



City Council
Kevin Mumpower, Mayor
Kevin Wingard, Vice Mayor
Anthony Farnum, Council Member
Bill Hartley, Council Member
Neal Osborne, Council Member



BRISTOL, VIRGINIA CITY COUNCIL
300 Lee Street, Bristol, Virginia 24201
April 30, 2019

6:00pm

Call to Order

Moment of Silence

Pledge of Allegiance

- A. Mayor's Minute and Council Comments
- B. City Manager's Comments
- C. Matters to be Presented by Members of the Public- Non-Agenda Items.

CALLED MEETING AGENDA

1. Consider Resolution on Special Exception #03-2019 for 500 Gate City Highway.
 - a. Staff Report
 - b. Public Comments
 - c. Reading of Resolution
 - d. Council Motion and Second
 - e. Council Discussion
 - f. Roll Call
2. Consider Resolution on Special Exception #04-2019 for 500 Gate City Highway.
 - a. Staff Report
 - b. Public Comments
 - c. Reading of Resolution
 - d. Council Motion and Second
 - e. Council Discussion
 - f. Roll Call
3. Consider Second Reading and Adoption of an Ordinance (19-4) to Amend the APPENDIX TO CHAPTER 70, SOLID WASTE FEES.
 - a. Staff Report
 - b. Public Comments
 - c. Council Motion and Second for Second Reading of Ordinance (by caption only)

- d. Council Discussion
- e. Roll Call
- f. Reading of Ordinance (by caption only)
- g. Council Motion and Second for Adoption of Ordinance
- h. Council Discussion
- i. Roll Call

4. Discussion of Solid Waste.

5. Discussion of FY 19-20 Budget.

D. Adjournment



Office of
City Manager

City of Bristol, Virginia

300 Lee Street, Bristol, Virginia 24201 (276) 645-7333
FAX: (276) 645-7345
Website: www.bristolva.org



Public Notice

Called Meeting Notice

There will be a called meeting of the Bristol, Virginia City Council on Tuesday, April 30th at 6pm, in City Council Chambers, 300 Lee Street. The purpose of the meeting is to consider a resolution on special exception applications #03-2019 and #04-2019, to consider second reading and adoption of an ordinance to amend the appendix to Chapter 70 (Solid Waste Fees), to discuss solid waste, and to discuss the FY 2019-2020 budget.

Randall C. Eads
City Manager
Bristol, VA

4/24/19

BRISTOL, VIRGINIA CITY COUNCIL
AGENDA ITEM SUMMARY
Item #1

Meeting Date: April 30, 2019

Department: Planning/Community Development

Bulk Item: Yes No

Staff Contact: Sally Morgan, City Planner

AGENDA ITEM WORDING:

Consideration of Resolution on Special Exception application #03-2019 from Par Ventures Inc. for pharmaceutical processing at 500 Gate City Highway, Tax Map No. 22-1-15A

ITEM BACKGROUND:

Par Ventures Inc., the owner of 500 Gate City Highway, Suite 1007 (Tax Map 22-1-15A), has submitted a request for a Special Exception for a pharmaceutical processing operation to be located in a proposed new building on a 1.1 acre vacant tract of land. The proposed location is zoned B-3 (Intermediate Business) which by Bristol Virginia City Code only allows very limited manufacturing. The proposed pharmaceutical processing activity will be the production of cannabidiol oil or THC-A oil from the on-site cultivation of cannabis plants using an extraction process, as authorized pursuant to Code of VA Title 54.1, Chapter 34, Article 4.2.

City Code Section 50-39 provides for a process to consider and approve special exceptions to the zoning ordinance. A special exception is defined as “a use of the property which would not otherwise be permitted in the zone in which the property is situated.” The process must follow state code requirements for a public hearing and a recommendation from the Planning Commission prior to approval by the City Council.

PREVIOUS RELEVANT ACTION:

- April 1, 2019 – Planning Commission forwarded the application to City Council
- April 23, 2019 – Joint Public Hearing of City Council and Planning Commission
- April 30, 2019 – Noon meeting - Planning Commission recommendation. A summary of their recommendation will be provided at the City Council meeting.

STAFF RECOMMENDATION:

The staff recommends that the Special Exception application #03-2019 be approved with the following conditions:

- 1) All state and local requirements for storm water management and air pollution control shall be met; and adequate odor control techniques shall be utilized inside the facility to avoid off-site odors.
- 2) A landscape buffer be provided between the proposed facility and the adjacent restaurant to the satisfaction of the city engineer and city planner; and
- 3) If parking is approved for the facility across the private entrance road that the property owner or business shall provide safe and accessible pedestrian access, including a crosswalk and sidewalk, as approved by the city engineer.

DOCUMENTATION: Included Not Required



CITY OF BRISTOL, VIRGINIA
CITY COUNCIL

DRAFT

RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRISTOL, VIRGINIA GRANTING A SPECIAL EXCEPTION (SE #03-2019) TO MAP PARCEL NO. 22-1-15A (KNOWN AS 500 GATE CITY HIGHWAY) IN BRISTOL, VIRGINIA TO ALLOW A PHARMACEUTICAL PROCESSING OPERATION

SECTION 1. The City Council finds that:

WHEREAS, the Community Development Department received an application for a special exception from Par Ventures Inc. for the operation of a pharmaceutical processing operation at 500 Gate City Highway, Suite 1007 (Map Parcel #22-1-15A); and

WHEREAS, the applicant submitted the required application to the Director of Community Development in accordance with City Code; and

WHEREAS, the Planning Commission of Bristol, Virginia recommended forwarding special exception #03-2019 for a joint public hearing with City Council; and

WHEREAS, the joint public hearing has been properly advertised and held on April 23, 2019 in accordance with Virginia Code §15.2-2204, as amended; and

