



# CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

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

**SUBJECT:** Public hearing to consider a request from Stoneburner Land, LLC for a special use permit per Section 10-3-97(3) of the Zoning Ordinance to allow business and professional offices within the M-1, General Industrial District. The +/- 6.4-acre property is addressed as 1821 South High Street and is identified as tax map parcel 8-F-1.

## **EXTRACT FROM MINUTES OF HARRISONBURG PLANNING COMMISSION MEETING HELD ON: July 8, 2020**

Agenda items 4.a. and 5.a. address requests from the same applicant, Stoneburner Land LLC, regarding the same property, 1821 South High Street. The Planning Commission agreed to discuss these items concurrently.

*Consider a request from Stoneburner Land LLC for a special use permit to allow business and professional offices at 1821 South High Street.*

*Consider a request from Stoneburner Land LLC to preliminarily subdivide a +/- 6.4-acre parcel into three parcels at a site addressed as 1821 South High Street.*

Chair Colman read the request and asked staff to review.

Ms. Dang said that 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: Building material sales and lumberyard, zoned M-1

North: Wholesale distributor of HVAC equipment, zoned M-1

East: Across South High Street, financial institution, zoned B-2

South: Across Erickson Avenue, automotive service and vehicle fuel station, zoned B-2

West: Undeveloped land, zoned B-2

The applicant is requesting to preliminarily subdivide a +/- 6.4-acre parcel into three lots. Proposed lot 1 would be +/-29,109 square feet, proposed lot 2 would be 1.1-acres, and the third lot would be the remainder of the parent tract at +/- 4.6 acres. The subject site is located on the northwest corner of the South High Street (Route 42) and Erickson Avenue intersection. The proposed +/- 4.6-acre parcel will continue operations as a building material sales and lumberyard and there are currently no plans for proposed Lot 2. Proposed Lot 1 is planned to be developed as a medical urgent care facility if the preliminary plat and special use permit to allow business and professional offices within the M-1, General Industrial District are approved.

For both requests, the applicant has included a conceptual layout showing how Lot 1 could be developed. During the engineered comprehensive site plan review, issues such as parking requirements, parking lot landscaping, setbacks, and stormwater management will be reviewed in detail.

#### *Preliminary Plat and Variances Request*

The subdivision of the property is required to be reviewed by Planning Commission because the parent tract is larger than five acres and the end result establishes parcels that are less than five acres in size. If the subdivision of the site met all requirements of the Subdivision Ordinance, Planning Commission approval is all that would be needed to allow them to perform an administrative final subdivision plat. However, because the applicants are requesting to deviate from sections of the Subdivision Ordinance, the request must be reviewed and approved by City Council, and thus a recommendation from staff and Planning Commission is necessary.

With regard to public water and sewer utilities, the proposed +/- 4.6-acre parcel has an existing water meter at the entrance off of South High Street. Sanitary sewer service is currently provided by a septic system in the rear of the property and provisions have been made by the City for a future public sanitary sewer connection when Erickson Avenue is widened and the public sanitary sewer lines are extended as part of Phase IV of the Stone Spring Road-Erickson Avenue project. For proposed Lot 2, water is available at the shared parcel line with the pipe stem of the +/- 4.6-acre parcel and sanitary sewer service is available in South High Street. For proposed Lot 1, the owner has illustrated a 50-foot wide private utility easement so that water service may be reached from the existing public main on the +/- 4.6-acre parcel. Sanitary sewer service is available in South High Street.

The City's Subdivision Ordinance and Design & Construction Standards Manual require the applicant to dedicate right-of-way and construct street improvements at the time of subdivision. The Erickson Avenue frontage of the proposed parcels was completed with sidewalk and curb and gutter with the Stone Spring Road-Erickson Avenue Phase III project in 2013. The South High Street frontage of the proposed parcels has curb and gutter, but no sidewalks. The applicant is requesting three Subdivision Ordinance variances per Sections 10-2-61 (a), 10-2-66, and 10-2-67,

which together require the property owner to construct the street improvements. If approved, the variances would allow the applicant not to construct required street improvements along the South High Street frontage prior to subdividing the properties. As indicated on the preliminary plat, however, as part of this subdivision, the applicant would dedicate 256 sq. ft. of right of way to accommodate future sidewalk construction when the properties are developed. Sidewalks would be constructed by future property owners at the time of development of each parcel; in other words, when Lot 1 develops, the property owner/developer would construct sidewalks along that parcel's street frontage. The applicant understands and acknowledges that when the last of the two new parcels develops, the owner/developer will be responsible for all remaining sidewalks and any necessary entrance improvements across the frontage of the +/- 4.6-acre parcel, which is already developed. The applicant's letter describes that "[b]oth Lot 1 and 2 will require significant excavation work and need to be incorporated into the overall grading of each lot to maximize the usable space for future tenants."

