



CITY OF FRANKLIN

DEPARTMENT OF PLANNING & ENGINEERING

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BZA Staff Report

To: Board of Zoning Appeals Members
From: Alex Getchell, AICP, Senior Planner
Date: April 28, 2023
Re: Case ZB-23-6 (SE & V) DF Property Holdings, LLC

REQUEST:

Case ZB-23-6 (SE & V)...DF Property Holdings, LLC. A request by DF Property Holdings, LLC for a Special Exception Use to allow a multi-family dwelling use (more than 2 dwelling units) as the primary use in the MXR, Mixed-Use, Regional Center zoning district, and two Developmental Standards Variance requests from the City of Franklin Zoning Ordinance, as follows: 1.) Article 3, Chapter 19, to allow more than one primary structure in the MXR zoning district, and 2.) Art. 5, Ch. 4, to allow the main entrance of the primary structures to not face the public right-of-way of the highest Thoroughfare Plan road classification in the GW-OL: Gateway Overlay District. The subject property is also located on the east side of N Morton St (US Hwy 31), immediately north of Koenig Equipment (John Deere) facility.

PURPOSE OF STANDARD:

The “MXR”, Mixed Use: Regional Center zoning district is intended to provide locations for a variety of business and institutional land uses that either serve a regional market, or require convenient access to high-volume transportation routes. This district is intended to permit a mixture of compatible land uses in close proximity to appropriate transportation routes and other necessary infrastructure.

The intent of the Gateway Overlay (GW-OL) district is to require development at the City’s entrances that is aesthetically consistent, responsive to development pressures, and proportional to the area’s traffic management issues

ZONING:

Surrounding Zoning:

North: MXC: Mixed-use, Community Center
IG: Industrial, General
South: MXR: Mixed-use, Regional Center
East: IG: Industrial, General
West: MXC: Mixed-use, Community Center
North, South & West: GW-OL: Gateway Overlay

Surrounding Land Use:

North: Agricultural Crop Field
South: Koenig Equipment
East: NSK Corporation
West: Gateway Services, Heartland Diesel, Church

CONSIDERATIONS:

1. Petitioner, DF Property Holdings, LLC, is proposing a multi-family development of 13 three-story apartment buildings, with a total of 312 apartment units. The property is approximately 21.17 acres in size. [[Exhibit A: Letter of Intent](#), [Exhibit B: Conceptual Plan](#) & [Exhibit C: Building Elevations](#)]
2. *Petitioner is proposing to develop the property with a total of 312 apartment units; therefore, petitioner requests a Special Exception use approval, from the Mixed-use: Regional Center district (MXR), to allow a multi-family residential dwelling use.* [See [Exhibit D: Multi-Family \(SE\) Findings of Fact](#)]

Multi-Family Dwelling Definition & Land Use

3. A Dwelling, Multi-Family is defined as: “A structure designed for and occupied by 3 or more families or other single units of housekeeping, with the number of families and housekeeping units in residence not exceeding the number of dwelling units provided.”
4. A Dwelling Unit is defined as: “Any structure or portion thereof designed for or used for residential purposes as a self-sufficient, individual unit by 1 family or other similar social association of persons as a single housekeeping unit, and having permanently installed sleeping, cooking, and sanitary facilities.
5. A Dwelling, Multi-Family use is listed as a permitted use in only the “RM,” Residential: Multi-family zoning district.
6. A Dwelling, Multi-Family use is listed as a Special Exception uses in the “RTN,” Residential: Traditional Neighborhood, “RT-1, -2, &-3,” Residential, Traditional One, Two & Three zoning districts, “MXD,” Mixed-use: Downtown Center, “MXC,” Mixed-use: Community Center, and “MXR,” Mixed-use: Regional Center zoning districts. *Petitioner is requesting a Special Exception for a Multi-Family Dwelling use, at the subject property, which is zoned MXR.*