WHEREAS, property owners adjoining 500 Gate City Highway, Bristol, VA have been properly notified pursuant to Virginia Code §15.2-2204, as amended; and

WHEREAS, the City Council of Bristol, Virginia reserves unto itself the right to grant special exception permits; and

WHEREAS, the City Council considered the circumstances of Bristol, Virginia City Code §50-39(g) prior to approval of the special exception request.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF BRISTOL, VIRGINIA:

SECTION 2. Special Exception #03-2019 is hereby granted with the following conditions:

- 1) All state and local requirements for storm water management and air pollution control shall be met; and adequate odor control techniques shall be utilized inside the facility to avoid off-site odors.
- 2) A landscape buffer be provided between the proposed facility and the adjacent restaurant to the satisfactory of the city engineer and city planner; and
- 3) If parking is approved for the facility across the private entrance road that the property owner or business shall provide safe and accessible pedestrian access, including a crosswalk and sidewalk, as approved by the city engineer.

PASSED AND ADOPTED by the City Council of the City of Bristol, Virginia, at a regularly scheduled meeting of said Council held on the 30th day of April, 2019.

Mayor Kevin Mumpower _____
Vice Mayor Kevin Wingard _____
Councilman Bill Hartley _____
Councilman Anthony Farnum _____
Councilman Neal Osborne _____

(SEAL)
Attest: Nicole Storm
CLERK OF THE CITY OF
BRISTOL, VIRGINIA

CITY COUNCIL

By _____
Clerk

By _____
Mayor

BRISTOL, VIRGINIA PLANNING DEPARTMENT

STAFF REPORT



To: Planning Commission

From: Sally H. Morgan, City Planner

Date: April 1, 2019 **Revised for April 23 Joint Public Hearing and April 30 Meetings**

RE: Special Exception Request #03-2019 for Pharmaceutical Processing at 500 Gate City Highway, Tax Map No. **22-1-15A**

1) Applicant/Agent:

Par Ventures, LLC
2700 Lee Highway
Bristol, VA 24201

2) Property Owner:

same

3) Property Address

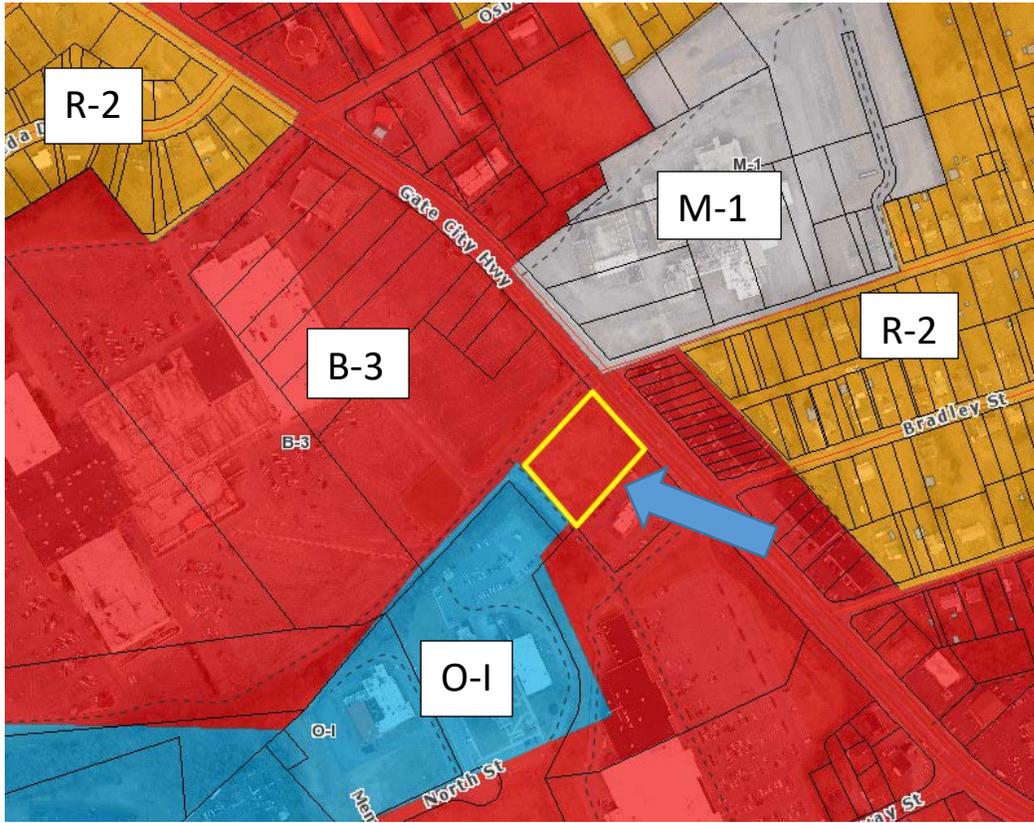
500 Gate City Highway, Suite 1007
Bristol, VA 24201
TAX MAP #22-1-5A

4) Property Zoning: *Intermediate Business (B-3)*

5) Location Map:



6) Zoning Map



7) Property Photos



From Gate City Highway

From Private Access Drive



8) Request:

Par Ventures LLC, the owner of 500 Gate City Highway, Suite 1007 (Tax Map 22-1-15A), has submitted a request for a Special Exception for a pharmaceutical processing operation to be located in a proposed new building on a 1.1 acre vacant tract of land. The proposed location is zoned B-3 (Intermediate Business) which by Bristol Virginia City Code only allows very limited manufacturing. The list of permitted uses in Section 50-109 includes “(18) Manufacture of articles to be sold at retail on the premises, provided such manufacturing is incidental to the retail business and employs not more than five operators.” The proposed business includes a retail pharmacy which would be a permitted use; however the processing operation will employ more than five operators and will not be “incidental to the retail business.”

