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June 27, 2016
(revised September 2, 2016)

VIA Email: cperez@albemarle.org

Chris Perez, Senior Planner
Albemarle County Department of Community Development
401 McIntire Road
Charlottesville, VA 22902

Re: Better Living Berkmar Drive
Special Exception Requests for SDP201600018

Dear Mr. Perez:

B Properties, LC is the owner (the "Owner") of two parcels of land identified as Albemarle County tax map parcel 45-112B and 45-112A (the "Property") that are the subject of an initial site plan application entitled "Better Living Berkmar Drive" and identified as SDP 2016-00018 (the "Site Plan Application"). The Site Plan Application is currently under review by the County for the construction of a new building to house Better Living Building Supply, including office space and outdoor storage and supply pick up on the rear of the property. To accomplish this variety of uses and the unique parking and circulation needs on this particular site, three special exceptions are requested.

Better Living Building Supply was established in Charlottesville 123 years ago by the Barksdale and Graves/Nunley family (Mrs. Nunley's maiden name was Julia Watson Graves) in 1893 and has been in continuous operation ever since. The company moved from its downtown Charlottesville location to the existing location in Albemarle County in 1981 and continues to be owned and operated by the Nunley family. The Nunleys desire to maintain as much of their business in Albemarle County as possible at the new location on Berkmar Drive at the Property. The Property has been zoned Highway Commercial for decades, and as far as we have been able to determine, at least since 1980, and possibly earlier.

On behalf of the Owners, we formally request the following special exceptions to accompany the review of SDP201600018:

**Special Exception #1: 4.20- SETBACKS AND STEPBACKS IN CONVENTIONAL
COMMERCIAL AND INDUSTRIAL DISTRICTS (Maximum Front Setback)**

Front Maximum

30 feet from the right-of-way or the exterior edge of the sidewalk if the sidewalk is outside of the right-of-way, provided that this maximum setback shall not apply to any structure existing on June 3, 2015 and to any structure depicted on an approved final site plan that is valid on June 3, 2015 as having a front setback greater than 30 feet; none, on any lot, including a corner lot, abutting a principal arterial highway

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The maximum front setback may be increased by special exception to accommodate low impact design, unique parking or circulation plans, or a unique target market design.

As noted above, the Property has been zoned Highway Commercial for decades, and the family has long planned to relocate its Building Supply business there at the point that the current facility was no longer a good fit. Justin Shimp of Shimp Engineering, and previously of Dominion Engineering, has been working with the Nunley family for over five years in planning a building on the Property that could accommodate the Building Supply business in the event it needed to be relocated there. For the four decades (or more) that the Property has been zoned HC, the HC zoning district did not include any maximum setback requirement. Just one year ago, this all changed with the adoption of the new maximum setback of 30 feet in HC district, which is a significant change for a by-right use, and especially for land that has been in continuous ownership for so long. While this maximum setback might be fairly easy to incorporate into a site design when a landowner had time to plan and prepare for it, such as a part of a comprehensive rezoning, it is a significant change and impact for a by-right use that has been allowed on the Property for many decades and that has been planned for over five years. To have to suddenly redesign the project to accommodate this brand-new requirement imposed on the Property so recently, when it was not planned for, is a hardship on the Owners, and we contend that the Property and the proposed development merits the granting of a special exception to permit the setback to be larger, for the reasons discussed herein.

At the request (but significantly, not the requirement) of the County staff, the Owner has agreed that, conditioned upon final approval of the proposed site plan for the project, to voluntarily set aside twenty feet of the Property along the entire Berkmar frontage to accommodate the future widening and improvement of Berkmar Drive. We have been told that it would be nearly impossible to widen the western side of Berkmar due to its topography, and that the eastern side is the most realistic. Thus, the Owner has agreed to accommodate this future widening on the Property as part of the approval of the final site plan, even though it is not required as part of the Site Plan.

The official special exception request is for an increase of the maximum front yard setback from 30 feet to 83 feet. However, given the Owner's conditional willingness to set aside 20 feet of the Property for the future widening of Berkmar Drive, the effective request is for an increase from 30 feet to 63 feet, if one were to measure from the line marked "Future 20' R.O.W. Dedication" on sheet C3 of 6 of the Site Plan. But since that dedication is in the future, the technical request is for the setback to be to 83 feet.

