

CITY OF HARRISONBURG



June 10, 2025, Planning Commission Meeting

Title

Consider Rezoning (Proffer Amendment) and Special Use Permit at 865 Port Republic Road — Planning Commission and Adam Fletcher, Community Development

Summary

Project name	N/A
Address/Location	865 Port Republic Road
Tax Map Parcels	92-F-1
Total Land Area	+/- 5.45 acres
Property Owner	865 East LLC
Owner's Representative	Todd C. Rhea, Esq.
Present Zoning	B-2C, General Business District Conditional
Proposed Zoning	B-2C, General Business District Conditional
Special Use Permit Request	Section 10-3-91 (9) to allow reduction in required side and/or rear yard setbacks
Planning Commission	May 14, 2025 (Public Hearing)
City Council	June 10, 2025 (First Reading/Public Hearing) Anticipated June 24, 2025 (Second Reading)

Recommendation

Option 1. Staff and Planning Commission (6-0) recommend approval of the rezoning and SUP with the suggested condition.

Fiscal Impact

N/A

Context & Analysis

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

Site: Mixed use building, zoned B-2C

North: Across Devon Lane, townhomes, zoned R-3

East: Across Port Republic Road, commercial uses and multi-family, zoned B-2C and R-4

South: Multi-family, zoned R-3

West: Townhomes, zoned R-3

In 2017, when the subject site was zoned R-5C, High Density Residential District Conditional, the property received approval for a special use permit (SUP) to allow a concealed wireless telecommunications facility (WTF). In January 2024, the property was rezoned to B-2C, General Business District Conditional, and received SUP approvals to allow multi-family dwellings and/or mixed use buildings and to allow reduction in required side and/or rear yard setbacks to construct an addition to the existing building. (Additional information on the 2024 rezoning and SUP are available at: <https://harrisonburg-va.legistar.com/LegislationDetail.aspx?ID=6461978&GUID=909CEC69-13BA-4A6B-9FF1-67FE7483256D&Options=&Search=>). The proffers restricted the permitted nonresidential uses to retail stores, convenience shops, personal service establishments, restaurants, and business and professional offices. The 2024 rezoning did not include WTFs in the list of permitted uses. In the B-2 district, WTFs would typically be allowed by-right, if not excluded by proffers. The discrepancy became evident when upgrades to the existing WTF was being discussed with staff. If the rezoning is approved, the proffer amendment would rectify this oversight, permitting the WTF to continue operation on the parcel and undergo facility upgrades, as needed.

Additionally, since the 2024 rezoning, the Zoning Ordinance (ZO) was amended in June 2024 to add “tobacco, smoke and vape shops” (referred to herein as vape shops) as a by-right use in the B-2 district. A vape shop currently operates on the ground floor of the existing building and is now considered a nonconforming use. Previously, the ZO did not make reference to vape shops, and they were treated as a retail operation. Operating a vape shop within 1,000 feet of any property containing a public or private school or child day care center is not permitted by the ZO. A radius check confirmed compliance that the subject site is not within 1,000 feet of a public or private school or child day care center. Including vape shops as a permitted use in the proffer amendment will eliminate future ambiguity regarding their operation on the property. Any future new vape shop would have to comply with the location requirements specified in 10-3-93(e).

Proffers

The applicant has offered the following proffers (written verbatim):

1. Only the following non-residential shall be permitted on the Property: retail stores, convenience shops (including tobacco, smoke and vape shops), personal service establishments, restaurants (excluding those with drive-through facilities), business and professional offices, and uses permitted under City Ordinance Section 10-3-90(20).
2. Special use permits shall be permitted as approved by City Council.
3. The Existing Building and the Building Addition shall contain no more than 160 individual apartment units containing a maximum of 470 bedrooms.