Bristol City Code (BCC) does allow a property owner or applicant to request a Special Exception to allow a “use of the property which would not otherwise be permitted” (Section 50-39 of BCC). This is not a rezoning request. The special exception process allows for a specific use to occur without changing the zoning district.

9) Background and Existing Conditions:

The subject property is a vacant tract that is undeveloped and was recently bought by Par Ventures LLC. It immediately adjoins the Wendy’s restaurant while the State Line shopping center is further to the south. To the north is the former Bristol Mall property. Across Gate City Highway are commercial and industrial uses including the former Nu-life (now vacant) property at 2537 Catherine Street which is zoned M-1 (Light Industrial).



The property is accessed from a private roadway (with approximately 24’ width of pavement) that connects the mall property with the shopping center. There is about a 40’ wide paved driveway extending 30 feet onto the property. The land is virtually flat except for a short bank sloping down to the Gate City Highway frontage.

10) Project Description

The proposed pharmaceutical processing activity will be the production of cannabidiol or THC-A oil from the on-site cultivation of cannabis plants through an extraction process, as authorized pursuant to Code of VA Title 54.1, Chapter 34, Article 4.2. As also prescribed by state law, the dispensing of oil is restricted to patients registered by the Virginia Board of Pharmacy for treatment or alleviation of medical conditions determined by a physician to benefit from such use.

The project will entail the construction of a building with dimensions of 80 feet by 135 feet with three levels (basement, first floor, and second floor) for a total square footage of 32,400. The building will be a metal, pre-fabricated structure with masonry wainscoting, windows, and awnings. A 30-space parking lot will be on-site for customers and employees with additional parking across the private entrance drive on the mall tract. The customer entrance will be from the on-site parking lot. Approximately 3,600 s.f. of the building space on the first floor will be the retail pharmacy area and administrative offices, while the remainder of the building will be used for security functions, grow area, extraction, and testing.

Security provisions are regulated by the VA Board of Pharmacy. There will be a perimeter security fence around the entire property. The first phase of the project anticipates approximately 30 employees with potential to grow to 125-150 employees. A conceptual site plan is attached to this report.

11) Previous Planning Commission Actions:

The Planning Commission voted at its meeting on April 1, 2019 to forward the application to the City Council for a joint public hearing.

12) Authority to Act:

Virginia Code §15.2-2286 (A) (3) provides the authority to City Council to grant special exceptions “under suitable regulations and safeguards.” The process for granting an exception is largely left to the local ordinance or code to define. City Code §50-39 stipulates that a special exception may be granted following due consideration of eight (8) particular questions regarding the impact of the proposed use and the availability of local services for the planned use. A complete application is required along with the applicable fee. The Planning Commission is required to provide a positive or negative recommendation to the City Council following a joint public hearing. The City Council, after hearing comments from the public, shall decide to grant or deny the request based on the facts and evidence presented by the staff, the Planning Commission and the public. Conditions may be attached to the granting of a special exception to address impacts of the proposed use.

13) City and State Code Requirements:

City Code §50-39 stipulates that a special exception may be granted following due consideration of eight (8) particular questions regarding the impact of the proposed use and the availability of local services for the planned use. The Planning Department has circulated the application materials and solicited responses from the various departments responsible for providing services and received the following responses:

1. The sufficiency of streets and public ways to accommodate increased traffic flow, the considered opinion of the City Engineer and of any certified traffic engineer being given particular weight by the council.
Staff Response: Access to the site will be from a signaled intersection at Gate City Highway and the mall access roadway. Proposed plans indicate that the number of employees of the facility would initially be 30 people and could grow to 125-150. The number of anticipated customers is unknown. Gate City Highway is a major arterial that is currently well under capacity. The proposed traffic generation will be considerably less than what existed when the shopping mall was occupied.
2. The sufficiency of electrical, sewer and water services for the proposed project, the considered opinion of the general manager of the utility board being given particular weight by the council.
Staff Response: BVU has reviewed the project and has identified no issues. Phase 3 electric power is available, as well as sewer and water. There should be no problems meeting the demands of this project for these services.
3. The sufficiency of fire, police, garbage, and other services of the City to meet the needs of the proposed project, the opinion of the department head of each department providing such City service being given particular weight.
Staff Response: The Bristol, VA fire and police department has reviewed the proposed request and have identified no issues in terms of providing fire protection and law

enforcement services. The building will have to meet all applicable fire and building codes.

4. The adequacy of protection to adjoining properties and to the air and water of the commonwealth from noise, odor, pollution and health hazards, the opinion of the state health department, state air pollution control board, state water quality control board, being given particular weight by the council.

Staff Response: The proposed use of the property is not anticipated to generate any noise, pollution, or health hazards. There could be odor from the facility. According to research of the topic, we found there are commonly used techniques to remove odors using carbon filters or scrubbers with ventilation systems. We found no studies that determined odors as a health hazard. The Virginia Department of Environmental Quality will need to evaluate the process to determine if an air emissions permit is necessary.

5. The impact of the proposed project upon the property values of contiguous property owners as evidenced by the testimony or written opinion of the city's Economic Development Committee Director, a certified property appraiser, or opinion of a realtor licensed by the Commonwealth and regularly listing and selling properties within the City.

Staff Response: The proposed use is not expected by city staff to have a negative impact on property values of contiguous properties. According to the Executive Director of the city's Industrial Development Authority, "it is my opinion that any type of light manufacturing, office, or retail development in this area would have a positive price effect on the surrounding area following completion of the development and be considered a neighborhood amenity and an important aspect of community revitalization."

6. Whether the natural topography, natural screening or proposed screening to be put in place by the applicant is sufficient to promote the health, safety and general welfare of the community, to protect and conserve the value of contiguous properties and to encourage the most appropriate use of contiguous properties.

Staff Response: The applicant has proposed a security fence around the property. The city engineering department will request perimeter landscaping be proposed during the site plan process. This might be especially important on the south side of the property that abuts the lot where Wendy's is located.

