



CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

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To: Planning Commission
From: Department of Community Development
Date: June 14, 2023 (Regular Meeting)
Re: Rezoning - A portion of 813 Chicago Avenue (B-2C to B-2C)

Summary:

Project Name	N/A
Address/Location	A portion of 813 Chicago Avenue
Tax Map Parcels	39-F-6
Total Land Area	+/- 6,181 square feet
Property Owner	Lock-Minn Holdings LLC
Owner's Representative	Russell Lockey
Present Zoning	B-2C, General Business Conditional
Proposed Zoning	B-2C, General Business Conditional
Staff Recommendation	Denial
Planning Commission	June 14, 2023 (Public Hearing)
City Council	Anticipated July 11, 2023 (First Reading/Public Hearing) Anticipated July 25, 2023 (Second Reading)

Background:

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

- Site:** Illegal vehicle storage and parking lot, zoned B-2C
North: Automobile repair services and tire shop, zoned M-1
East: Across Chicago Avenue, single-family residential dwellings, zoned R-1
South: Family Dollar, zoned B-2C
West: Heating and cooling services and industrial uses, zoned M-1

On September 24, 2013, City Council approved a rezoning of the subject property, which was then part of the parcel that was rezoned to allow for the construction of the existing Family Dollar. On October 23, 2014, the Family Dollar property was subdivided, which separated the +/- 6,181 square foot area from the developed portion of the parent tract and created the subject property.

Although now a separate property, the existing 2013-approved proffers still regulate how this property can be used. Not only do the proffers provide details about the uses that are permitted on the property, but the proffers also identify that the conceptual site plan provided during the rezoning is also a regulating provision of the site. Since the plan demonstrated the subject area as undeveloped and open space, the subject site is limited to being open space. A copy of the proffers and the proffered site layout are attached to this staff report.

Almost two years after the property was subdivided, in 2016 the subject site was sold to Melvin E. Higgins Sr, who also owned two adjacent properties to the north (tax map parcels 39-F-2 and 3). Then in November 2020, Lock-Minn Holdings, LLC purchased the subject property along with Mr. Higgins' two adjacent properties—tax map parcels 39-F-2 and 3.

While the City has not issued a formal notice of violation letter to the property owner, the property owner is aware that the property is in violation and is hoping to amend the proffers to allow for a parking lot on this property. The applicant is aware that if the rezoning is denied, they will have to remove the parking lot. The applicant has also been made aware that, if the rezoning is approved, changes to the parking lot are required to comply with parking lot landscaping requirements and that while a parking lot may exist to support general customers and temporary parking of vehicles, the parking lot cannot be used as a storage lot to store inoperable or salvage vehicles. It appears to staff that inoperable vehicles with damage and without license plates and possibly salvage vehicles are currently being stored on the subject property.

Key Issues:

Lock-Minn Holdings, LLC, the applicant, is requesting to rezone a +/- 6,181 square foot property from B-2C, General Business District Conditional by amending the existing proffers. The applicant wants to use the site as a parking lot for the businesses that are located on the adjoining properties, addressed as 837, 841, 871, 887, 889, and 891 Chicago Avenue (tax map parcels 39-F-2 and 3). These businesses include two automobile repair shops, a tire shop, and a storage space for a food truck that is illegally located on the 813 Chicago Avenue site.

Proffers

The applicant has offered the following proffers (written verbatim):

The follow [*sic*] uses will not be permitted:

- (3) Hotels, motels and similar types of transient accommodations. Nontransient housing facilities are not permitted nor may existing housing facilities be expanded.
- (4) Theaters, community rooms, museums and galleries and other places of assembly for the purpose of entertainment or education. In addition, customary recreational and leisure-time activities which are compatible with surrounding uses are permitted.
- (5) Religious, educational, charitable or benevolent institutional uses which do not provide housing facilities.
- (9) Pet shop or pet grooming establishment and animal hospitals.
- (10) Radio and television stations and studios or recording studios.
- (11) Public utilities, public service or public transportation uses or buildings, generating, purification or treatment plants, water storage tanks, pumping or regulator stations, telephone exchange and transformer or substations.
- (13) Funeral homes.