4. Non-residential uses may only be located on the first/ground floor of the Existing Building and shall not exceed 16,000 gross square feet with the exception of uses permitted under City Ordinance Section 10-3-90(20). The Building Addition shall have no additional commercial square footage, but may have on-site laundry, exercise and game room facilities and other customary resident amenities to encourage on-site convenience.
5. Ten (10) designated parking spaces shall be reserved for the exclusive use of the Devonshire Townhomes, as shown on the Development Plan, to accommodate for street parking along Devon Lane that was removed as a consequence of the development of the Existing Building. The neighboring property owners' association, for which the spaces are reserved, will regulate the ten (10) reserved spaces via a permit system.
6. The Building Addition shall contain a varied and complementary exterior finish consisting of a mixture of brick, dryvit, and other non-combustible materials with architectural offsets, angles and finishes to create an exterior appearance similar to the Existing Building.
7. Applicant shall install and maintain the following as bonded improvements as part of any engineer-submitted comprehensive site plan for the Building Addition, and as generally shown on the Development Plan:
 - A. Construct a five-foot (5')-wide sidewalk where none exists at the back of the curb bordering the slip lane at the intersection of Port Republic Road and Devon Lane;
 - B. Dedicate a right-of-way for the existing slip lane and sidewalk referenced below, to be located one-half foot (0.5') behind back of the sidewalk;
 - C. Reconstruct the crosswalk across the slip lane including the existing island sidewalk section, such that the crosswalk ramp for the slip lane connects to the crosswalk ramp for the Devon Lane crosswalk, adhering to the Public Right of Way Accessibility Guidelines to the maximum extent feasible, and eradicate the existing crosswalk.
8. Applicant shall grant the City a twenty-foot (20')-wide easement for a shared use path and pedestrian accessway to be finally located and granted upon City request in the general location shown as the yellow hashed area on page 1 of the Development Plan.
9. Any new or relocated site lighting for parking shall be installed with downward directional lighting and shielding to minimize light exfiltration into neighboring properties.
10. The maximum height of freestanding signs along Port Republic Road is eighteen (18') feet and the maximum height of freestanding signs along Devon Lane is eight feet (8').

11. The height of the Building Addition shall not exceed the maximum elevation of the Existing Building as measured from the Existing Building frontage on Port Republic Road.

Proffer #1 was amended to add “tobacco, smoke and vape shops” and “wireless telecommunications facilities” to the list of approved uses for the property. Proffer #4 was amended to exempt the WTFs from the requirement that all non-residential uses be located on the first/ground floor of the existing building. All other proffers remain unchanged, except for minor proofreading corrections.

Special Use Permit

In conjunction with the rezoning in January 2024, City Council approved SUPs to allow multi-family buildings and to allow a reduction in required side and/or rear yard setbacks. The SUP to allow multi-family buildings has been established through the existing multi-family building. The SUP to allow a reduction in setbacks for the planned addition is at risk of expiring on July 1, 2025. As allowed by Sec. 10-3-130 (c), the applicant is requesting an extension of the time period to establish or demonstrate diligent pursuit of the SUP to reduce setbacks.

The original 2024 SUP included a condition which prohibited constructing other structures with reduced setbacks not vetted by the SUP process. Staff recommends applying the same condition to the SUP, as follows:

The SUP shall be applicable only to the existing building and planned building addition in the location shown on the Development Plan with the ability to deviate up to 10 feet in any direction.

Land Use

The Comprehensive Plan designates this site as High Density Residential and states:

These areas have been developed or are planned for development that have the highest residential density ranges outside of the downtown area and properties designated Mixed Use by the Land Use Guide. Density is planned to allow up to 24 dwelling units per acre. While a number of existing multifamily developments and areas adjacent to such developments are identified as High Density Residential, residential land use could include small-lot single-family detached and single-family attached neighborhoods. In special circumstances, non-residential uses may be appropriate.

Transportation and Traffic

A traffic impact analysis (TIA) was not required for the rezoning or SUP request.

Public Water and Sanitary Sewer

While staff does not anticipate issues regarding water or sanitary sewer service availability for the proposed development, the applicant has been advised that they will be responsible to complete a study of the water and sanitary sewer capacity prior to submittal of an engineered comprehensive site plan. Any public system improvements required to meet the increased demands resulting from the project will be the responsibility of the developer.

Options

1. Approve the rezoning and SUP with the suggested condition.
2. Approve the rezoning and SUP as submitted by the applicant.
3. Approve the rezoning and SUP with other conditions.
4. Approve the rezoning request and deny the SUP.
5. Deny the rezoning and SUP requests.

Attachments

- Extract from Planning Commission
- Site maps
- Application and supporting documents