7. Any other factor materially affecting the health, safety and general welfare of other citizens.

Staff Response: The project will require a Virginia storm water protection permit to address run-off from the development of the site. The property owner will have to address both water quantity and quality. All applicable building and fire code standards will have to be met for life safety issues dealing with storage and use of chemicals, fire protection, and other concerns.

8. If the project is to construct a parking garage or a parking lot as a primary use of a property in the B-2 district, certain additional requirements must be met, as defined in section 50-108(c)(1) and (2).

Staff Response: Not Applicable.

14) Staff Analysis:

Staff has reviewed the circumstances surrounding the application for special exception #03-2019 at 500 Gate City Highway (Suite 1007) and has the following analysis:

Consistency with the Comprehensive Plan: One of the major visions expressed in the 2017 City Comprehensive Plan was making Bristol “the economic hub of the Tri-Cities” and to ensure job growth. A major objective to reach that goal is the revitalization and repositioning of the city’s aging commercial corridors including Gate City Highway. More than any of the other city commercial corridors, Gate City Highway has suffered decline due to the loss of a major industrial employer (Crowley/Nulife building) and most importantly, the closure of the Bristol Mall which had been the city’s premier shopping destination since the 1970’s.

The Future Land Use map which is part of the Comprehensive Plan indicates most of the corridor of Gate City Highway at this location to be “Local Commercial” (which includes retail facilities that provide goods and services for local customers as opposed to interstate-oriented businesses). The immediately adjoining former Bristol Mall site is designated as “Flex” land use. Although the plan was written prior to the closure of the mall, it recommended that that the city be pro-active in promoting other non-retail uses for the site including office, light manufacturing/distribution, and residential in a master-plan blend of uses.

Compatibility with Surrounding Uses: The subject site is part of the mall property addressed as 500 Gate City Highway although separated from the mall parking lot by the private entrance road that accesses the mall. Across Gate City Highway is a small strip commercial center and the former Crowley industrial plant that was purchased by Nulife for glass recycling although that facility is no longer operating. That property is zoned M-1, so could be used for a variety of light industrial uses. To the south of the site is the State Line shopping center with Kroger and some smaller storefronts and the rehabilitation hospital at 103 North Street although separated by tree vegetation and topography from the subject property. The closest residence to the proposed facility is approximately 300 feet away at 2536 Catherine Street, a house that is immediately across the street from the Nulife industrial facility. Other residences on Catherine Street and Bradley Street are 500 feet and farther away from the site.

15) Conclusion:

Following the evaluation of the application, staff finds that the proposed use would not negatively impact the surrounding area, although some conditions may need to be specified for the facility in order to mitigate any adverse effects on neighboring properties.

The staff recommends that the Special Exception be approved with conditions regarding compliance with state air pollution control regulations and state and local storm water requirements; and provision of an adequate landscape buffer between the facility and the immediately adjacent restaurant (Wendy’s). If the larger parking lot is used across the private access road, the property owner should be required to provide safe and accessible access for pedestrian safety across the roadway, including a crosswalk.

ADDENDUM – April 26, 2019

16) Staff Recommendation:

The staff recommends that the Special Exception application #03-2019 be recommended for approval by the Planning Commission with the following conditions:

- 1) All state and local requirements for storm water management and air pollution control shall be met; and adequate odor control techniques shall be utilized inside the facility to avoid off-site odors.

- 2) A landscape buffer be provided between the proposed facility and the adjacent restaurant to the satisfactory of the city engineer and city planner; and
- 3) If parking is approved for the facility across the private entrance road that the property owner or business shall provide safe and accessible pedestrian access, including a crosswalk and sidewalk, as approved by the city engineer.

BRISTOL, VIRGINIA CITY COUNCIL
AGENDA ITEM SUMMARY
Item #2

Meeting Date: April 30, 2019

Department: Planning/Community Development

Bulk Item: Yes No

Staff Contact: Sally Morgan, City Planner

AGENDA ITEM WORDING:

Consideration of Resolution on Special Exception application **#04-2019** from Par Ventures, Inc. for pharmaceutical processing at 500 Gate City Highway (**Tax Map No. 22-1-5 and 414-A-11**)

ITEM BACKGROUND:

Dharma Pharmaceuticals LLC has submitted an application for a Special Exception for a pharmaceutical processing operation to be located in the former Bristol Mall, specifically the former J.C. Penney and Ekerd Drug Store spaces. The application was also signed by Par Ventures, Inc., the owner of the property. The proposed location is zoned B-3 (Intermediate Business) which by Bristol Virginia City Code only allows very limited manufacturing. The proposed pharmaceutical processing activity will be the production of cannabidiol oil or THC-A oil from the on-site cultivation of cannabis plants using an extraction process, as authorized pursuant to Code of VA Title 54.1, Chapter 34, Article 4.2

City Code Section 50-39 provides for a process to consider and approve special exceptions to the zoning ordinance. A special exception is defined as “a use of the property which would not otherwise be permitted in the zone in which the property is situated.” The process must follow state code requirements for a public hearing and a recommendation from the Planning Commission prior to approval by the City Council.

PREVIOUS RELEVANT ACTION:

April 1, 2019 – The Planning Commission voted to forward the SE application #04-2019 to the City Council for a Joint Public Hearing

April 23, 2019 – Joint Public Hearing was held with the Planning Commission and City Council

- April 30, 2019 Noon meeting – Planning Commission recommendation. A summary of their recommendation will be provided at the City Council meeting.

STAFF RECOMMENDATION:

The staff recommends that the Special Exception application #04-2019 be approved with the following conditions:

- 1) The Special Exception permit shall terminate twelve (12) months after a written contract or agreement is signed by the property owner committing to the development of the entire mall with “a master plan blend of uses” as recommended by the city Comprehensive Plan; and
- 2) All state air pollution control requirements shall be met, and adequate odor control techniques shall be utilized inside the facility to avoid off-site odors.