The proposed setback accomplishes three important goals for this specific site. Within the 83 feet, 20 feet of that length has been marked for the future improvements and widening of Berkmar Drive. 18 feet of the setback is primarily dedicated to providing ADA parking that is most convenient to the entrance to Building A as shown on the initial site plan. The remainder of the setback space is needed for a circulation aisle for the parking spaces and landscaping along the frontage of the site. The proposed development will provide a new building and location for Better Living Building Supply. The site, which is long and narrow, will accommodate three separate uses, each with their own needs and specifications. More than half of the site is dedicated to the loading and storage of building supplies. For safety and security purposes, the rear area of the site where this use is located, will be fenced off and secured by a gate house.

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Parking for employees is relegated behind the building. The retail component is located in the proposed building on the front portion of the site. To provide the needed customer and ADA parking in a location that is convenient to the retail entrance on the front of the building, spaces have been shown to the front and side of the building. This careful usage of space allows for all three site components to function successfully, but also safely and conveniently while also meeting the County's requirements for landscaping and future expansion of Berkmar Drive onto the Property.

Specifically, it is important that the customers going to the various areas of the building are separated from each other to reduce conflicts and maintain the highest levels of safety. For example, customers and contractors who are coming to the Property to pick up lumber or special orders from the building supply business will park in either one of the eight spaces along the north side of the building, or in one of the 10 spaces on the east/back side of the building, for the entrance to the Building Supply business will be in the basement of the building on the back/north side of the building.

By contrast, it is important that customers shopping at the retail uses on the upper floor of the building, with entrances along Berkmar and along the south side of the building, not be parking in the spaces on either the north or east/back side of the building, which will be at a lower level. In addition, delivery trucks will frequently use the driveway along the north side of the building, so it is important to keep the retail customers who are not there for picking up lumber and special orders away from that area to minimize conflicts and congestion with those delivery vehicles.

Employee and customer vehicles will be parked in the spaces in the very back of the building. Better Living currently has 41 employees and plans to retain all 41 employees at the new location. In addition, the company has 8-10 company vehicles used for the business, including a company pick-up, sales cars for the cabinet sales team, and a van for the cabinet installation team. Finally, there are often sales representatives and other non-customer/non-employees at the business who will also need parking. John Nunley and Justin Shimp at Shimp Engineering have worked hard to provide sufficient parking at the site to address all these needs, but while keeping the number as low as reasonably possible.

In addition, the Owner has carefully designed the Site Plan to comply as much as possible with the maximum setback by shifting the vast majority of the parking originally planned for the front of the building to the side. This presents challenges for the retail space, and creates the need for the two additional special exception requests below, but the Owner was willing to make the change to demonstrate efforts to meet the goals and spirit of the new maximum setback, even if total compliance could not be achieved given the unique parking and circulation plans for the Property and the project.

However, by shifting the parking spaces from the front to the south side of the building, to access the spaces on the south side of the building, a travelway is required along the front of the Property. The travelway is located as close as possible to Berkmar while still complying with the Virginia Department of Transportation ("VDOT") requirement that there be a minimum of 50 feet between the edge of the pavement at Berkmar and the start of the travelway. This requirement is to prevent cars turning into the travelway from backing up in the driveway and

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into Berkmar Drive. Moving Building A closer to Berkmar, even with the current right-of-way line, would prevent the project from complying with that VDOT requirement. Therefore, given the unique parking and circulation plan, which creates the need for the travelway, it is not feasible to move the building any closer to Berkmar Drive than it is already located.

Finally, we ask that you consider the fact that the Owners have been working on plans to develop the property with a building in this location for many years, back to 2008. The Owners and their civil engineer began designing plans for the building at this location, with substantial parking in front of the building, as was allowed at the time. However, on June 3, 2015, after working on the design for over seven years, the zoning ordinance was amended to require the 30-foot maximum building setback. As a result, the Owners and their engineer had to revise their plans to attempt to incorporate the new setback requirement.

Thus, because of all of these unique parking and circulation plans affecting the Property and the project, implementation of the 30-foot maximum setback is not feasible, practical, or safe. In addition, this new maximum setback requirement is a significant burden on a by-right use that has been permitted for at least 36 years, has been in the design process for over seven years, and suddenly has to redesign its project to comply with the new requirement.

For all of these reasons, we request that the Board grant the special exception request so that this local business, which has been in continuous ownership and operation by the Nunley family for 123 years, may relocate their business to the Property and continue to operate in Albemarle County for years to come.

Special Exception #2: 4.20 SETBACKS AND STEPBACKS IN CONVENTIONAL COMMERCIAL AND INDUSTRIAL DISTRICTS (Minimum Parking Setback)

Side and Rear Minimum

If the abutting lot is zoned residential, rural areas, or the Monticello Historic district: (i) no portion of any structure, excluding signs, shall be located closer than 50 feet from the district boundary; and (ii) no off-street parking or loading space shall be located closer than 20 feet to the district boundary.

