



City of Harrisonburg, Virginia
Department of Planning & Community Development

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Building Inspections
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April 2, 2018

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

SUBJECT: Public hearing to consider a request from Amerco Real Estate Company with representative Dominion Engineering to amend the Zoning Ordinance Section 10-3-91(2) of the B-2, General Business District. Section 10-3-91 lists all available uses that may be permitted by special use permit and is titled "Uses permitted by Special Use Permit." Subsection (2) currently lists the following allowable special uses: "Warehousing and other storage facilities, greater than twenty thousand (20,000) square feet, continuous to a permitted use." The amendment would remove the sizing details and the requirements that the storage be associated with a continuous use permitted in the district. If approved, subsection (2) would list the following as the available special uses: "Warehousing and other storage facilities."

Public hearing to consider a request from Bill Neff with property representative Dominion Engineering for a special use permit per Section 10-3-91(2) of the B-2, General Business District to allow for warehousing and other storage facilities. The 9.83 +/- acre property is addressed as 145 East Kaylor Park Drive and is identified as tax map parcel 103-A-5. The special use permit that is being applied for is also the same section of the Zoning Ordinance that is proposed for modification in a separate application.

**EXTRACT FROM MINUTES OF HARRISONBURG PLANNING COMMISSION MEETING
HELD ON: March 14, 2018**

Chair Way read the two requests and said we will hear these two items as one and then have two separate motions. He then asked staff to review.

Mr. Fletcher said with regard to the Zoning Ordinance (ZO) amendment within the B-2 district, the uses listed within Section 10-3-91 (2) allowing "[w]arehousing and other storage facilities, greater than twenty thousand (20,000) square feet, continuous [*sic*] to permitted uses" has been part of the ZO as a SUP since 1996. (Note: As used in the ordinance, the word "continuous" should be "contiguous.") This is the year the City adopted its most recent comprehensive re-write of the ZO and was the same time that the City created all SUP uses. This SUP created the opportunity, on a case by case basis, to have larger warehousing and storage operations associated with contiguous permitted uses in the B-2 district, where such warehousing and storage was permitted by right up to 20,000 square feet in area. The first reference to allowing the by right warehousing and storage abilities shows up in the 1987 ZO. The currently described purpose of the B-2 district remains the same as it was in 1987.

Regarding the specifics of the subject site for the requested SUP, the Comprehensive Plan designates this area as Commercial. This designation states that these areas include uses for retail, office, wholesale, or service functions. These areas are generally found along the City's major travel corridors.

The parcel was annexed into the City during the 1983 annexation and aside from filling and grading that has occurred on the property over the years, the site has been undeveloped. Currently, the parcel's only

The City With The Planned Future

City public street frontage is along the terminus of the undeveloped portion of the East Kaylor Park Drive public street right-of-way. East Kaylor Park Drive was dedicated to the City in 2002 subsequent to receiving a Subdivision Ordinance variance to deviate from requirements of the Design and Construction Standards Manual (DCSM) associated with radius requirements at the street's intersection with South Main Street.

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

- Site: Undeveloped land, zoned B-2
- North: Commercial use (Motel 6), zoned B-2
- East: Undeveloped property owned by JMU, zoned R-5C
- South: Across Interstate 81, industrial uses (Walker Tenneco), zoned M-1
- West: Commercial uses, fronting Pleasant Valley Road, zoned B-2

Dominion Engineering is representing two applicants for two, separate but simultaneous requests to amend the ZO within Section 10-3-91 (2) while applying for the SUP in which is proposed for modification. The ZO amendment applicant is Amerco Real Estate Company (the parent company of U-Haul) and the SUP applicant is the subject site's property owner, Bill Neff. The site is a 9.83 +/- acre site located at the end of the undeveloped portion of the East Kaylor Park Drive public street right-of-way and adjacent to Interstate 81 (I-81). If both requests are approved, the planned use of the site is to construct a 96,000 +/- square foot U-Haul Moving and Storage Store consisting of self-storage, U-Haul truck and trailer share, and related retail sales.

Regarding the ZO amendment, the applicant has proposed to eliminate the limitations of requiring all warehousing and storage facilities to be associated with contiguous and permitted uses in the B-2 district. The specifics of the text to be removed within Section 10-3-91 (2) is shown below:

- (2) Warehousing and other storage facilities, ~~greater than twenty thousand (20,000) square feet, continuous to permitted uses.~~

If approved, B-2 property owners would be able to apply for a SUP to allow for full-scale warehousing and storage facility operations, where such buildings and structures would not be limited to only warehousing and storing products associated with a contiguous use that is permitted in the B-2 district. Essentially, by approval of a SUP, a property owner could warehouse and store products within buildings as is permitted by right in the M-1, General Industrial District.

