



CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

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To: Ande Banks, City Manager
From: Adam Fletcher, Director, Department of Community Development and Harrisonburg Planning Commission
Date: May 14, 2024 (Regular Meeting)
Re: Special Use Permits - 1011, 1019, 1021, 1023, and 1031 West Market Street (To Allow Warehousing and Other Storage Facilities in B-2, To Allow Building and Material Sales and Storage Yards, Contractor Equipment Sales and Storage Yards and Other Similar Uses in B-2, and To Allow Multiple-Family Dwellings and/or Mixed Use Buildings in B-2)

Summary:

Project name	N/A
Address/Location	1011, 1019, 1021, 1023, and 1031 West Market Street
Tax Map Parcels	37-A-4 and 5
Total Land Area	+/- 1.8-acres
Property Owner	Hurstwenger Properties LLC
Owner's Representative	Chris Wenger
Present Zoning	B-2, General Business District and R-1, Single-Family Residential District
Special Use Permit Requests	- Section 10-3-91 (2) to allow warehousing and other storage facilities in B-2 - Section 10-3-91 (6) to allow building material sales and storage yards, contractors equipment sales and storage yards and other similar uses in B-2 - Section 10-3-91 (17) to allow multiple-family dwellings and/or mixed use buildings in B-2
Staff Recommendation	Approval
Planning Commission Recommendation	April 10, 2024 (Public Hearing) (5-0)
City Council	May 14, 2024 (Public Hearing)

Background:

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

Site: Illegal contractor business, illegal storage/warehousing, and illegal residential uses, zoned B-2 and R-1

North: Across West Market Street, commercial uses, zoned B-2

East: Westover Park, zoned B-2 and R-1
South: Westover Park, zoned R-1 and B-2
West: Commercial uses, zoned B-2 and B-2C

In July 2022 the property owner purchased the property not knowing that the existing uses are in violation of the Zoning Ordinance (ZO). During a conversation with staff in February 2024 the applicant was requesting information on how to apply for a building permit to add an office use, staff learned of the existing uses on the site and determined that the following uses are in violation of the ZO because the applicant was unable to prove they were nonconforming: 1) single-family detached dwelling in the building addressed as 1011 West Market Street, 2) one residential dwelling within the larger building on the property, 3) a storage/warehousing use that is not accessory to any on premises uses, and 4) two contractor businesses (C&E Carpentry LLC and Valley Waterproofing)

In addition to the above violations, there has been an expansion of the parking area that is in violation of the ZO's parking lot landscaping requirements, which the applicant is working to address.

After discussing options with staff, the applicant is requesting to rezone portions of the property while also simultaneously requesting approval of three different special use permits (SUPs) to bring the property into compliance. The rezoning requests are presented in a separate staff report. This staff report will address the three special use permits.

Key Issues:

The applicant is requesting three special use permits (SUPs) within the B-2, General Business District to allow:

1. Warehousing and other storage facilities per Section 10-3-91 (2).
2. Building material sales and storage yards, contractors equipment sales and storage yards and other similar uses per Section 10-3-91 (6).
3. Multiple-family dwellings and/or mixed use buildings per Section 10-3-91 (17).

The +/- 1.8-acre site is addressed as 1011, 1019, 1021, 1023, and 1031 West Market Street and is identified as tax map parcels 37-A-4 and 5. A +/- 900 square foot portion of the site is zoned R-1, Single Family Residential District and the remaining portion of the site is zoned B-2, General Business District. The applicant is concurrently requesting to rezone the +/- 900 square foot portion of the site from R-1 to B-2, and to rezone a +/- 7,305-square foot portion of the site from B-2 to R-8C, Small Lot Residential District Conditional. The rezoning requests are described in a separate staff report.

During review of the requests, staff discussed concerns regarding the close spacing between the existing three entrances. Spacing between entrances and intersections is important for access management and transportation safety; close spacing between unsignalized entrances forces drivers to watch for ingress and egress traffic at several locations simultaneously. To address staff's concerns the applicant has offered a self-imposed condition to all three of the SUP requests:

- Within six months of approval of the special use permit, the entrance shown in Exhibit A shall be closed. Parking blocks, posts and chains, or other materials approved by the City may be used to control access to the site.

The first SUP request is to allow warehousing and other storage facilities within the B-2 district. The existing warehousing use is not in connection with any by-right uses on the property and thus is considered a separate use. The existing warehousing space is +/- 1,540 square feet and is used to store furniture that is bought at auction and then later resold. Although the applicant does not plan to provide self-storage on the site, staff has concerns that in the future a different owner may choose to create a self-storage facility. If the SUP is approved, staff recommends it only be permitted with the following conditions:

1. Storage and warehousing operations shall only occur within the existing building and shall be limited to 2,000 square feet or less.
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.

The second SUP request is to allow contractors in the B-2 district. There are two existing contractors that operate on the site. The existing tenants are C&E Carpentry LLC and Valley Waterproofing. In the applicant's letter they state that they are not planning to allow outside storage or materials on the site and go on to state that if outside storage is needed in the future, then they will provide appropriate screening. If the SUP is approved, staff recommends the following conditions:

1. The special use permit shall be limited only to contractor businesses.
2. Uncovered or unenclosed storage and display of building materials and contractors' equipment shall be located in the rear of the property behind any principal buildings and shall be screened from view with a fence, decorative wall or other physical or structural enclosures that is opaque to obstruct the view of storage materials, with the finished face facing outside, and shall be at least six (6) feet in height.
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.