Conceptual Plans

7. Petitioner provided conceptual plans [[Exhibit B: Conceptual Plan](#) & [Exhibit C: Building Elevations](#)] for the proposed layout of the site and the general size & design of the proposed structures (Type A & B). The proposed plans are still conceptual and have not been fully reviewed by the Planning Department nor Technical Review Committee for compliance with the Zoning Ordinance or building codes.
8. The variances requested in conjunction with this Special Exception use request are believed and intended to be the only variances petitioner will seek.
9. For the 13 three-story apartment buildings, petitioner proposes [[Exhibit C: Building Elevations](#)]:
 - Five (5) “[Type A](#)” Apartment Structures
 - 2-bedroom units: 12 per building
 - 3-bedroom units: 12 per building
 - Eight (8) “[Type B](#)” Apartment Structures
 - 1-bedroom units: 12 per building
 - 2-bedroom units: 12 per building
10. Overall, the proposed development would include:
 - Thirteen (13) three-story structures with sloped roofs
 - 1-bedroom units (755 sq. ft.): 96
 - 2-bedroom units (1,171 sq. ft.): 156
 - 3-bedroom units (1,443 sq. ft.): 60
 - Total units: 312
11. Petitioner’s proposal for multi-family residential use includes the following proposed amenities and accessory uses [[Exhibit B: Conceptual Plan](#) & [Exhibit G: Amenities Examples](#)]:
 - 4500 sq. ft. clubhouse (community kitchen, gym, indoor mailroom, and community office)
 - Inground swimming pool at clubhouse
 - Playground
 - Dog Park
 - Maintenance Building [[Exhibit G: Amenities Examples](#)]
 - Community car wash bay
 - Bike repair station
 - Pet spa cleaning station(s)
 - Electric Vehicle charging station (dual chargers at clubhouse)

Commitments, Requests, and Additional Details

12. Petitioner has committed to the following [Exhibit A]:

“The Thompson Commercial Subdivision is currently zoned MXR; however, the proposed apartment complex shall be constructed in accordance with the development standards set forth in the Zoning Ordinance as to the RM zoning district.”

13. The intent of this commitment was to adhere to the more restrictive development standards of the RM: Residential, Multi-Family zoning district, where the MXR district is less restrictive. The chart below outlines the standards for each district and the **bold** type face indicates the more restrictive standards.

Zoning District	Max. Lot Coverage	Front Setback	Side Setback	Rear Setback	Min. Living Area	Max. # Primary Structures	Buffer Yard Adjacent to MXC	Buffer Yard Adjacent to MXR	Buffer Yard Adjacent to IG
RM	65%	50'	50'	50'	450sf	N/A	Type 1	Type 1	Type 3
MXR	75%	50'	15'	20'	650sf	1 (Variance)	N/A	N/A	Type 2

14. Petitioner requests an approval that would run with the land and not the petitioner, as follows [Exhibit A]:

“Applicant has filed an application with the Board of Zoning Appeals requesting approval of a Special Exception, that will run with the land, allowing for the Multi-family use which is permitted as a Special Exception Primary Use under the current MXR zoning classification.”

15. Petitioner anticipates the apartment complex will have seven (7) employees, as follows [Exhibit A]: Property Manager, Assistant Property Manager, Leasing Consultant, Maintenance Supervisor, Grounds Keeper, and two Maintenance Technicians.

Multiple Primary Structures

16. According to Article 3, Chapter 19, MXR: Mixed-use, Regional Center Lot Standards, a maximum of one (1) primary structure is permitted per lot in the zoning district.

17. Variance (1.): *Petitioner is requesting a development standards variance to be permitted to have fourteen (14) primary structures in the MXR zoning district.* [Exhibit E: Primary Structures (V) Findings of Fact]

Gateway Overlay – Main Entrance Location

18. According to Article 5, Chapter 4, “The main entrance to the primary structure shall be located on the facade wall that fronts on a public street. If the structure fronts on 2 or more public streets, the main entrance shall be located on the facade wall that fronts on the street with the highest Thoroughfare Plan classification.”

19. Variance (2.): *Petitioner is requesting a variance to not orient the main entrances of the thirteen apartment buildings toward N. Morton St./US Hwy 31, and to be oriented toward the parking lots and interior drives of the development, instead.* Since this property fronts N. Morton St./US Hwy 31, the GW-OL: Gateway Overlay district ordinance requires the main entrances of all buildings to face N. Morton St./US Hwy 31. [See Exhibit B: Conceptual Plan & Exhibit F: Front Entries (V) Findings of Fact].

Parking Standards

20. According to Article 7, Chapter 10, Parking Standards, Requirements for Non-conforming Uses and Uses Permitted by Special Exception or Variance: Any use which is nonconforming in the zoning district in which it is located or is permitted by special exception or variance shall provide parking which is consistent with the use and the standards for the zoning district in which the use is permitted by this Ordinance. In no case shall the number of parking spaces required for nonconforming uses or those permitted by special exception or variance be solely based on the standards for the district in which they are located. The Board of Zoning Appeals shall specify the number of parking spaces for all uses permitted by special exception or variance consistent with the intent of this Chapter.