- (19) Vehicle fuel stations, bus terminals or other facilities designed for vehicular convenience. Vehicle excludes over the road tractors, their trailers, heavy equipment, manufactured homes, industrialized buildings, and agricultural equipment. No vehicle salvage, storage of inoperable vehicles, or sale of junk is allowed.
- (20) Small cell facilities, concealed wireless telecommunications facilities, industrial microcells, distributed antenna systems, and macrocells. Telecommunications towers are permitted only by special use permit. Wireless telecommunications facilities are further regulated by Article CC.

To be clear, the above proffer would prohibit the listed uses from operating on the site.

Land Use

The Comprehensive Plan designates the property as Mixed Use and states that:

“The Mixed Use category 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.”

While not proffered, staff recommended the applicant consider proffering out higher intensity uses and uses that are not necessarily in line with the desired built environment envisioned by the Mixed Use Land Use Designation that are allowed by right in the B-2 zoning district. Although the applicant proffered to not allow vehicle fuel stations, bus terminals, or other facilities designed for vehicular convenience, staff remains concerned that the following uses per Section 10-3-90, which would be permitted, would not conform with the Mixed Use designation:

- (6) Vehicle, recreation equipment, or trailer sales served by a permanent building facility unless clearly incidental to an existing building. Vehicle excludes over the road tractors, their trailers,

heavy equipment, manufactured homes, industrialized buildings, and agricultural equipment. No vehicle salvage, storage of inoperable vehicles, or sale of junk is allowed.

(7) Repair of vehicles, recreation equipment, or trailers with all activities and storage of inoperable vehicles completely enclosed within a permitted structure. Vehicle excludes over the road tractors, their trailers, heavy equipment, manufactured homes, industrialized buildings, and agricultural equipment.

(12) Warehousing and other storage facilities with floor area limited to twenty thousand (20,000) square feet, which are contiguous to permitted uses in this district

Mixed Use areas are planned environments where more walking, biking, and public transit and pedestrian friendly design is encouraged. The uses listed above are generally places where the vehicle uses are more predominate. In fact, the existing proffers already prohibit Subsections (6) and (7) from being able to operate on the property. Although the applicant is not planning on doing these uses, if they were to sell the property in the future, a future owner would have the by-right ability to have these types of operations.

Transportation and Traffic

While staff has concerns regarding the entrance width to the parcel, which measures at +/- 40 feet in width, staff acknowledges that the City had installed the entrance at this width with the Waterman Elementary School Safe Routes to School project that was completed in June 2014.

Public Water and Sanitary Sewer

Staff has no concerns regarding water and sanitary sewer service availability for the proposed development.

Recommendation

While staff appreciates the applicant's willingness to provide proffers to limit the uses on this property, staff is still concerned about the remaining allowable uses not fitting in with the surrounding area and not being aligned with the Comprehensive Plan. Staff recommends denial of the rezoning.

Environmental Impact:

N/A

Fiscal Impact:

N/A

Prior Actions:

N/A

Alternatives:

- (a) Recommend approval of the rezoning request; or
- (b) Recommend denial of the rezoning request.

Community Engagement:

As required, the request was published in the local newspaper twice advertising for Planning Commission's public hearing. The advertisement was published as shown below:

Rezoning – Portion of 813 Chicago Avenue (B-2C to B-2)

Public hearing to consider a request for Lock-Minn Holdings, LLC to rezone a +/- 6,181 square foot property from B-2C, General Business District Conditional to B-2, General Business District. The Zoning Ordinance states that the B-2, General Business District is intended to provide sufficient space in appropriate locations for a wide variety of retail shopping, commercial, automotive, miscellaneous recreational, and service activities. The Comprehensive Plan designates this site as Mixed Use. Mixed Use areas are intended to combine residential and non-residential uses in neighborhoods, where the different uses are finely mixed instead of separated. 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. Large scale developments, which include multi-family buildings are encouraged to include single-family detached and/or attached dwellings. The property is addressed as 813 Chicago Avenue and is identified as tax map parcel number 39-F-6. (Note: An adjacent parcel identified as tax map parcel number 39-F-1 is also addressed as 813 Chicago Avenue.)

In addition, adjoining property owners were notified of the public hearing; the property was posted with signage advertising the request; and a notice was provided on the City's website at <https://www.harrisonburgva.gov/public-hearings>.

Recommendation:

Staff recommends alternative (b) denial of the rezoning request.

Attachments:

1. Site maps
2. Application and supporting documents
3. 2013 Proffers and Concept Plan

Review:

N/A