DOCUMENTATION: Included Not Required



CITY OF BRISTOL, VIRGINIA
CITY COUNCIL

DRAFT

RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRISTOL, VIRGINIA GRANTING A SPECIAL EXCEPTION (SE #04-2019) TO MAP PARCELS #22-1-5 and #414-A-11 (KNOWN AS 500 GATE CITY HIGHWAY) IN BRISTOL, VIRGINIA TO ALLOW A PHARMACEUTICAL PROCESSING OPERATION

SECTION 1. The City Council finds that:

WHEREAS, the Community Development Department received an application for a special exception from Dharma Pharmaceuticals LLC for the operation of a pharmaceutical processing operation at 500 Gate City Highway (Map Parcels #22-1-5 and 414-A-11); and

WHEREAS, the applicant submitted the required application to the Director of Community Development in accordance with City Code; and

WHEREAS, the Planning Commission of Bristol, Virginia recommended forwarding special exception #04-2019 for a joint public hearing with City Council; and

WHEREAS, the joint public hearing has been properly advertised and held on April 23, 2019 in accordance with Virginia Code §15.2-2204, as amended; and

WHEREAS, property owners adjoining 500 Gate City Highway, Bristol, VA have been properly notified pursuant to Virginia Code §15.2-2204, as amended; and

WHEREAS, the City Council of Bristol, Virginia reserves unto itself the right to grant special exception permits; and

WHEREAS, the City Council considered the circumstances of Bristol, Virginia City Code §50-39(g) prior to approval of the special exception request.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF BRISTOL, VIRGINIA:

SECTION 2. Special Exception #04-2019 is hereby granted with the following conditions:

- 1) The Special Exception permit shall terminate twelve (12) months after a written contract or agreement is signed by the property owner committing to the development of the entire mall with “a master plan blend of uses” as recommended by the city Comprehensive Plan; and
- 2) All state air pollution control requirements shall be met, and adequate odor control techniques shall be utilized inside the facility to avoid off-site odors.

PASSED AND ADOPTED by the City Council of the City of Bristol, Virginia, at a regularly scheduled meeting of said Council held on the 30th day of April, 2019.

Mayor Kevin Mumpower _____
Vice Mayor Kevin Wingard _____
Councilman Bill Hartley _____
Councilman Anthony Farnum _____
Councilman Neal Osborne _____

(SEAL)
Attest: Nicole Storm
CLERK OF THE CITY OF
BRISTOL, VIRGINIA

CITY COUNCIL

By _____
Clerk

By _____
Mayor

BRISTOL, VIRGINIA PLANNING DEPARTMENT

STAFF REPORT



To: Planning Commission

From: Sally H. Morgan, City Planner

Date: April 1, 2019 – Updated for April 23 Joint Public Hearing and April 30 Meetings

RE: Special Exception Request #04-2019 for Pharmaceutical Processing at 500 Gate City Highway,
Tax Map Nos. 22-1-5 and 414-A-11

1) Applicant/Agent:

Dharma Pharmaceuticals LLC
500 Gate City Highway
Bristol, VA 24201

2) Property Owner:

Par Ventures LLC
2700 Lee Hwy, Suite B
Bristol, VA 24201

3) Property Address

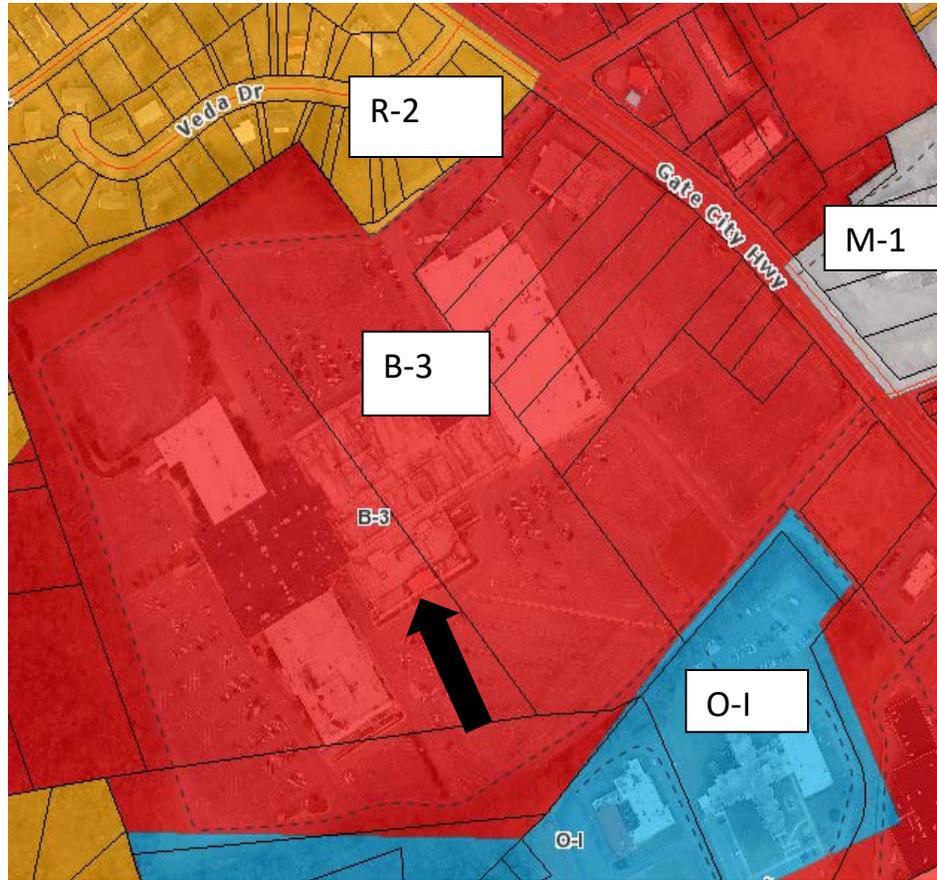
500 Gate City Highway
Bristol, VA 24201
TAX MAP #22-1-5 and 414-A-11