21. According to Article 7, Chapter 10, Parking Standards:

- Space Requirements: A minimum of **2.0 off-street parking spaces are required** for each dwelling unit associated with Multi-Family Dwellings; therefore, the apartments require 2.0 parking spaces X 312 units = 624 parking spaces.

- **Garage Units:** A minimum of 0.5 additional off-street parking spaces are required for each individual garage unit associated with a multi-family dwelling development; therefore, with 0 garage units 0×0.5 parking spaces = 0 additional parking spaces required.
- **Space Requirements:** A minimum of **1 off-street parking space is required for every 250 sq. ft. of Management/Sales Office Space** associated with development; therefore, 1 additional parking space is required. *Petitioner did not give a detail of the management office space.*
- **Space Requirements:** A minimum of **1 off-street parking space is required for every employee working on-site on the largest shift.** Petitioner did not specifically indicate the size of the largest shift, but did indicate a total of seven (7) employees were anticipated for the development; therefore, with 7 employees, 7 employee parking spaces are required.
- **Space Requirements: One (1) off-street parking space is required for every business vehicle** stored on-site. *Petitioner anticipates the facility would not have any business-owned vehicles stored on-site for the upkeep of the property; therefore, 0 additional business vehicle parking spaces are required.*
- **Parking of the Disabled:**
 - At least one (1) space must be reserved for disabled persons for every 25 parking spaces provided; OR
 - Equal one (1) space for every handicap-accessible dwelling unit, whichever is greater; AND
 - Must be consistent with the requirements of the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities, Chapter 4.1.2 (5)(a) and all applicable revisions.
- Minimum parking stall size is 9' x 18' and must be striped.
- Each parking space must be paved with asphalt or concrete.
- **TOTAL Parking Requirements:**
 - 312 dwelling units = 624 spaces
 - 0 garage units = 0 spaces
 - Management/Sale office space (currently unknown) = 1 space/250 sq. ft. management office
 - Number of Employees = 7 per employee
 - **Total Required** = 631 spaces + Management Office spaces
 - **Total Provided** = 639 spaces

Comprehensive Plan & Zoning Ordinance

22. The 2013 Franklin Comprehensive Plan, Land Use Plan, identifies this area as Community Activity Center. "Community activity centers area intended as areas of mixed land uses that provide gathering places and goods and services for the entire community. Community activity centers may include churches, schools, community parks, grocery stores, gas stations, shopping centers, offices, banks and restaurants. Community activity centers may also include residences located on the upper floors of otherwise commercial buildings. Community activity centers are generally located along major streets and at prominent intersections where they are readily accessible by people from throughout the community."
23. According to Article 2.5: A special exception or variance ceases to be authorized and is expired if the obtaining of an Improvement Location Permit, or the execution of the approval has not been completed within 1 year of the date the variance or special exception is granted. The variance or special exception shall also expire if the approved construction has not been completed and approved by the Planning Director as being consistent with all written commitments or conditions, the requirements of this Ordinance, and all applicable permits within 2 years of the date the approval is granted.
24. Article 11, Chapter 4 states "Unless otherwise specified by the Board, special exception approvals shall be limited to, and run with the applicant at the location specified in the application. The Board may also limit special exceptions to a specific time period and a specific use. Special Exceptions shall also be

invalid if (1) the property conforms with the Ordinance as written, or (2) the special exception approval is terminated (consistent with Section 2.5(L)).” *Petitioner has requested that the Board approve the Special Exception use request and allow it to run with the property and not the applicant.*

25. Article 11, Chapter 4 states “A use authorized as a special exception may not be expanded, extended, or enlarged unless reauthorized by the Board under the procedures set forth in this Article for granting a special exception.”

CRITERIA FOR DECISIONS – SPECIAL EXCEPTION:

(The petitioner will need to address the Criteria for Decisions in their presentation**)**

In taking action on all special exception requests, the Board of Zoning Appeals shall use the following decision criteria, consistent with the requirements outlined in Article 11.4 of the Zoning Ordinance. The Board may grant a special exception of this Ordinance if, after a public hearing, it makes findings of facts in writing (consistent with IC 36-7-4-918.2) that:

DECISION CRITERIA – SPECIAL EXCEPTION

- 1. General Welfare: The approval (will or will not) be injurious to the public health, safety, morals, and general welfare of the community.***

Staff Finding:

