



# CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

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January 4, 2021

## **TO THE MEMBERS OF CITY COUNCIL CITY OF HARRISONBURG, VIRGINIA**

### **SUBJECT:**

Public hearing to consider a request from Christian Light Publications Inc. for a special use permit per Section 10-3-91(1) of the Zoning Ordinance to allow manufacturing, processing, and assembly operations when not employing more than fifteen (15) persons on the premises in a single shift and provided that all storage and activities are conducted within the building within the B-2, General Business District. The +/- 7.2-acre area consists of three parcels. The first +/- 3.52-acre parcel is addressed as 1047 and 1051 Mt. Clinton Pike and 1062, 1064, and 1066 Chicago Avenue and is identified as tax map parcel 47-P-14. The second parcel is +/- 1.53 acres and is addressed as 931 Mt. Clinton Pike and identified as tax map parcel 47-M-1. The third parcel is +/- 2.06 acres and is addressed as 1032 Chicago Avenue and identified as tax map parcel 47-P-9.

Public hearing to consider a request from Christian Light Publications Inc. for a special use permit per Section 10-3-91(2) of the Zoning Ordinance to allow warehousing and other storage facilities within the B-2, General Business District. The +/- 7.2-acre area consists of three parcels. The first +/- 3.52-acre parcel is addressed as 1047 and 1051 Mt. Clinton Pike and 1062, 1064, and 1066 Chicago Avenue and is identified as tax map parcel 47-P-14. The second parcel is +/- 1.53 acres and is addressed as 931 Mt. Clinton Pike and identified as tax map parcel 47-M-1. The third parcel is +/- 2.06 acres and is addressed as 1032 Chicago Avenue and identified as tax map parcel 47-P-9.

## **EXTRACT FROM MINUTES OF HARRISONBURG PLANNING COMMISSION MEETING HELD ON: December 9, 2020**

Chair Colman read the request and asked staff to review.

Ms. Dang said that the Comprehensive Plan designates this site as Mixed Use. The Mixed Use designation includes both existing and proposed areas for mixed use. Mixed Use areas shown on the Land Use Guide map are intended to combine residential and non-residential uses in neighborhoods, where the different uses are finely mixed instead of separated. Mixed Use can take the form of a single building, a single parcel, a city block, or entire neighborhoods. Quality architectural design features and strategic placement of green spaces for large scale developments will ensure development compatibility of a mixed use neighborhood with the surrounding area. These areas are prime candidates for “live-work” and traditional neighborhood developments

(TND). Live-work developments combine residential and commercial uses allowing people to both live and work in the same area. The scale and massing of buildings is an important consideration when developing in Mixed Use areas. Commercial uses would be expected to have an intensity equivalent to a Floor Area Ratio of at least 0.4, although the City does not measure commercial intensity in that way.

Downtown is an existing area that exhibits and is planned to continue to contain a mix of land uses. The downtown Mixed Use area often has no maximum residential density, however, development should take into consideration the services and resources that are available (such as off-street parking) and plan accordingly. Residential density in Mixed Use areas outside of downtown should be around 24 dwelling units per acre, and all types of residential units are permitted: single-family detached, single-family attached (duplexes and townhomes), and multi-family buildings. Large scale developments, which include multi-family buildings are encouraged to include single-family detached and/or attached dwellings.

The following land uses are located on and adjacent to the property:

- Site: Bookstore, offices, printing, production, and warehousing facilities associated with publishing of books and similar materials, and two nonconforming dwellings, zoned B-2
- North: Across Mt. Clinton Pike, Eastern Mennonite University, zoned R-3/I-1, Institutional Overlay; and Eastern Mennonite School, zoned B-2/I-1, Institutional Overlay
- East: Retail and commercial uses, zoned B-2
- South: Single-family detached dwelling and undeveloped property, zoned R-3; and single-family detached dwellings, zoned R-1
- West: Across Chicago Avenue, single-family and duplex dwellings, zoned R-7; and multi-family dwellings, zoned R-3

The applicant, Christian Light Publications, Inc., is requesting two special use permits (SUPs) for a +/- 7.2-acre site located in the Park View area of the City near the intersection of Mt. Clinton Pike and Chicago Avenue. The first SUP would allow manufacturing, processing, and assembly operations (“manufacturing”) when not employing more than 15 persons on the premises in a single shift and provided that all storage activities are conducted within buildings. The second SUP would allow warehousing and other storage facilities. If approved, the applicant seeks to expand and relocate existing, non-conforming manufacturing and warehousing uses on the site.