In order to locate Building A as close as possible to the Berkmar Drive frontage of the property, and thus get as close to complying with the new 30 foot maximum setback imposed upon the Property, parking for the retail component of the site that would have previously been located in front of Building A has been relegated to the side of the building. As mentioned before, the proposed parking and circulation layout is needed to serve the various components of the site.

The property that is immediately south of the project is currently zoned R-6 Residential, meaning that the southern property line of the site forms the district boundary for the Highway Commercial zoning district and requires that parking be setback a minimum of 20 feet. Due to the narrow width of the Property, one row of retail parking is designed within portions of the 20 foot parking setback. This movement of parking from the front setback to the side setback helps to prioritize the Berkmar Drive frontage as an Entrance Corridor and the front door to the property. Although the adjacent property is currently zoned R-6, the Places 29 Masterplan Land Use Plan designates these parcels as Office/ R & D/ Flex/ Light meaning that the existing

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zoning is not aligned with the vision for this area. Within the entire block there are no residential uses and no other properties zoned residential. It is also our understanding that the owners of those parcels have officially submitted an application to rezone the properties to a commercial zoning. If that rezoning were to be approved, the 20 foot parking setback would no longer be applicable. Granting this Special Exception creates consistency throughout the block, and recognizes the intended direction of development pursuant to the Comprehensive Plan, and makes possible an improved site design that brings the Building A closer to compliance with the new 30-foot maximum setback. For all of these reasons, we request that the Board of Supervisors grant this special exception request.

In addition as part of this same request, we request that the Board of Supervisors also permit Building D shown on the site plan to be closer than 50 feet to the R-6 Residential zoned parcel. A portion of Building D (which is a storage shed) is adjacent to the R-6 parcel and is located only 22 feet from the property line. This is necessary to allow sufficient space between Building D and Building B shown on the plan for loading equipment to safely load and transport lumber and other building supplies within the area shown as "Loading & Storage Area" on the site plan. Again, the relatively narrow width of the parcel is challenging. With the proposal by the owners of the R-6 property to rezone it to commercial use, we believe this request is reasonable under the circumstances for the same reasons as described above.

Special Exception #3: 21.7 (c) Buffer

Buffer zone adjacent to residential and rural areas districts.

No construction activity including grading or clearing of vegetation shall occur closer than twenty (20) feet to any residential or rural areas district. Screening shall be provided as required in section 32.7.9. The board of supervisors may waive by special exception the prohibition of construction activity, grading or the clearing of vegetation in the buffer in a particular case upon consideration of whether: (i) the developer or subdivider demonstrates that grading or clearing is necessary or would result in an improved site design; (ii) minimum screening requirements will be satisfied; and (iii) existing landscaping in excess of minimum requirements is substantially restored.

The unique combination of the shape of the proposed Better Living site and the development program necessitates clearing and grading of portions of the 20 foot buffer zone designated on the southern property line adjacent to the parcels that are currently zoned R-6 Residential. As discussed in Special Exception Request #2, the site plan locates one row of parking within the 20 foot buffer zone. To construct the proposed parking, clearing and grading will be necessary. The site was originally designed with a double loaded parking lot in front of the building. As a result, the building would have been over 100 feet from the property line with two rows of parking in front of the building along Berkmar Drive. Moving more parking to the side of the building is an option that respects the goals of the new maximum setback requirements while also bringing the building as far forward as possible for this particular site. Thus, as contemplated by the special exception criteria, this required grading and clearing will result in an improved site design.

In addition, the minimum screening requirements will be satisfied. Pursuant to the screening requirements contained in Section 32.7.9, a fence measuring 6 feet will be provided along the edge of the parking lot to provide adequate screening between the parking lot and the adjacent property if the adjacent property ever actually develops as a low-density residential use. Given

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the active commercial rezoning application for the adjacent property, this buffer zone will likely not be applicable.

Given that the criteria in Section 21.7(c) has been satisfied, and given the other unique facts described herein, we request that the Board grant the special exception request to disturb the buffer adjacent to a residential district.

Thank you for your assistance during this process, and we appreciate your consideration of these three Special Exception requests. We appreciate the County working with us to find solutions at this site to retain Better Living Building Supply in Albemarle County. By approving this request, we can ensure that their legacy, local presence, and outstanding support for the community continues well into the future. Please let us know if you need any additional information to process this request.

Sincerely,


Valerie W. Long

cc: John Nunley, Better Living Building Supply/B. Properties L.C.
Justin Shimp, PE, Shimp Engineering