Staff finds the approval will not be injurious to the public health, safety, morals, and general welfare of the community. The MXR: Mixed-use, Regional Center District Intent does not specifically call out multi-family residential, but staff finds the inclusion of Multi-family residential uses in the list of permitted Special Exception uses for the MXR district as evidence of the district intent. Additionally, the Comprehensive Plan Land Use Plan recommends “residences located on upper floors of otherwise commercial buildings” in Community Activity Center areas. Moreover, the Land Use Plan states “Community activity centers should be located near higher-density residential uses, such as multi-family and traditional residential areas.” The proposal includes residences on upper floors, albeit no commercial on the ground floor, and the proposed higher-density residential use will introduce that desired land use in close proximity to other Community Activity Center properties in the vicinity. Therefore, staff finds approval of the proposed project will not be injurious to the general welfare of the community.

- 2. Development Standards: The requirements and development standards for the requested use as prescribed by the Zoning Ordinance (will or will not) be met.***

Staff Finding:

The proposed multi-family residential special exception use includes a request for two development standards variances related to the orientation of the front entrance of the building in the Gateway Overlay District and the use of multiple primary structures in the MXR: Mixed-use, Regional Center zoning district. Petitioner intends to meet all other applicable development standards.

- 3. Ordinance Intent: Granting the special exception (will or will not) be contrary to the general purposes served by the Zoning Ordinance, and (will or will not) permanently injure other property or uses in the same zoning district and vicinity.***

Staff Finding:

The requested multi-family residential use is listed as a special exception in the Mixed-use, Regional Center zoning district regulations and petitioner intends to meet all other required development standards in the Zoning Ordinance, with the exception of the two variances requested, related to number of primary structures and main entrance orientation with the street network.

- 4. Comprehensive Plan: The granting of the variance (will or will not) be consistent with the character of the zoning district in which it is located, and (will or will not) be consistent with the Franklin Comprehensive Plan.***

Staff Finding:

Staff finds the granting of the variance will be consistent with the character of the zoning district and will be consistent with the Franklin Comprehensive Plan. The MXR: Mixed-use, Regional Center District Intent

does not specifically call out multi-family residential, but staff finds the inclusion of Multi-family residential uses in the list of permitted Special Exception uses for the MXR district as evidence of the district intent. Additionally, the Comprehensive Plan Land Use Plan recommends “residences located on upper floors of otherwise commercial buildings” in Community Activity Center areas. Moreover, the Land Use Plan states “Community activity centers should be located near higher-density residential uses, such as multi-family and traditional residential areas.” The proposal includes residences on upper floors, albeit no commercial on the ground floor, and the proposed higher-density residential use will introduce that desired land use in close proximity to other Community Activity Center properties in the vicinity. Therefore, staff finds approval will be consistent with the Zoning Ordinance and Comprehensive Plan.

Please Note: The City of Franklin Board of Zoning Appeals may impose reasonable conditions as part of an approval.

STAFF RECOMMENDATION – SPECIAL EXCEPTION

Based on the written findings above, staff recommends approval with the following conditions of approval:

- A. Special Exception approval for a multi-family residential use runs with the property and not the petitioner.
- B. Special Exception approval for a multi-family residential use is limited to 312 dwelling units in 13 three-story structures.
 1. 1-bedroom units: 96
 2. 2-bedroom units: 156
 3. 3-bedroom units: 60
- C. Special Exception approval includes the proposed accessory uses, as follows:
 1. Clubhouse (community kitchen, gym, indoor mailroom, and community office)
 2. Inground swimming pool at clubhouse
 3. Playground
 4. Dog Park
 5. Maintenance Building, including:
 - a. Community car wash bay
 - b. Bike repair station(s)
 - c. Pet spa cleaning station(s)
 - d. Electric Vehicle charging station(s)
- D. Special Exception approval includes the commitment to meet all development standards applicable to the RM: Residential, Multi-family zoning district that are more restrictive than the development standards of the MXR: Mixed-use, Regional Center district. Where the MXR district standards are more restrictive, the MXR standards are required to be met.
- E. The exterior façade material of all residential structures shall be brick for the entire first story and the entire height of the three-story main entrance towers, excluding windows & doors.
- F. All remaining portions of the exterior façade of all residential structures shall be fiber-cement lap siding, excluding windows, doors and balcony/stair railings.
- G. A minimum of two (2) off-street parking spaces are required to be provided per dwelling unit.
- H. A minimum of one (1.0) off-street parking space is required per 250 sq. ft. of management/sales office space.
- I. A minimum of one (1.0) off-street parking space is required for each employee on-site during the largest shift, and for each business vehicle stored on-site.
- J. Handicap accessible parking spaces are required in accordance with Article 7, Chapter 10.
- K. All applicable federal, state, county, and local permits/approvals are required; including, but not limited to, compliance with all building, fire, and health codes.