Given that the intent of the B-2 district has remained the same for more than 30 years, it is highly likely that the original by right allowance with limitations to warehouse and store products in the B-2 district was intended to control the character and intent of the district so that it would not become overburdened with extensive warehousing. As noted in the Background section above, when the City created the existing SUP in 1996, flexibility was offered to B-2 property owners to have larger operations on a case-by-case basis, but still limiting the products to those associated with contiguous uses permitted in the district.

SUP review processes have been in place now for almost 22 years, where the review criteria for SUPs per Section 10-3-125 (b) includes:

- (1) "The proposed use shall be consistent with good zoning practice and will have no more adverse effect on the health, safety or comfort of persons living or 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 in the district.

- (2) The proposed use shall be adequately served by essential public services such as streets, drainage facilities, fire protection, and public water and sewer facilities.
- (3) The proposed use all [sic] be designated, sited, and landscaped so that the use will not hinder or discourage the appropriate development or use of adjacent properties and surrounding neighborhoods.” (Note: As used in the ordinance, the word “all” should be “shall.”)

The review criteria noted above coupled with City Council’s authority in the ZO per Section 10-3-126 to “impose such conditions [on the special use] as it believes necessary to accomplish the objectives of” the ZO and with the established thorough staff and Planning Commission review processes, staff is able to support the proposed amendment. In particular, staff will rely on recommending appropriate conditions on any warehousing and storage facility SUP request to help curtail any adverse impacts that such a use could have on the surrounding properties.

Concurrently with the ZO amendment as discussed above, the applicants are also applying for the amended SUP with the intent to develop the 9.83 +/- acre site for a warehousing and storage facility. Specifically, the U-Haul company is wanting to construct a U-Haul Moving and Storage Store that typically includes a self-storage area, a U-Haul truck and trailer rental display area, related retail sales, and an area specifically devoted to private recreational vehicle (RV) storage. The RV storage spaces are typically under a canopy-like structure. Note that the only component of the planned U-Haul operations that is in need of the SUP is the planned self-storage area.

It should be understood that the site layout submitted with the application is for conceptual purposes only (note that parking lot landscaping requirements were not illustrated accurately). If the SUP is approved, the development of the site would not be bound to the layout provided, but as is the case with all sites, the project must comply with all zoning, sign, DCSM, and other land development ordinances and regulations. This includes but is not limited to the Harrisonburg Rockingham Regional Sewer Authority (HRRSA) design standards as there is a significant HRRSA sewer line that bisects the property. (During the review of the application, staff provided many “heads-up” issues to Dominion Engineering associated with matters relative to the engineered comprehensive site plan in anticipation that the SUP could be approved.)

Noteworthy issues that should be known when developing this site, whether the use is allowed by right or only by approval of a SUP, include matters associated with constructing the remaining portions of East Kaylor Park Drive, advertising signage, and obligations related to the planned continuation of the Bluestone Trail. First, prior to being able to operate any use on the subject site, the developer would be required to construct, and the City accept, the remaining portions of East Kaylor Park Drive. This matter is further emphasized in the review criteria identified above within Section 10-3-125 (b) (2), which states that “the proposed use shall be adequately served by essential public services such as streets, drainage facilities, fire protection, and public water and sewer facilities.” Because of this specific review criteria, and to be clear about the obligations to develop on this site, staff is suggesting a condition be placed on the SUP that East Kaylor Park Drive must be completely constructed and accepted by the City prior to issuance of any Certificate of Occupancy.

Secondly, there is an existing advertising billboard sign that is located on the southwestern end of the subject property. This billboard sign appears to straddle the property line with the adjacent Motel 6 property (tax map parcel 103-A-10), where most of the sign appears to be located on the subject site. Unless the U-Haul company does not want to install a freestanding sign and does not want to utilize all their available advertising sign square footage, they will need to work out some type of arrangement with whoever is responsible for the billboard sign to either remove the sign or perform some kind of property line adjustment with the Motel 6 property so that the billboard is located entirely on the Motel 6 parcel. The reason being is that this billboard advertising square footage counts against the property’s advertising allotment and the number of freestanding signs allowed on the site. Because the billboard sign is

considered a freestanding sign, and since the site has only one public street frontage, which is along East Kaylor Park Drive (note that I-81 frontage has no relevancy to the City's Sign Ordinance), the site is only permitted to have one freestanding sign. Because the billboard sign is non-conforming, and depending upon the circumstances of the amount of sign square footage that the Motel 6 property has utilized, the subdivision option may not be a solution. It could be that the result is that the billboard sign might have to be removed. Furthermore, the applicant should understand that no freestanding signage will be permitted off-site near East Kaylor Park Drive's intersection with South Main Street.