The applicant stated that book publishing has been taking place on this site before Christian Light Publications became incorporated in 1969. The site was annexed into the City in 1983, at which time the site was zoned B-2, General Business. Since 1983, the site has gone through two significant expansions: in 1991 when the 20,000 square foot building addressed as 1051 Mt. Clinton Pike was constructed and in 2014 when the 10,000 square foot building addressed as 1047 Mt. Clinton Pike was constructed.

Presently, there is 23,000 square feet of warehousing on the site and 7,000 square feet of manufacturing, which includes printing presses and related equipment. The site also contains a bookstore, offices, and two nonconforming residential dwellings. It appears that during expansions, enlargements and relocation of nonconforming manufacturing and warehousing uses were not done in conformance with the ZO. While manufacturing is allowed in the B-2 district, it is only allowed by SUP and no SUP approval was received for relocating the production area from 1062 Chicago Avenue to 1051 Mt. Clinton Pike in 1991. Additionally, while the ZO allows warehousing and other storage facilities as a by right use in the B-2 district, the use is limited to 20,000 square feet and must be contiguous to permitted uses. Warehousing and storage uses greater than 20,000 square feet or not contiguous to permitted uses require an approved SUP. It appears that in 2014, more than 20,000 square feet of warehousing was created on the site without an approved SUP. The City's current Zoning Administrator has determined that erroneous City approvals of past engineered comprehensive site plans and building permits constituted a significant government action and that the existing 23,000 square feet of warehousing and 7,000 square feet of manufacturing uses are nonconforming. As nonconforming uses, the uses may continue in their current locations, but any expansion or relocation would require SUP approvals. Approval of the two requested SUPs would bring the current manufacturing and warehousing uses into conformance and allow for the expansion and relocation of those uses on the site.

The applicant's letter describes that Christian Light Publications plans to construct a +/- 24,800 square foot warehouse addition behind 1051 Mt. Clinton Pike. Additionally, they plan to relocate existing manufacturing and warehousing uses within existing buildings. The attached conceptual site layout shows existing and proposed uses within each building on the site. A minor subdivision will be required to vacate the existing interior property line on the site between tax map parcel 47-P-9 and 14 prior to any building permits being approved for the new +/- 24,800 square foot warehouse.

This area is designated Mixed Use within the Comprehensive Plan's Land Use Guide. Mixed Use areas are intended to combine residential and non-residential uses in neighborhoods, where the different uses are finely mixed instead of separated, and where scaling and massing of buildings is an important consideration when developing. While the proposed scale of manufacturing and warehousing is not typically what is envisioned for Mixed Use areas, staff recognizes that Christian Light Publications has existed at this location for decades with manufacturing and warehousing operations taking place on property. Additionally, the property is zoned B-2 and by right a new building of similar size and scale could be constructed in the same location and appear exactly as shown in the conceptual layout, but rather than warehousing books, could operate any number of other by right uses inside the building.

Staff believes that with appropriate conditions, the expansion and relocation of manufacturing and warehousing uses is consistent with good zoning practice and will have no more adverse effect on the health, safety or comfort of persons living and working in the area and will be no more injurious, economically or otherwise, to property or improvements in the surrounding area than would any use generally permitted within the district. Staff recommends approval of the special use permit with the conditions as specified in the following paragraphs.

With regard to the recommended conditions for the SUP per Section 10-3-91(1), “[m]anufacturing, processing, and assembly operations when not employing more than fifteen (15) persons on the premises in a single shift and provided that all storage and activities are conducted within a building,” staff believes the following are appropriate:

1. The special use permit shall only be applicable for the current operation or a substantially similar operation.
2. An evergreen or deciduous tree buffer shall be created parallel to and within 20-feet from the property boundary with tax map parcels 47-J-6 and 7, where such trees shall be planted at no more than 20-ft. on center and no less than 6-feet in height at the time of planting. Existing trees-parallel to and within 20-feet from the property boundary with tax map parcels 47-J-6 and 7 may be used to meet this requirement. The intent is to provide a vegetative buffer to reduce the visual impact of the subject site from the adjacent residential uses.
3. Along the Mt. Clinton Pike frontages of tax map parcels 47-P-14 and 47-M-1, there shall be no more than two entrances and no entrances shall be placed within 65-feet from where the property line of tax map parcel 47-P-14 and 16 meet.
4. If in the opinion of Planning Commission or City Council, the use becomes a nuisance, the special use permit can be recalled for further review, which could lead to the need for additional conditions, restrictions, or the revocation of the permit.

