

**STAFF PERSON:
BOARD OF SUPERVISORS:**

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Staff analysis of the special exception requests to setback requirements

Each special exception request has been reviewed for zoning and planning aspects of the applicable regulations. Special exceptions are considered by the Board under Chapter 18 Sections 33.5 and 33.9. In acting upon a special exception, the Board shall consider the factors, standards, criteria, and findings, however denominated, in the applicable sections of this chapter. Staff analysis of the Applicant's request for special exceptions to modify the requirements of County Code § 18-4.20(a)(2) and 18-4.20(a)(3), and to waive the requirements of County Code § 18-21.7(c), is provided below.

Special Exception #1 - To modify the front maximum setback as provided for in Chapter 18 Section 4.20(a)2.

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

The maximum front setback for a new building proposed in the Highway Commercial (HC) zoning district is 30 feet from the right-of-way. Section 4.20(a)2 allows this setback to be increased by special exception to accommodate low impact design, unique parking or circulation plans, or a unique target market design. The applicant requests to increase the maximum front setback to 83 feet. As part of the request the applicant has agreed to reserve 20 feet of frontage along Berkmar Drive for future dedication upon demand of the county for the planned future widening of Berkmar Drive, thus the net effect of the request is to increase the maximum front setback to 63 feet post dedication. Planning and zoning staff support this special exception request because it is essential to the design of the current proposal and meets the required findings to approve a special exception under Section 4.20(a)2.

Staff analysis is provided as follows: The site negatively slopes away from Berkmar Drive. In an effort to avoid massive amounts of grade and fill the developer has taken advantage of the hillside by incorporating the natural topography into the design of the building and layout of the site, which is made up of a two story building with a basement and outdoor storage yard at the rear of the property. The top floor of the building houses the retail component of the site and will be accessed at ground level from the front of the building facing Berkmar Drive, the floor below is intended for office space and is accessed by the north entrance, and the basement overlooks the outdoor storage yard and will house special orders and customer pickups and is accessed at the rear of the building. This building design allows for a unique parking and circulation pattern that relegates the majority of the parking for the various uses to the sides and to the rear of the building and helps separate customer traffic from product delivery traffic.

The design of the site relies heavily on a travelway that fronts the property and runs parallel to Berkmar Drive. VDOT requires a minimum of 50 feet between the edge of pavement at Berkmar and the start of the travelway. Additionally, VDOT is requiring the site share an entrance with the adjacent property, TMP 45-112E, which is currently under review by the County for a rezoning from R-6 zoning to Highway Commercial (ZMA2016-9 Wood/Von Storch – Rezoning). The shared entrance location and design has not been finalized at the time of this request but is likely to require a travelway along the front of both properties in order to serve each development. This too provides further justification for approval of the special exception.

In summary granting the special exception to increase the front maximum setback aids in the feasibility of this low impact design, accommodates the unique parking and circulation patterns for the proposal, and allows the site to meet the shared entrance requirement of VDOT.

Special Exception #2 - To modify the side setbacks for parking and structures as provided for in Chapter 18 Section 4.20(a)3.

Side and Rear Minimums: 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. If the abutting lot is zoned commercial or industrial, any primary structure shall be constructed and separated in accordance with the current edition of the Building Code

Section 4.20(a)3 allows the side setback to be modified or waived by special exception. The applicant requests to locate parking within the 20 foot side setback and requests one of the storage sheds at the rear of the property be

Attachment C

located closer than 50 feet to the adjacent residentially zoned parcel. Planning and zoning staff support this special exception request because of the findings in the analysis that follows.

As mentioned previously, the proposed parking and circulation layout of the site is needed to serve the various components of the site. The properties immediately to the south of the project, TMP 45-112E and TMP 45-112, are currently zoned R-6 Residential. The Highway Commercial zoning district requires that parking be setback a minimum of 20 feet from residential districts. 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 and aids in the relegation of parking to the side of the building. As previously mentioned the adjacent property designated as Office/R&D/Flex/Light in the Places 29 Masterplan has an active application in our office to rezone from R-6 to Highway Commercial (ZMA2016-9 Wood/Von Storch – Rezoning). If the rezoning is approved, the 20 foot parking setback will no longer be applicable.

In addition, and as part of the same request the applicant seeks to permit ‘Storage Shed D’ as depicted on the site plan, to locate closer than 50 feet to the R-6 Residential zoned parcel. A portion of the building is located 20 feet from the property line. If the rezoning were to be approved, the 50 foot building setback would no longer be applicable. The reduction to the side setback is necessary for the current design of the site and allows sufficient space between the various storage sheds to allow loading equipment to safely load and transport lumber and other building supplies within the ‘Loading and Storage Area’ as depicted on the site plan.

Based on the site’s low impact design, unique parking and circulation pattern, the adjacent property’s active rezoning, and the Places 29 Masterplan Land Use Plan designation it seems reasonable to grant the special exception to reduce or omit the side setback for structures.

Special Exception #3 - To waive the 20 foot undisturbed buffer provision as provided for in Chapter 18 Section 21.7(c)

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 combination of the shape of the proposed Better Living site, the unique parking and circulation pattern for the proposal, and the VDOT requirement to share an entrance with the adjacent property requires improvements and clearing/grading within portions of the 20 foot buffer zone designated on the southern property line adjacent to the parcels that are currently zoned R-6 Residential. If the rezoning of the adjacent properties were to be approved the buffer would no longer be applicable. As previously discussed in the analysis of Special Exception #2, the site plan locates one row of parking within the 20 foot buffer zone. To construct the proposed parking, clearing and grading within the buffer are necessary. Relegating the majority of the parking to the side and rear of the building respects the goals of the new maximum setback requirements, resulting in an improved site design. The applicant intends to meet the minimum screening requirements of the buffer by providing a 6 feet tall screening fence along the edge of the parking lot to provide adequate screening between the parking lot and the adjacent property. Staff supports the special exception to waive the buffer requirement.

RECOMMENDATION:

Staff recommends that the Board of Supervisors adopt the attached Resolution (Attachment E) approving the special exceptions to modify and/or waive the setback requirements for reasons discussed above.