Lastly, regarding the Bluestone Trail, the City's Bicycle and Pedestrian Plan demonstrates and plans for the trail to extend across the subject property parallel with I-81. As required by the DCSM Section 3.4.1.1 "[w]here a shared use path bisects a property as indicated in any City-adopted plans, the applicant-owner shall create a public access easement maintaining connectivity with adjoining properties in order to facilitate planning for and construction of shared use path facilities."

After thorough review of the request, staff believes the use will have no more adverse effect on the health, safety or comfort of persons living or 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 in the district. Although the Comprehensive Plan's Land Use Guide designates the site as Commercial, given that the site does not have frontage directly on South Main Street, which is planned for uses more related to retail, office, wholesale, or service functions, and due to the site's location along I-81 and its vicinity near the interstate off-ramp, staff supports approval of the request with the following conditions:

1. Any warehousing or storage facility developed on site shall be substantially the same as the proposed U-Haul Moving and Storage Store as presented in the application. (Note: This condition does not bind them to the hours of operation noted within the application materials.)
2. East Kaylor Park Drive must be completely constructed and accepted by the City prior to issuance of any Certificate of Occupancy.

Chair Way asked if there were any questions for staff.

Mrs. Whitten said is this going to be fenced in some way? I am thinking with RV storage there will be some sort of security.

Mr. Fletcher said I do not know the answer to that. I know there is an existing fence along the interstate, but I do not know about the fencing around the property. It is not required by the Zoning Ordinance.

Mr. Colman said is the signage limited by East Kaylor Park Drive street frontage?

Mr. Fletcher said yes, and I am glad you asked that question. The frontage for allowable signage is all along East Kaylor Park Drive. It is one per one; one square foot of signage per one linear foot of street frontage. Interstate 81 has no relevancy to our sign ordinance and their freestanding sign. They cannot locate a sign near the intersection of South Main Street, it must be located on the site. They will need to remove the other freestanding signs currently located on the site.

Mr. Finnegan said can it be interstate facing because that is not City property?

Mr. Fletcher said absolutely. Freestanding signs can go anywhere on the property.

Mr. Colman said what is contiguous referring to, is contiguous in terms of the building, other lots, or is it combined use of the property?

Mr. Fletcher said we have never had to interpret if contiguous meant a separate building; but we have always interpreted contiguous to mean contiguous to the use that is in the building. We do not have a situation that I am aware of that we ever had to interpret if somebody wanted to have a totally separate

building of storage; but the storage that is in the building still had to be associated with what the use was on the property.

Chair Way said with the B-1, Chesapeake Avenue rezoning I remember there was a discussion about storage.

Mr. Fletcher said yes. The other thing I would like to point out is the fact that they can do the RV storage today, they can put a parking lot in there, they can have a U-Haul retail building and have U-Haul truck and trailer rental. The only thing that requires a special use permit is the self-storage component.

Mr. Colman said and that is because of the size.

Mr. Fletcher said no, the use. In B-2 today you cannot build a facility like a self-storage facility where you or I can go out and rent an 8 x10 unit and store items. You cannot do that by right or by special use permit in B-2. This amendment would create the ability for people to build those things by approval of a special use permit; which is why we have the condition on this.

Mr. Finnegan said the Blue Stone trail is that kind of in the setback from Interstate 81, is it along that side?

Mr. Fletcher said those specifics will get worked out during the engineered comprehensive site plan review. I think in a lot of people's minds they are thinking it would be adjacent to the interstate because it does not bisect a property. I think in the planning world it makes the most sense because it will probably have some type of fencing to delineate the trail, but all the specifics would get worked out during the engineered comprehensive site plan review.

Mr. Finks said were there any other issues regarding the Harrisonburg Rockingham Regional Sewer Authority (HRRSA) line? I know there is the 40-foot easement, did we contact them?

Mr. Fletcher said yes, they were in our meeting. Two HRRSA representatives were there and spoke. They were concerned about the corner of the building and how it might get close to encroaching into the easement because of the footer depth of the building and just how close it would get to that line. The damages have already been done out there and now it has been rectified where they filled over top. It is important to not do that without prior approval and to make sure that the thing that is underneath the ground is protected. In this case it was an old terracotta pipe line, so as soon as they started filling on top, it crushed it. It has been rectified, I think now there is standard industry pipe. Because of how deep it is that is why they needed such a wide easement.

Mr. Finnegan asked is there any issue with bringing heavy machinery across that line anymore, because they will need to do so in order to build all that stuff.

Mr. Fletcher said I would not say that there is no issue, but all those issues get rectified and discussed during the engineered comprehensive site plan review.

Chair Way asked if there were any more questions for staff. Hearing none, he opened the public hearing for both the ordinance amendment and the special use permit request and asked if the applicant would like to speak.