The applicant has agreed, as noted on sheet 2 of the preliminary plat, that: "[t]he three lots created by this subdivision shall share one entrance onto South High Street. No additional entrances onto South High Street will be permitted. Other entrances onto Erickson Avenue may be permitted with City approval." The applicant has also illustrated on the preliminary plat a "New 50' wide private shared access easement" for a shared entrance and driveway to serve the three proposed parcels. The applicant has been made aware that the subdivision will reduce the maximum sign allotment for the Stoneburner facilities and may require changes to existing signage. Additionally, addressing of each of the new parcels still needs to be worked out with staff.

Staff recommends approval of the preliminary plat and variances to not construct required street frontage improvements at the time of subdivision. The property owner/developer will be required to construct street frontage improvements when the parcels are developed as described above.

#### *Special Use Permit Request*

As previously stated, if the preliminary plat request is approved, Lot 1 is proposed to be developed as a medical urgent care facility and requires approval of a special use permit per Section 10-3-97(3) to allow business and professional offices within the M-1, General Industrial District. The subject site and surrounding parcels that have frontage on South High Street and Erickson Avenue are designated as Commercial in the Comprehensive Plan's Land Use Guide. In the general area surrounding the subject property, there is a mix of financial institutions, automotive sales and services, and light industrial uses.

Staff believes that the proposed medical urgent care facility 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. However, rather than to apply the SUP for business and professional offices to the entire +/- 6.4-acre parcel, staff recommends conditions to limit the SUP to proposed Lot 1 and to make the SUP applicable only to a medical urgent care facility or a substantially similar use.

Staff recommends approving the special use permit with the following conditions:

1. The special use permit shall apply only to the area generally shown and described as Lot 1 on the preliminary plat titled Stoneburner Land LLC Subdivision dated June 24, 2020.
2. The special use permit shall be applicable only for the use, or a substantially similar use, as requested in this application.

Commissioner Finks asked for clarification regarding the variance and the development of sidewalks. Will building the sidewalks on both lots be dependent on development on either lot or at the same time?

Ms. Dang said that what staff is proposing is that the sidewalk be required along the frontage of the lot that is being developed. When Lot 1 is developed, a sidewalk will go there. If five or ten years later Lot 2 is developed, they would put sidewalks there. By the time the final lot is developed, they will have to complete any frontage improvements that would be necessary across the entrance of the residual third parcel.

Chair Colman said that when Ms. Dang described the building, she said it was 35,000 square feet. For the record, it is 3,500 square feet proposed for the health clinic.

Vice-Mayor Romero said that the SUP is for a potential urgent care facility. If I heard the suggested condition correctly, it was for that use or something similar. Could you explain what that means? What other sorts of business qualify as something similar?

Ms. Dang said that if the condition is approved, it would be restricted to a medical facility. Anything that is another business or professional office, such as engineering, would not be permitted. They would have to get a SUP for the specific use.

Vice-Mayor Romero asked if the applicant has a particular facility in mind.

Ms. Dang said that staff believes that the applicant has been in communication with someone who wants to locate on this property. You could ask the applicant when they are on the phone.

Chair Colman said that sometimes the agreements are conditional on rezoning or SUPs. There is a potential, but they are not necessarily committed until they are sure they can do it.

If they own the property along Erickson Avenue, is that associated with the same property? Their sign faces South High Street.

Ms. Dang said that their main store sign is along South High Street. They also have signage on the face of the building along Erickson Avenue. I do not know the total square footage. We told them that we need to work with them to calculate the signage allotment and to determine if they need to reduce any signage.

Chair Colman asked if the unused land that is owned by the applicant counts in the signage calculations.

Ms. Dang said that the sign calculation is based on the parcel size.

Chair Colman asked if they could put signage on the other property.

Ms. Dang said that they could not because the Stoneburner facility is not located on Lot 1. When the medical facility comes in, they can have their own sign, or they could work together on a comprehensive sign plan.

Chair Colman asked if there were any more questions for staff. Hearing none, he opened the public hearing and invited the applicant or applicant's representative to speak to the request.

Andrew McAdams, Stoneburner Inc., 1821 South High Street, called to speak to the request. I represent Stoneburner Land, LLC, which is the owner of the parcels. I am available to answer questions.