CRITERIA FOR DECISIONS – DEVELOPMENT STANDARDS VARIANCE:

(The petitioner will need to address the Criteria for Decisions in their presentation**)**

In taking action on all special exception and variance requests, the Board of Zoning Appeals shall use the following decision criteria, consistent with the requirements of the Indiana Code. The Board may grant a special exception and a variance from development standards and limitations of this Ordinance if, after a public hearing, it makes findings of facts in writing (consistent with IC 36-7-4-918.5) that:

DECISION CRITERIA – DEVELOPMENT STANDARDS VARIANCE

1. ***General Welfare: The approval (will or will not) be injurious to the public health, safety, morals, and general welfare of the community.***

Staff Finding:

Staff finds approval of the proposed variances will not be injurious to the public health, safety, morals, and general welfare of the community. Approval of the request for multiple primary structures to be permitted will not be injurious to the general welfare, as multiple structures are common for large multi-family developments, and it is not practical to require a single building for 312 units, plus community amenities. Staff finds no evidence that the orientation of the main entrances to the proposed multi-family residential structures will be injurious to the public health, safety, or general welfare if they are not facing N. Morton St./US Hwy 31, as the main entrances to the structures will be oriented toward the parking lots and private road network of the overall development.

2. ***Adjacent Property: The use and value of the area adjacent to the property included in the variance (will or will not) be affected in a substantially adverse manner.***

Staff Finding:

As it relates specifically to the two variances requested, the use and value of adjacent properties will not be affected in a substantially adverse manner. Approval of the request for multiple primary structures to be permitted will not be injurious to the use and value of adjacent properties, as petitioner is committing to meeting all development standards applicable to the RM: Residential, Multi-family zoning district that are more restrictive than the development standards of the MXR: Mixed-use, Regional Center district; this includes side and rear yard setbacks that increase from 15' and 20', respectively, to 50' for both side and rear yards. Moreover, the commitment to RM development standards includes larger Buffer Yard setbacks and additional landscaping. Therefore, the increase in number of primary structures will not result in buildings encroaching or crowding other properties. Finally, the orientation of the main entrances will not have a substantial impact on adjacent properties, as the main entrances to the structures will be oriented toward the parking lots and private road network of the overall development.

3. ***Practical Difficulty: The strict application of the terms of the ordinance (will or will not) result in a practical difficulty in the use of the property. This situation shall not be self-imposed, nor be based on a perceived reduction of, or restriction on, economic gain.***

Staff Finding:

The strict application of the ordinance will result in practical difficulties in the use of the property, as multiple primary structures are permitted in conjunction with multi-family developments in the RM: Residential Multi-Family zoning district, but are not permitted in the subject MXR district. It would be impractical to strictly require a single primary structure, as multi-family communities are typically designed and separated into multiple buildings across the entire community. Staff further finds practical difficulties in requiring the main entrances to each structure being oriented toward N. Morton St./US Hwy 31, as the main entrances to the structures will be oriented toward the parking lots and private road network of the overall development; orientation toward N. Morton St. would not provide a reasonable or practical benefit.

Please Note: The City of Franklin Board of Zoning Appeals may impose reasonable conditions as part of its approval.

STAFF RECOMMENDATION – DEVELOPMENT STANDARDS VARIANCE

Based on the written findings above, staff recommends approval of the Development Standards Variances, with the following conditions of approval:

- A. Maximum of fourteen (14) primary structures (13 Apartment Structures; 1 Clubhouse); pool, playground equipment, maintenance building, dumpster enclosures, etc. are considered accessory structures.
- B. Development Standards variance approvals include the commitment to meet all development standards applicable to the RM: Residential, Multi-family zoning district that are more restrictive than the

development standards of the MXR: Mixed-use, Regional Center district. Where the MXR district standards are more restrictive, the MXR standards are required to be met, with the exception of the variance approval for number of primary structures.

- C. The exterior façade material of all residential structures shall be brick for the entire first story and the entire height of the three-story main entrance towers, excluding windows & doors.
- D. All remaining portions of the exterior façade of all residential structures shall be fiber-cement lap siding, excluding windows, doors and balcony/stair railings.