4) Property Zoning: *Intermediate Business (B-3)*

5) Location Map:



6) Zoning Map



7) Property Photos





Front Entrance

Side Entrance



8) Request:

Dharma Pharmaceuticals LLC has submitted an application for a Special Exception for a pharmaceutical processing operation to be located in the former Bristol Mall, specifically the former J.C. Penney and Ekerd Drug Store spaces. The application was also signed by Par Ventures, Inc., the owner of the property. The proposed location is zoned B-3 (Intermediate Business) which by Bristol Virginia City Code only allows very limited manufacturing. The list of permitted uses in Section 50-109 includes “(18) *Manufacture of articles to be sold at retail on the premises, provided such manufacturing is incidental to the retail business and employs not more than five operators.*” The proposed business includes a retail pharmacy which would be a permitted use in B-3; however the processing operation will employ more than five operators and will not be “incidental to the retail business.”

Bristol City Code (BCC) does allow a property owner or applicant to request a Special Exception to allow a “use of the property which would not otherwise be permitted” (Section 50-39 of BCC). This is not a rezoning request. The special exception process allows for a specific use to occur without changing the zoning district.

9) Background and Existing Conditions:

The subject property is the former Bristol Mall property – a building that has been vacant since September 1, 2017 when the shopping mall officially closed. The property was purchased in June 2018 by Par Ventures Inc., who has been marketing it as “Bristol Industrial Mall” in an attempt to bring non-retail tenants into the space. Almost at the same time as the building purchase was made, a public meeting was held to announce that a new local company, Dharma Pharmaceuticals LLC, was planning to apply for permission to become one of the five facilities approved by the Virginia Department of Pharmacy to grow cannabis and produce and sell cannabidiol oil and THC-A oil to patients with authorized medical prescriptions.

The building remains vacant including the portion of the building proposed for this project which consists of approximately 80,000 s.f. on two floors (J.C. Penny store) and the adjoining approximately 20,000 s.f. of space where Ekerd Drug store was located. The J.C. Penny store was an addition that was added after the mall was built and its entrance faces the south side of the mall. The mall property adjoins the property owned by Wellmont (or Ballard Health) and occupied by the rehabilitation hospital and St. Luke's United Methodist Church – both of which are on North Street. Across from the mall property is the former Nu-life (now vacant) property at 2537 Catherine Street which is zoned M-1 (Light Industrial).

The property is accessed from Gate City Highway via a private roadway (with approximately 30 - 40' width of pavement) going right into the parking lot as well as accessing the rear of the mall property. The intersection at Gate City Highway is signaled and there is a right turn lane when turning onto the highway from the subject property.

10) Project Description

The proposed pharmaceutical processing activity will be the production of cannabidiol or THC-A oil from the on-site cultivation of cannabis plants through an extraction process, as authorized pursuant to Code of VA Title 54.1, Chapter 34, Article 4.2. As also prescribed by state law, the dispensing of oil is restricted to patients registered by the Virginia Board of Pharmacy for treatment or alleviation of medical conditions determined by a physician to benefit from such use.

The project will entail the conversion of the former retail space into areas for the following: retail pharmacy, offices, security control, plant growing area, extraction, and testing. Phase 1 of the project will utilize approximately 40,000 s.f. of space with about 3,000 to 5,000 s.f. for the retail pharmacy space. Just over one acre (1.26 acre) of the existing parking lot area will be fenced and secured and only accessed by employees, approved customers, and for deliveries with a guard station controlling access to the facility. Security provisions are regulated by the VA Board of Pharmacy. The first phase of the project anticipates approximately 30 employees with potential to grow to 125-150 employees. A conceptual site plan is attached to this report and has been revised since the April 9 version of the staff report.

11) Previous Planning Commission Actions:

The Planning Commission voted at a meeting on April 1, 2019 to forward the application to the City Council for a joint public hearing.

12) Authority to Act:

Virginia Code §15.2-2286 (A) (3) provides the authority to City Council to grant special exceptions “under suitable regulations and safeguards.” The process for granting an exception is largely left to the local ordinance or code to define. City Code §50-39 stipulates that a special exception may be granted following due consideration of eight (8) particular questions regarding the impact of the proposed use and the availability of local services for the planned use. A complete application is required along with the applicable fee. The Planning Commission is required to provide a positive or negative recommendation to the City Council following a joint public hearing. The City Council, after hearing comments from the public, shall decide to grant or deny the request based on the facts and evidence presented by the staff, the Planning Commission and the public. Conditions may be attached to the granting of a special exception to address impacts of the proposed use including time duration of the permit.

13) City and State Code Requirements:

City Code §50-39 stipulates that a special exception may be granted following due consideration of eight (8) particular questions regarding the impact of the proposed use and the availability of local services for the planned use. The Planning Department has circulated the application materials and solicited responses from the various departments responsible for providing services and received the following responses:

1. The sufficiency of streets and public ways to accommodate increased traffic flow, the considered opinion of the City Engineer and of any certified traffic engineer being given particular weight by the council.

Staff Response: Access to the site will be from a signaled intersection at Gate City Highway and the mall access roadway. Proposed plans indicate that the number of employees of the facility would initially be 30 people and could grow to 125-150. The number of anticipated customers is unknown. Gate City Highway is a major arterial that is currently well under capacity. The proposed traffic generation will be considerably less than what existed when the shopping mall was occupied.

2. The sufficiency of electrical, sewer and water services for the proposed project, the considered opinion of the general manager of the utility board being given particular weight by the council.