Condition #1 limits the SUP to the current operation or a substantially similar operation. If the applicant later wishes to have other manufacturing, processing, and assembly operations, they must return with a new SUP request to be vetted by Planning Commission (PC) and City Council (CC). Condition #2 requires vegetation to remain in place or new trees to be planted within 20-feet from two parcels with existing single-family detached dwellings that front on Woodleigh Court. Condition #3 limits the total number of entrances on Mt. Clinton Pike serving the site to two entrances and prohibits placement close to the Mt. Clinton Pike and Chicago Avenue intersection. Finally, condition #4 allows PC and CC to recall the SUP for further review if the use becomes a nuisance.

Regarding the recommended conditions for the SUP per Section 10-3-91(2), “[w]arehousing and other storage facilities,” staff believes the following are appropriate:

1. Up to 60,000 square feet of warehousing and storage is permitted on the site.
2. All warehousing and storage and activities are conducted within buildings.
3. Self-storage facilities are prohibited.
4. An evergreen or deciduous tree buffer shall be created parallel to and within 20-feet from the property boundary with tax map parcels 47-J-6 and 7, where such trees shall be planted at no more than 20-ft. on center and no less than 6-feet in height at the time of planting. Existing trees-parallel to and within 20-feet from the property boundary

with tax map parcels 47-J-6 and 7 may be used to meet this requirement. The intent is to provide a vegetative buffer to reduce the visual impact of the subject site from the adjacent residential uses.

5. Along the Mt. Clinton Pike frontages of tax map parcels 47-P-14 and 47-M-1, there shall be no more than two entrances and no entrances shall be placed within 65-feet from where the property line of tax map parcel 47-P-14 and 16 meet.
6. If in the opinion of Planning Commission or City Council, the use becomes a nuisance, the special use permit can be recalled for further review, which could lead to the need for additional conditions, restrictions, or the revocation of the permit.

The applicant requested within their letter the ability to have up to 60,000 square feet of warehousing and storage on the site to allow for future expansion in the long-term without having to come back to request a new SUP. Condition #1 would grant the applicant this ability. Condition #2 prohibits storage and warehousing activities from being conducted outside a building. Condition #3 prohibits self-storage facilities, which are buildings that contain separate, individual, and private storage spaces of varying sizes available for lease for varying periods of time. Condition #4 and #5 are the same as conditions #2 and #3 recommended for the manufacturing SUP. Should either SUP become void, staff wanted these two conditions to continue to be required for the remaining SUP. Condition #6 allows PC and CC to recall the SUP for further review if the use becomes a nuisance.

Staff recommends approval of the special use permit with the stated conditions.

Chair Colman asked if there any questions for staff.

Commissioner Finnegan asked if there was any follow up regarding the non-conforming use following the expansion in 1991. How did that become non-conforming or outside of those non-conforming uses in 1991?

Ms. Dang said that she does not have all the changes that occurred in 1991 before her. The 20,000 square feet would be allowed in today's Zoning Ordinance as a use that is contiguous with a permitted use. The non-conforming use, at that time, was that their production was out of one of the other buildings that was facing Chicago Avenue and the manufacturing use did not have a SUP leading to the new 20,000 square foot building. In 2014, they went over the warehousing threshold of 20,000 square feet. Staff at that time did not catch all the changes that were being made.

Chair Colman asked if the applicant owned the property next to it, where they are expanding. When did they take ownership of that property to the south? Right now, it looks like there are some abandoned chicken houses to the south of the buildings. There is some property that has some type of empty barn to the south along Chicago Avenue, where the extension of the building will be.

Ms. Dang said that would be a question for applicant. They recently acquired this property with the intent to expand.

Chair Colman asked when there is a non-conforming use that is not aligned with the Comprehensive Plan, at what point do we determine that acquiring more property that could otherwise be used for the purposes of the Comprehensive Plan is not acceptable? How does staff gauge that extension to new property?

Ms. Dang said that the reason they have asked for the SUPs today is to allow for the planned expansion.

Chair Colman said that we have an industrial use there that we are expanding into a business district. What is the zoning district there?

Ms. Dang said that the property that Christian Light owns is in the B-2 General Business District.

Chair Colman said that they can have warehousing up to 20,000 square feet and now we are expanding that to 60,000 square feet. What is the threshold?

