regarding water and sanitary sewer service availability for the proposed development.

Housing Study

The City's Comprehensive Housing Assessment and Market Study (Housing Study) places the subject site within Market Type B, which has "neighborhoods [that] are characterized by high income earning households, large volumes of housing sales and lower population growth." The Housing Study further notes that houses in these markets are quick to sell and that "[p]riorities and policies that are appropriate to Market Type B areas include the preservation of existing affordable housing while at the same time working to increase access to amenities."

Recommendation

Staff recommends approval both SUPs with conditions as noted for each request.

To allow manufacturing, processing, and assembly operations per Section 10-3-91 (1) of the Zoning Ordinance (ZO):

1. The special use permit shall only be applicable for a dietary supplement manufacturing operation or a substantially similar operation.
2. The special use permit shall be restricted to no greater than 6,000 square feet of gross floor area.
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

To allow multiple-family dwellings and/or mixed use buildings per Section 10-3-91 (17):

- 1 Between 18 and 36 parking spaces shall be provided.

Regarding the SUP to allow for multi-family units, the Comprehensive Plan states that Traditional Neighborhood Development (TND) principles are encouraged to be included in all developments throughout the City. Adding multi-family dwelling units at this location would incorporate some of those characteristics such as: having a neighborhood that allows residents to work, shop, and carry out many of life's other activities; and allowing residents to walk, ride a bicycle, or take transit for many trips between home, work, shopping, and school.

As identified, by Section 10-3-130 (c) of the ZO, unless City Council specifically grants a time period for which the SUP must be established, the default time period is 12 months after City

Council's approval of the SUP. Staff is comfortable recommending an extension from 12 months to 24 months as requested by the applicant for both requests.

With regard to the proposed subdivision variance request, aside from the deviation requested, the plat meets all other requirements of the Subdivision Ordinance. Staff supports the variance request and recommends approval of the preliminary plat.

Chair Finnegan said I did have a question about the 18 to 36 parking spaces, is that something that is putting an upper limit on that.

Ms. Rupkey said they shall have between the 18 and 36 [spaces]. 18 would be the minimum. That would be one parking space per bedroom ratio. Then they are showing the 36, that is what they would like to provide. It would not allow them to build that 37 for this portion.

Chair Finnegan said are both Tasha Drive and Baxter Drive private or is Baxter Drive public and Tasha Drive private?

Ms. Rupkey said Baxter [Drive] is public, Tasha [Drive] is private.

Chair Finnegan asked if there were any more questions for staff.

Chair Finnegan said can we hold one public hearing? Open the public comments for items 4d and 4e and then close it so it would be for both of those.

Ms. Dang said if you would like to entertain comments about the preliminary plat too, you can do that as well even though it is not technically a public hearing.

Hearing none, he opened the public hearing for the special use permit requests and invited the applicant or applicant's representative to speak to their request.

AK Koyee, applicant's representative, came forward to speak to the request. He said I have been working with staff to address all of our design concerns and I am here to answer any questions that you guys have.

Chair Finnegan said I think there were some questions on the site tour yesterday about the nature of the manufacturing of dietary supplements. I think we are mostly concerned about if we have residential there, are noxious fumes involved?

Mr. Koyee said basically it is a very highly regulated kitchen. It would be an FDA certified dietary supplement facility with Good Manufacturing Practices [GMP] standards. It really is just a glorified kitchen. In that space you can make supplements, topical products, anything that is for human consumption. That opens the door for branding on the company level but also potential white label for citizens and residents of the surrounding area who want to launch their own companies. They are able to use this space as well and or contract the business. That is the general gist of the business model. There is no big fume concern. Really no hazardous materials because everything is edible, other than cleaning agents, but none of that should be going in the products so there are no concerns there. The noise would be very minimal. Most of the equipment is tabletop

equipment. It would be a shell space basically. Very clean operations, very quiet, no smell, minimal employees really working any shifts. You should not see any big uptick in freight or 18 wheelers coming in and big delivery trucks or vans going out. The products are very small. You can fit a lot of product in small boxes and most of that is going to be going to the post office and/or direct business to clients who are wholesaling. I know that was a potential concern for that building space.

Chair Finnegan said no retail associated with that?

Mr. Koyee said that is not the intention. Again, it is a manufacturing business. There may come a day when we do accessory retail within the space but mostly it would serve as an office space for potential clients or things of that nature. No intention of putting some sort of store front there where customers would come in and shop.

Commissioner Nardi said is this an existing business? Do you already operate, or would this be new?

Mr. Koyee said no, this would be a new business. There were questions about whether it would be Pure Shenandoah, my business in Elkton, but that is not the case. This is just an additional manufacturing space similar to the Manufactory Collective that they have now. Except this is really focused on food grade lab grade production of supplements and things of that nature.

Chair Finnegan asked if there were any questions for the applicant's representative.

Mr. Koyee said should I address the other [request]...if there are any questions about the apartments? Questioning of the positioning or the layouts. We wanted the industrial to face Baxter [Drive] because that is the public road and that is the requirement. The apartments we felt were okay to rotate and it just kind of tucks in really well. We know that it might seem a little weird with industrial and then residential right next to it. We felt that in that area specifically there are a lot of retail options for retail spaces there that are not necessarily so hot with that area. When we were making our decision, we had ultimately decided that there is a church there, it is a little tucked away it is pretty quiet and reserved, and we felt that apartments or housing in general would be a good option.

Commissioner Nardi asked what would cause you to need 36 parking spaces for 18 one-bedroom apartments?