Staff Response: BVU has reviewed the project and has identified no issues. Phase 3 electric power is on-site, as well as sewer and water. There should be no problems meeting the demands of this project for these services.

3. The sufficiency of fire, police, garbage, and other services of the City to meet the needs of the proposed project, the opinion of the department head of each department providing such City service being given particular weight.

Staff Response: The Bristol, VA fire and police department has reviewed the proposed request and have identified no issues in terms of providing fire protection and law enforcement services. The building will have to meet all applicable fire and building codes, as well as appropriate and safe standards for solid waste disposal. There may be challenges to providing adequate fire safety provisions due to the fact that the operation will be in a mixed-use building with other tenants and unrelated activities.

4. The adequacy of protection to adjoining properties and to the air and water of the commonwealth from noise, odor, pollution and health hazards, the opinion of the state health department, state air pollution control board, state water quality control board, being given particular weight by the council.

Staff Response: The proposed use of the property is not anticipated to generate any noise, pollution, or health hazards. There could be odor from the facility. According to research of the topic, we found there are commonly-used techniques to remove odors using carbon filters or scrubbers with ventilation systems. We found no studies that determined odors to be a health hazard. The Virginia Department of Environmental Quality will need to evaluate the process to determine if an air emissions permit is necessary.

5. The impact of the proposed project upon the property values of contiguous property owners as evidenced by the testimony or written opinion of the city's Economic Development Committee Director, a certified property appraiser, or opinion of a realtor licensed by the Commonwealth and regularly listing and selling properties within the City.

Staff Response: The proposed use is not expected by city staff to have a negative impact on property values of contiguous properties. According to the Executive Director of the city's

Industrial Development Authority, “it is my opinion that any type of light manufacturing, office, or retail development in this area would have a positive price effect on the surrounding area following completion of the development and be considered a neighborhood amenity and an important aspect of community revitalization.”

6. Whether the natural topography, natural screening or proposed screening to be put in place by the applicant is sufficient to promote the health, safety and general welfare of the community, to protect and conserve the value of contiguous properties and to encourage the most appropriate use of contiguous properties.

Staff Response: The applicant has proposed a security fence (with attractive appearance and not chain link or barbed wire – see attached concept site plan) around the specific area needed for parking and deliveries to the building. The conceptual site plan shows no landscaping or vegetative buffering, but this will likely be requested as part of the site plan review process.

7. Any other factor materially affecting the health, safety and general welfare of other citizens.

Staff Response: All applicable building and fire code standards will have to be met for life safety issues dealing with storage and use of chemicals, fire protection, and other concerns. Odors will also have to be addressed particularly due to the shared space. Because this building is being proposed as a mixed-use facility, there are serious staff concerns about the combination of these uses under one roof.

8. If the project is to construct a parking garage or a parking lot as a primary use of a property in the B-2 district, certain additional requirements must be met, as defined in section 50-108(c)(1) and (2).

Staff Response: Not Applicable.

14) Staff Analysis:

Staff has reviewed the circumstances surrounding the application for special exception #04-2019 at 500 Gate City Highway and has the following analysis:

Consistency with the Comprehensive Plan: One of the major visions expressed in the 2017 City Comprehensive Plan was making Bristol “the economic hub of the Tri-Cities” and to ensure job growth. A major objective to reach that goal is the revitalization and repositioning of the city’s aging commercial corridors including Gate City Highway. More than any of the other city commercial corridors, Gate City Highway has suffered decline due to the loss of a major industrial employer (Crowley/Nulife building) and most importantly, the closure of the Bristol Mall which had been the city’s premier shopping destination since the 1970’s.

The Future Land Use map which is part of the Comprehensive Plan indicates most of the corridor of Gate City Highway at this location to be “Local Commercial” (which includes retail facilities that provide goods and services for local customers as opposed to interstate-oriented businesses) and a “Flex” category for the Bristol Mall site. Although the plan was written prior to the closure of the mall, it recommended that that the city be pro-active in promoting other non-retail uses for the site including office, light manufacturing (distribution), residential, and commercial in a master-plan blend of uses.

Compatibility with Surrounding Uses: The subject site is part of the mall property addressed as 500 Gate City Highway. Across Gate City Highway are some small businesses and the former Crowley industrial

plant that was purchased by Nulife for glass recycling although that facility is no longer operating. That property is zoned M-1, so could be used for a variety of light industrial uses. To the south and east of the site is Wendy's restaurant, the State Line shopping center with Kroger, and the rehabilitation hospital at 103 North Street although the rehab facility is separated by vegetation and topography from the subject property.

To the west of the property is a wooded hillside with scattered residences on the other side of the slope and at a significant distance. The closest residences to the property are along Veda Drive although they are on the other side of the mall building to the north. The houses on Catherine Street across Gate City Highway are over 1,000 feet from the proposed facility.

The compatibility issues are more with the intended use of the rest of the property. The city Comprehensive Plan recommends multiple uses of the property but in a manner that is well-planned and blended so that the uses are complementary to each other. The use of the property as a pharmaceutical processing operation with the use of chemicals and extensive security measures is an industrial use and is not a compatible use to what the Comprehensive Plan recommends for this property.

15) Conclusion:

Following the evaluation of the application, staff finds that the proposed use would not necessarily negatively impact the surrounding area, but there are serious concerns about the compatibility of this industrial use with the proposed multiple uses for the former mall property. Staff recommendation would be to put a time limit on the use of the property for pharmaceutical processing tied to whether another use or uses are approved for the property that are less-industrial in nature and more compatible with each other. This could be worded to say that the Special Exception permit would terminate six months following an executed written commitment by the property owner to develop the entire mall with a "master plan blend of uses" as recommended in the Bristol, Virginia Comprehensive Plan.