Ms. Dang said that the by-right threshold is 20,000 square feet. That is consistent with the permitted use within the B-2 district. The use includes offices and up to 20,000 square feet of warehousing would be allowed without a SUP approval. They are requesting an additional 40,000 square feet for a total of 60,000 square feet of warehousing.

Chair Colman asked how much warehousing they currently have.

Ms. Dang said that they have 23,000 square feet of warehousing. The applicant bought the property believing that they were in conformance and that their expansion would be allowed. When they came in to talk to staff about their site design, it triggered staff to investigate the conformance status.

Chair Colman asked if there were any more questions for staff. Hearing none, he opened the public hearing and invited the applicant or applicant's representative to speak to their request.

Andrew Crider, 1056 Chicago Avenue, called on behalf of Christian Light Publications in support of the request. We have been in this location for over 50 years. We are a Christian non-profit organization. We develop and produce affordable education materials for kindergarten through grade 12. We also cover storybooks, study materials and other literature. God has blessed the work over the years, and we have been expanding, serving more people around the world. Over the last five years, we have learned that we will need more space. We have been maxing out our storage and fulfillment areas. The owners of the property that we are looking to expand onto, 1032 Chicago Avenue, wanted to sell in 2016. They contacted us and gave us first rights. We thought we might want to expand one day, so we bought the property while we had the opportunity. We are grateful that we had the property available. It was zoned B-2, giving us the ability to expand where we are instead of moving. We are grateful that City staff is working with us. We have our goals that we want to meet. You have your goals for the area. We are interested in maintaining and improving in our neighborhood, Park View. We want to be as workable as we can with you. If you have any questions, I will be happy to answer them.

Chair Colman asked if there were any questions for the applicant's representative. Hearing none, he asked for the next caller. As there were no more callers, he closed the public hearing and opened the matter for discussion.

Chair Colman asked if staff has received any questions from the public on this matter.

Ms. Dang said no.

Chair Colman noted that the Planning Commission will vote on each SUP separately by roll call vote.

Commissioner Finnegan said that he understands the concern about adding more property to this already non-conforming use. This is not a normal request in that regard. I agree with staff that the applicant bought the property thinking that they were in conformance, when they were not. It sounds like they are trying to do the right thing and get back into conformance. I support the request.

Commissioner Whitten said that she agrees. The buildings already exist. The use already exists. It is compatible in that area. They are, I would say, a very soft use. The screening will certainly alleviate any problems from the neighborhood. If there were problems, we probably would have heard about them. I am pleased that this business is prospering. I am in favor. If it was a raw piece of land, we could be talking about mixed use. That would be different. We have what we have, and they are being good neighbors. The use will convey to the next owner, so that is something that we need to keep in mind.

Commissioner Fitzgerald said that she agrees and is ready to vote on these proposals.

Commissioner Whitten moved to recommend approval of the SUP to allow manufacturing, processing, and assembly operations at 931, 1047, and 1051 Mt. Clinton Pike and 1032, 1062, 1064, and 1066 Chicago Avenue, with conditions as presented.

Commissioner Fitzgerald seconded the motion.

Chair Colman called for a roll call vote.

Commissioner Finnegan	Aye
Commissioner Whitten	Aye
Commissioner Orndoff	Aye
Commissioner Fitzgerald	Aye
Commissioner Byrd	Aye
Chair Colman	Aye

The motion to recommend approval of the SUP to allow manufacturing, processing, and assembly operations at 931, 1047, and 1051 Mt. Clinton Pike and 1032, 1062, 1064, and 1066 Chicago Avenue, with conditions as presented passed (6-0). The recommendation will move forward to City Council on January 12, 2021.

Commissioner Finnegan moved to recommend approval of special use permit to allow warehousing at 931, 1047, and 1051 Mt. Clinton Pike and 1032, 1062, 1064, and 1066 Chicago Avenue, with conditions as presented.

Commissioner Fitzgerald seconded the motion.

Chair Colman called for a roll call vote.

Commissioner Orndoff	Aye
Commissioner Byrd	Aye
Commissioner Fitzgerald	Aye
Commissioner Finnegan	Aye
Commission Whitten	Aye
Chair Colman	Aye

The motion to recommend approval of the SUP to allow warehousing at 931, 1047, and 1051 Mt. Clinton Pike and 1032, 1062, 1064, and 1066 Chicago Avenue, with conditions as presented passed (6-0). The recommendation will move forward to City Council on January 12, 2021.