Commissioner Finks asked for clarification regarding the term "unnecessary hardship" on the variance application.

Mr. McAdams said that the property is literally on top of a rock. When the R.E. Michel Company's building was constructed, they had to work for a month to level off land for the building. We had to blast in the 1970s when our building was erected. We are happy to comply with the long-term vision of the City to have easy access and have a business setting along South High Street, however we will have substantial rock to work through. "Unnecessary hardship" is the financial hardship that we would incur to deploy heavy excavation gear to get that eight feet for sidewalk right-of-way that we would have to level off. Lot 1 is not as substantial to do. The way the land is, we would cut three or four feet into a bank. Lot 2 is about eight feet almost to the curb and gutter. That is going to be an extreme amount of financial burden. We do not have any plans, right now, for Lot 2. We would hope to get another SUP and get a tenant in there to comply with the long-term vision. Part of the process is determining whether we invest in a retaining wall to maximize the land based on the tenant's need for space or if it would be a simple building where we could feather the dirt and take away usable land by feathering it with a gradable mobile slope and still get that eight feet for the sidewalk. If we have a tenant that would allow the owners to get the income from Lot 2, then it would justify the means to put in a more expensive retaining wall.

Chair Colman asked if there were any more questions for the applicant. Hearing none, he invited the public to speak to the request. There were no callers from the public, therefore he closed the public hearing and opened the matter for discussion.

Commissioner Finks said that he has one concern with the variance request. The applicant laid out his case very well regarding the issues that they would have. There is a serious grade that they would have to deal with if they were to install sidewalks. I agree that it probably would be a hardship. I always have concerns when we have lots like this where we are creating areas that have sidewalks that go nowhere. It looks like Lot 1 has the potential to be developed soon. It could be decades before Lot 2 is developed. There will be a gap between Food Lion and this potential health care facility. Someone might have to park at Food Lion and have several blocks of road without sidewalks; it makes it difficult to walk. That is my only concern, but it is not enough of a concern

to say that the variance does not make sense. Obviously, there is a severe grade. I can see the issue if they are not planning to develop that lot.

Commissioner Finnegan said that he shares Commissioner Finks' concern. When you look at the sidewalks that are there on South High Street, there is a gap not only there, but further up the street. If it was not for the difficulty in creating the sidewalk at this particular site, I would not be inclined to support it. Given the difficulties with the rock and the grade, I do plan to vote in the affirmative.

Chair Colman said that this is not the first time that we have seen a situation like this. This is one of many that we have seen. Other times it appeared that it would be more doable than at this site. It is a substantial burden, and it is better accommodated during development. Then they know how much property you can develop and how much you cannot. I share the concern given the fact that it will be a medical facility, and in this area, people could potentially walk to it. I will still support it.

Commissioner Finks said that there will probably be no walking if there is no sidewalk.

Commissioner Finnegan said that there are three crosswalks at that intersection. It is set up for walking.

Commissioner Finks said sidewalk from that side of the street stops in front of the bank at Food Lion. There is sidewalk in front of the Food Lion parking lot and Arby's. There is another existing lot. Even if the sidewalk were to be installed on Lot 2, there is still a lot of property to traverse before you get to the sidewalk that starts on that side of South High Street. I do not think that a sidewalk on Lot 2 would make the difference. I do not want to see it be the tipping point that if that sidewalk does not get built that no other sidewalks would get filled in either.

Chair Colman said that he wonders how much foot traffic there is at that intersection. I have not seen many people walk through there. I have seen people walk up and down on South High Street, but farther down the street. I do not know how it is in this area.

Commissioner Finks said that between the grade and the street, there is not much space to walk. I can envision people walking from the apartment complex behind Food Lion to the gas station. As it is now, if you are going to walk past the Stoneburner property, you are not going to have a lot of space between that grade and a car. I do not think that people attempt it right now.

Commissioner Whitten said that there are a lot more bicycles than walking.

Commissioner Finks moved to recommend approval of the preliminary plat and variances requested.

Commissioner Finnegan seconded the motion.

All members voted in favor of recommending approval of the preliminary plat and variances, as presented (5-0). The recommendation will move forward to City Council on August 11, 2020.

Commissioner Whitten moved to approve the SUP with conditions, as presented.

Commissioner Finnegan seconded the motion.

All members voted in favor of recommending approval of the SUP with conditions, as presented (5-0). The recommendation will move forward to City Council on August 11, 2020.