ADDENDUM - April 26, 2019

16) Staff Recommendation:

Based on further consideration following the joint public hearing, the staff recommendation is the following:

The staff recommends that the Special Exception application #04-2019 be recommended by the Planning Commission for approval with the following conditions:

- 1) The Special Exception permit shall terminate twelve (12) months after a written contract or agreement is signed by the property owner committing to the development of the entire mall with "a master plan blend of uses" as recommended by the city Comprehensive Plan; and
- 2) All state air pollution control requirements shall be met, and adequate odor control techniques shall be utilized inside the facility to avoid off-site odors.

**BRISTOL, VIRGINIA CITY COUNCIL
AGENDA ITEM SUMMARY
Item #3**

Meeting Date: April 30, 2019
Department: Public Works
Staff Contact: Wallace McCulloch

AGENDA ITEM WORDING:

Consider Second Reading and Adoption of an Ordinance to Amend the Appendix to Chapter 70, Solid Waste Fees.

ITEM BACKGROUND:

This ordinance will increase residential and non-residential collection fees as discussed in prior meetings.

PREVIOUS RELEVANT ACTION:

Public hearing was held on 4/16/19 and first reading held on 4/23/19. Ordinance may be read by caption only as the full text has been available to the public since 4/11/19.

STAFF RECOMMENDATIONS:

Recommend approval.

DOCUMENTATION: Included X Not Required

MOTION: Motion for second reading of ordinance (by caption only). Motion for adoption of the ordinance.

AN ORDINANCE TO REPEAL AND REENACT *THE APPENDIX TO CHAPTER 70 OF THE CITY CODE*

BE IT ORDAINED by the City Council for the City of Bristol Virginia that the Appendix to Chapter 70 of the City Code should be and hereby is repealed and reenacted to read as follows:

APPENDIX TO CHAPTER 70 SOLID WASTE FEES [3]

(1) Collection Fees for City Services:

(a) Residential Collection:

Single and two-family attached and detached residences, condominiums, townhouses, and any other residential unit where electric service is individually metered. Each residence and residential unit will be assessed a collection fee. The city will provide a refuse receptacle for each residence. Waste will be collected once a week. Fees will remain in place and waste shall be collected while utilities are turned on, regardless if the residence or residential unit is occupied or vacant.

Monthly Fees Payable with Utility Bill

\$33.00 first container, \$16.50 each additional container

(b) Non-Residential Collection:

Nonresidential establishments and non-individually electric metered multiple residential units where service is provided with not more than four 95-gallon and/or 300-gallon, or any combination thereof, automated collection containers, provided by the City. Only locations which are accessible to automated collection vehicles will be served. Qualifying charitable institutions will be allowed a 20% rate reduction for this service. It shall be the responsibility of the charitable institution to apply for and provide the necessary information to qualify for this reduction.

Charge, Payable Quarterly

1. 95-gallon containers: \$120.00 first container, \$60.00 each additional container.
2. 300-gallon containers: \$240.00 first container, \$120.00 each additional container.

Rates are based on one collection a week. If service is requested for more than one collection a week, additional collections shall be billed at half the rate.

(c) Special Collection and Disposal:

The city reserves the right to refuse to collect waste from any single or multi-family residence, business or charitable institution where the volume exceeds the limits established in this chapter for regular service. The city may provide special collection services to any city-served property upon request.

Charge, Payable Per Service

1. Bulk waste, trees, excess brush, demolition and construction waste collection for any city-served property.

\$50.00 collection service fee plus disposal fee at gate rate (one-ton min.)

A deposit in the amount of a single service load plus a one-ton disposal fee is required prior to any collection. Each load shall be considered as a separate service and charged accordingly.

(2) Disposal Fees:

- (a) Municipal solid waste \$36.00 * per ton (half-ton minimum)
- (b) Inert (rock, brick, concrete, asphalt) waste \$36.00 per ton (half-ton minimum)
- (c) Construction and demolition waste \$36.00 * per ton (half-ton minimum)
- (d) Trees and Brush \$55.00 * per ton (half-ton minimum)
- (e) Leaves, grass, and yard waste \$45.00 * per ton
- (f) Bulk waste tires; tires not to exceed 24.5-inch wheel size (rimless only) \$140.00 * per ton (half-ton minimum)
- (g) Tires not to exceed 24.5-inch wheel size (rimless only) brought in by other than Bristol, Virginia private residents \$8.00 each
- (h) Surcharge for each tire on rim, or encrusted with mud (e.g. waste stream tires) \$8.00
- (i) Bristol, Virginia private residents; all types of permitted waste:
 - 1. Up to 500 lbs. \$8.00
 - 2. 500 to 1,000 lbs. \$15.00
 - 3. Over 1,000 lbs. \$36.00 per tonTires not to exceed 20-inch wheel size (rimless only) delivered by private residents in lots of less than five...\$4.00 * each.

* Some waste streams are subject to additional fees.

(3) Commercial Refuse Container Permit Fees:

- (a) Permanent Container Permits
 - 1. Less than 6 \$150.00 annually
 - 2. 6 to less than 8 cubic yards \$225.00 annually
 - 3. 8 cubic yards or larger \$300.00 annually
- (b) Temporary Use Container Permits
 - 1. Less than 11 cubic yards \$60.00 quarterly
 - 2. 11 to less than 21 cubic yards \$90.00 quarterly
 - 3. 21 cubic yards or larger \$120.00 quarterly
- (c) Weekly Container Permits
 - 1. All sizes \$25.00 weekly

(Ord. No. 16.10, 8-23-16)

This ordinance shall become effective thirty days after adoption.

FIRST READING: 4/23/19

SECOND READING: 4/30/19

ADOPTION: 4/30/19

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*

PASSED AND ADOPTED by the City Council of the City of Bristol, Virginia, at a regularly scheduled meeting of said Council on _____, 2019.

Ordinance 19-4

(SEAL)

Attest: Nicole Storm
Clerk of the City of Bristol, Virginia

City Clerk

Mayor