The site is located along a busy, east-west corridor and at a secondary gateway into the City as indicated on the Gateways and Corridor Enhancement Areas map within the Comprehensive Plan. The quality and character of these routes strongly influence the City's attractiveness and economic vitality and therefore, careful consideration should be given to land use, development and streetscape. Condition c is intended to keep outside storage of materials out of view of the general public.

The third and final SUP is to allow for a mixed use building in the B-2 district. As required by Section 10-3-93 (d) of the Zoning Ordinance (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.

The applicant's development plan shows that there is an existing two-story apartment with vacant space on the first floor. The development plan shows that there will be only one dwelling unit in the building. The applicant noted they are not interested in adding additional dwelling units to the site—essentially, they want to maintain the existing dwelling unit.

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 their size and how the current warehousing and storage and contractor businesses operate, the property's location along West Market Street, and the surrounding land uses, staff believes that substantially similar operations 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 warehousing and storage and contractor business SUPs with the previously suggested conditions.

For the SUP request to allow mixed use buildings within the B-2 district, while the Comprehensive Plan designates the site as Commercial, staff recognizes that the community is in need of more housing and that while the applicant cannot prove that they meet the criteria to be considered nonconforming, it appears that a residential use has operated from this site for a number of years without much disruption to the onsite or surrounding land uses. The development plan submitted by the applicant limits the location and number of units that would be allowed on the site to no more than one dwelling unit.

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 for the SUP request.

Public Water and Sanitary Sewer

Staff has no concerns with the requested special use permits regarding water and sewer matters.

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 of all three SUPs with conditions as noted for each request.

1. To allow warehousing and other storage facilities per Section 10-3-91 (2):
 - a. Within six months of approval of the special use permit, the entrance shown in Exhibit A shall be closed. Parking blocks, posts and chains, or other materials approved by the City may be used to control access to the site.
 - b. Storage and warehousing operations shall only occur within the existing building and shall be limited to 2,000 square feet or less.
 - c. Self-storage facilities are prohibited.
 - d. 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.

2. To allow building material sales and storage yards, contractors equipment sales and storage yards and other similar uses per Section 10-3-91 (6):
 - a. Within six months of approval of the special use permit, the entrance shown in Exhibit A shall be closed. Parking blocks, posts and chains, or other materials approved by the City may be used to control access to the site.
 - b. Uncovered or unenclosed storage and display of building materials and contractors' equipment shall be located in the rear of the property behind any principal buildings and shall be screened from view with a fence, decorative wall or other physical or structural enclosures that is opaque to obstruct the view of storage materials, with the finished face facing outside, and shall be at least six (6) feet in height.
 - c. 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.

3. To allow multiple-family dwellings and/or mixed use buildings per Section 10-3-91 (17):
 - a. Within six months of approval of the special use permit, the entrance shown in Exhibit A shall be closed. Parking blocks, posts and chains, or other materials approved by the City may be used to control access to the site.

Environmental Impact:

N/A

Fiscal Impact:

N/A

Prior Actions:

N/A

Alternatives:

- a. Approve all three special use permit requests as submitted by the applicant;
- b. Approve all three special use permit requests with suggested conditions;
- c. Approve all three special use permit with other conditions(s);
- d. Approve some requests and denial of other requests with or without conditions; or

- e. Deny all three special use permits.

Community Engagement:

As required, the request was published in the local newspaper twice advertising for Planning Commission’s public hearing and twice advertising for City Council’s public hearing. The advertisement was published as shown below:

Special Use Permit – 1011, 1019, 1021, 1023, and 1031 West Market Street (To Allow Warehousing and Other Storage Facilities in B-2)

Public hearing to consider a request from Hurstwenger Properties LLC for a special use permit per Section 10-3-91 (2) to allow warehousing and other storage facilities in the B-2, General Business District. The +/- 1.98-acre site is addressed as 1011, 1019, 1021, 1023, and 1031 West Market Street and is identified as tax map parcels 37-A-4 and 5.

Special Use Permit – 1011, 1019, 1021, 1023, and 1031 West Market Street (To Allow Building and Material Sales and Storage Yards, Contractor Equipment Sales and Storage Yards and Other Similar Uses in B-2)

Public hearing to consider a request from Hurstwenger Properties LLC for a special use permit per Section 10-3-91 (6) to allow building material sales and storage yards, contractors equipment sales and storage yards and other similar uses in the B-2, General Business District. The +/- 1.98-acre site is addressed as 1011, 1019, 1021, 1023, and 1031 West Market Street and is identified as tax map parcels 37-A-4 and 5.

Special Use Permit – 1011, 1019, 1021, 1023, and 1031 West Market Street (To Allow Multiple-Family Dwellings and/or Mixed Use Buildings in B-2)

Public hearing to consider a request from Hurstwenger Properties LLC for a special use permit per Section 10-3-91 (17) to allow multiple-family dwellings and/or mixed use buildings within the B-2, General Business District. The +/- 1.98-acre site is addressed as 1011, 1019, 1021, 1023, and 1031 West Market Street and is identified as tax map parcels 37-A-4 and 5.

In addition, adjoining property owners were notified of the public hearing; the property was posted with signage advertising the request; and a notice was provided on the City’s website at <https://www.harrisonburgva.gov/public-hearings>.

Recommendation:

Staff recommends alternative (b) approval of all three special use permit requests with the applicant’s self-imposed condition and staff’s suggested conditions.

Attachments:

1. Extract from Planning Commission
2. Site maps
3. Application and supporting documents

Review:

Planning Commission recommended approval (5-0) of all three special use permits. (Commissioner Alsindi was absent and there was one vacancy on the Planning Commission.)