Mr. Koyee said so if you look at the site plan you can see that the apartment also falls to the back of the industrial building. In our minds, we figured it could be potential overflow for an employee or things like that. We always feel the more the merrier, but I know that parking is always something that... I do not know whose opinion is what on it. I do not know if more is better or if less is better, but we feel that the minimum would not be enough. In our opinion, limiting one space per person and two of those are handicap access then technically we would need to build 20. We felt like this let us fit the most that we can and if we need to reduce it, that is something that we can do just convert it into greenspace. We felt that was a comfortable number.

Chair Finnegan said a follow up question to Commissioner Nardi's question about the parking is, and I know we have done this for certain other requests, that there be space that is designated to be turned into parking if needed at a later date. It is almost like a reserve if someone wants a reduction in parking requirement. Maybe there is a reserved section of greenspace in the back that could be converted to parking if and when that becomes available. I do not know if that is something that you considered.

Mr. Koyee said do not hold me to this but the plans are to first begin on the apartment building project and so we would build that parking on both sides of it. We would spend less money not doing the additional parking so that definitely is a possibility. We figured flexibility is better than no flexibility.

Commissioner Nardi asked is there a possibility for any greenspace or other alternative because there is a big difference between 18 and 36 spaces but I hear you on the handicap spaces.

Mr. Koyee said just the apartment building alone has about 22 plus 2 handicap spaces. That would make us feel better having just a couple of visitor spaces. If it is 18 units and everybody has cars that would make 18 parking spots filled and you are just preventing any sort of anything from happening. We do not want overflow parking to potentially stub the street or go anywhere else, we have the 22. It is doable, we have the flexibility to.

Commissioner Nardi said 18 one-bedroom units, I assume that is economies of scale on the site. I am just curious how you provide 18 one-bedrooms and what I am thinking about is that area of the time during this transition period of time and how things will go and how this being what seems like a first-generation development that would go in that area. How would what you are interested in doing reflect the Comprehensive Plan...I am doing some thinking out loud so bear with me.

Mr. Koyee said I think I understood your question. I addressed it briefly earlier. Apartment buildings in this area where there is a new Tractor Supply, we felt that, again, residential was a good move for this specific area. More density is better. On previous projects with the City, the staff recommended very high amounts of density in which we were reamed by the neighborhood. We went with more density. These units are going to be about 600 square feet each. Through researching other rents available in Harrisonburg, we found that was fairly average, could be slightly subaverage. The apartments in Harrisonburg range anywhere from 450 square feet packed into their buildings all the way up to about 1,200 [square feet], I am sure there are some that may be higher. Again, that pricing is also very expensive as well. We wanted to go with the most practical amount of density shared with practicality, so we arrived at 18 units.

Chair Finnegan asked if there were any questions for the applicant's representative. Hearing none, 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.

Vice Chair Byrd said I like one-bedroom apartments because I am paying for a two-bedroom apartment and I have a second bedroom that is a storage space because I do not need a second bedroom. More one-bedroom apartments favor a person like me who is like I am paying for all this extra space that I cannot use.

Chair Finnegan said I cannot recall, I do not have the Housing Study in front of me, there was mention of the market study and that Market Type B. I seem to recall in the housing study they talked about the different sizes of apartments and that there was a shortage of one-bedroom apartments. In Harrisonburg, on the east side of town, there are a lot of those quad apartments where there is a lease per bedroom. It is very much set up for college living and there are very few other options. I agree, I think we need places for families and we also need places for people that live by themselves.

Commissioner Nardi said there is a shortage all around.

Vice Chair Byrd said I have interacted with the staff; I know the staff knows about what manufacturing is and what similar processes would be and the applicant just described it as well. We all have a better idea and once it is built, we would also have a good idea of what that is and therefore the additional conditions seem reasonable to me. I will make a motion to approve the special use permit request for manufacturing, processing, and assembly in B-2 with suggested conditions.

Commissioner Nardi seconded the motion.

Chair Finnegan said I was trying to do some research between yesterday's site visit and there is a comedic definition on the FDA's website. I say comedic because it is kind of circular. I was trying to figure out what is dietary supplement. I will just read that into the record because I think it belongs here. Congress defines the term dietary supplement; "A dietary supplement is a product intended for ingestion that among other requirements contains a dietary ingredient intended to supplement the diet." Just something you can ingest.

Chair Finnegan called for a roll call vote.

Commissioner Nardi	Aye
Vice Chair Byrd	Aye
Commissioner Alsindi	Aye
Chair Finnegan	Aye

The motion to recommend approval of the special use permit request passed (4-0). The recommendation will move forward to City Council on July 9, 2024.

Vice Chair Byrd said I see no issue with creating a range between 18 and 36 parking spaces. Therefore, I make a motion to approve the special use permit for multifamily dwellings in B-2 with suggested conditions.

Commissioner Nardi seconded the motion.

Chair Finnegan said before we take the roll call, I will also say I could be wrong about this but this might...is this the first time that we have put a maximum on parking by putting that number 36?

Ms. Dang said NERD Apartments was another example.

Chair Finnegan said where we said between a lower number and an upper number.

Ms. Dang said this would be the first time we have done a range that I can recall.

Chair Finnegan said I was trying to remember past requests.

Chair Finnegan called for a roll call vote.

Commissioner Nardi	Aye
Vice Chair Byrd	Aye
Commissioner Alsindi	Aye
Chair Finnegan	Aye

The motion to recommend approval of the special use permit request passed (4-0). The recommendation will move forward to City Council on July 9, 2024.

Vice Chair Byrd said I would like to make a motion to approve the preliminary plat variance.

Commissioner Alsindi seconded the motion.

Chair Finnegan called for a roll call vote.

Commissioner Nardi	Aye
Vice Chair Byrd	Aye
Commissioner Alsindi	Aye
Chair Finnegan	Aye

The motion to recommend approval of the preliminary plat variance request passed (4-0). The recommendation will move forward to City Council on July 9, 2024.