

## ATTACHMENT B – STAFF ANALYSIS

STAFF PERSON:  
BOARD OF SUPERVISORS:

Mariah Gleason  
April 15, 2020

### **SPECIAL EXCEPTIONS TO COUNTY CODE REQUIREMENTS**

The following special exceptions are attached to a site plan currently under review by staff for Tax Parcel 06000-00-00-03800, located southeast of the intersection of Ivy Road/Route 250 and Twin Sycamores Lane. The applicant is proposing to redevelop the subject property into an approximately 26,000 square foot medical office building. Each request has been reviewed for zoning and planning aspects of the regulations.

### **SPECIAL EXCEPTION #1 – Disturb a required 20ft buffer area abutting a residential zoning district**

The applicant is requesting the above-noted special exception in order to improve an existing parking area and install a screening fence and planting strip. Staff analysis of this request was conducted pursuant to the following applicable provisions and evaluation criteria contained in County Code §18-21.7(c):

### **21 COMMERCIAL DISTRICTS – GENERALLY**

#### **21.7 MINIMUM YARD REQUIREMENTS**

The minimum yard requirements in the commercial districts are as follows:

- c. *Use buffer adjacent to residential and rural areas districts.* For the purpose of this subsection, a use buffer shall not be required when a commercial zone is across a street from a residential or rural area district. No construction activity including grading or clearing of vegetation shall occur closer than 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 use 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.

### **SPECIAL EXCEPTION #1 – STAFF ANALYSIS:**

- i. **the developer or subdivider demonstrates that grading or clearing is necessary or would result in an improved site design**

A previous site plan approved the location of existing off-site parking 5 feet from the rear property boundary which abuts a residential zoned district. Therefore, the site is currently non-conforming. The applicant is proposing an improved site design that will maintain the curb line of the existing parking area while incorporating a screening fence as well as a planting strip to provide separation between on-site commercial activities and neighboring residential areas. Staff found that approval of the special exception request would have the additional benefit of allowing the applicant/developer/owner the ability to maintain these improvements in the future.

In addition, staff found that if this proposed development were to be constructed by-right without disturbing the 20 foot buffer area along the rear property line, the applicant would have no choice but to allow the existing parking area to remain, without improvement. This would result in a site design that could be considered less desirable and esthetically pleasing as well as confusing for visitors. See exhibit titled “Beaver Creek – Medical Office Building – Special Exception: Site Layout without Special Exception Request” and dated November 4, 2019 in Attachment A for reference.

**Evaluation criteria met.**

**ii. minimum screening requirements will be satisfied**

The proposed site plan is exceeding the minimum screening requirements. County Code §18-32.7.9.7 stipulates that at least one type of screening be provided. The applicant for this development is proposing a combination of two types of screening – a fence and planting strip.

**Evaluation criteria met.**

**iii. existing landscaping in excess of minimum requirements is substantially restored**

This criteria is not applicable. The buffer area is currently unplanted except for a few brush plants that have been allowed to grow wild.

**Evaluation criteria not applicable.**

**SPECIAL EXCEPTION #1 – RECOMMENDATION:**

Staff recommends that the Board adopt the attached Resolution (Attachment C) approving the special exception to disturb a required buffer area abutting a residential zoning district, subject to the following conditions:

1. The buffer disturbance within 20 feet, as measured from the rear property line, is allowed only for screening, landscaping, and parking. No dumpster pad may be located closer than 20 feet from the rear property line.
2. All screening, parking lot landscaping, and landscaping islands shall meet ARB requirements.

**SPECIAL EXCEPTION #2 – Reduce the rear minimum setback from 20 feet to 5 feet**

The applicant is requesting the above-noted special exception in order to utilize an existing, non-conforming off-street parking area. The existing parking area was approved by a site plan in the late 1980s and is located 5ft from the rear property boundary.

**SPECIAL EXCEPTION #2 – STAFF ANALYSIS:**

Zoned Highway Commercial and abutting a residential zoning district, County Code §18-4.20 requires a rear minimum setback of at least 20 feet for any off-street parking. County Code §18-4.20 also notes this standard can be reduced by special exception. Factors for consideration in a special exception request are described in County Code §18-33.49(B). This section states that factors, standards, criteria, and findings, however denominated are to be taken into consideration; however, no specific finding is required in support of a decision.

Staff has reviewed the request and found that the design proposed by the applicant does not increase the non-conformity of this parcel. The proposed rear minimum parking setback remains consistent with the previously approved site plan. Second, the existing parking area offers no screening fence or landscaping to act as a buffer between on-site commercial activities and the neighboring residential property. The provision of a screening fence and a vegetative tree buffer in the proposed site plan will reinforce the intended separation of commercial and residential uses in this area. Third, by proposing to provide both a screening fence and vegetative tree buffer, the applicant is exceeding the requirements of the zoning ordinance. County Code §18-32.7.9.7 stipulates that at least one type of screening be provided. In this case, the applicant is proposing a combination of two types of screening – a fence and planting strip.

Lastly, staff found that if this proposed development were to comply with the ordinance it could result in a less desirable and esthetically pleasing site design. For example, if the applicant developed in accordance with the rear minimum parking setback and other applicable buffer requirements, the existing parking area could remain in place. In this scenario, the resulting site design would be a seemingly double-stacked row of parking along the rear property line with potentially offset pavement markings. A depiction of this example can be seen in the exhibit titled “Beaver Creek – Medical Office Building – Special Exception: Site Layout without Special Exception Request” and dated November 4, 2019 in Attachment A.

**SPECIAL EXCEPTION #2 – RECOMMENDATION:**

Staff recommends that the Board adopt the attached Resolution (Attachment C) approving the special exception to reduce the rear minimum parking setback from 20 feet to 5 feet, subject to the following condition:

1. Surface parking shall be no closer than 5 feet from the rear property line, as shown on the exhibit titled “Beaver Creek – Medical Office Building – Special Exception: Site Layout with Special Exception Request” and dated December 19, 2019.