Mike Myers, Dominion Engineering, said I engineered the site plan and know a lot of details about that. I heard a couple of questions and I will address a few of those. On the site plan, fencing is shown around the RV storage area. The East Kaylor Park Drive comments, some things that came up is that U-Haul needs to construct it in order to get access to Main Street, and discussions of sidewalk being on one or both sides. I think those issues will be flushed out with the engineered comprehensive site plan. My understanding is that the final design may be subject to change during the final site plan. But they are aware they need to construct the road.

One thing that I noted in your presentation, Mr. Fletcher, regarding the condition about the road acceptance prior to the Certificate of Occupancy (CO); I just wanted to state for the record, to make sure that there is some consideration for the timing of the acceptance and the CO. A lot of times for road acceptance it may take some time to do that, my concern would be that it would potentially have some impact on the issuance of the CO when U-Haul is trying to open for business. I think as long as that is discussed during the plan review process it would not be a problem.

Finally, on the Blue Stone Trail, I want to clarify that they will be dedicating it as an easement or right-of-way, but the construction will be done at a future time. If you have any other questions I will be happy to answer them.

Mr. Colman said will there be an access to the Blue Stone Trail beyond the street right-of-way?

Mr. Fletcher said what you do not see in some of the details here are some spurs that come off the Blue Stone Trail in various locations. In the preliminary platting of East Kaylor Park Drive which dates to 2002, it showed an extension of the cul-de-sac going beyond where it is conceptually shown here. It would provide for the opportunity for that cul-de-sac to get closer to the Blue Stone Trail. I believe that our folks at Public Works are already thinking the same thing you are thinking, which is about connecting from the street to the Blue Stone Trail. Public Works staff are in the engineered comprehensive site review, so I would not be surprised if that was a comment.

Mr. Colman said one issue associated with that is if that would be an access to the trail then some people may be tempted to go and park at the facility to access the trail. Is the facility going to be fenced in, will there be security? You may not know that yet.

Mr. Myers said at this time I do not know.

Chair Way asked if there were more question for the applicant. Hearing none, he asked if anybody else would like to speak in favor or against this request.

Bill Neff, the property owner, said I have been the property owner for about 20 years. I have been involved in all the work that has been done out there and I will tell you about why the street is not finished. The street is not finished because of JMU buying the property next to this and it was unknown as to what elevation they wanted the street at. We had it flexible as to where we could change that. The street has now been graded and basically that is the way it will be built. The City has the approved street plans and we can go ahead and finish the street at any time.

Mr. Colman said are you saying there are approved plans already for this street?

Mr. Neff said yes.

Mr. Colman said it can be built before this project?

Mr. Neff said we can start building tomorrow.

Mr. Fletcher said I did not get into the details of the street approval because it is not associated with the special use permit and anyone that develops there must build the street. Mr. Neff is correct, there is an engineered site plan approval already in place for the street. What Mr. Myers was referring to is about the question of whether or not sidewalk would have to be on both sides of the street, or just one side. That is because the street has been designed and accepted for so long that our Design and Construction Standards Manual (DCSM) regulations have changed to now require sidewalks on both sides of the street. They will be required to have sidewalk on the one side where it is already shown on the approved plan, which is on the north side and comes down around the cul-de-sac.

We have already had conversations with them about building the road frontage and they will be required to build the sidewalk along their frontage; but then that leaves a gap along the Pano's property and the

long term stay hotel property. Our City Engineering and the Public Works folks were talking with Mr. Myers a couple of weeks ago, hopefully trying to find the opportunity for the City to step in and do the remaining portion of the sidewalk.

Chair Way asked if there were any more questions for the applicant. Hearing none, he asked if anybody else would like to speak in favor or against this request. Hearing none, he closed the public hearing and asked Planning Commission for a motion on the requests for discussion.

Mr. Colman said I am curious about the change in the ordinance in terms of the size of the warehouse, why are we changing that and why are we changing the contiguous aspect of it. I am just wondering what the impact of that may be. The question is because this is M-1 zoning, in essence we are allowing M-1 standalone warehousing. There is a M-1 zoning, why not seek to rezone to M-1 instead of a special use permit?

Mr. Fletcher said we actually had early conversations with the U-Haul folks and there was the idea of whether or not they wanted to rezone that to M-1 or stay B-2. Staff favored keeping it B-2 because we did not want to see any industrial zoning in this area. That is why we recommended they consider creating the special use permit option, because it gives more control from the City's perspective.

Chair Way said are there potential ramifications of this? I am trying to think of other properties and what does this open, what does this allow.

Mr. Fletcher said it allows for any B-2 property owner to request warehousing and storage by special use. In theory, the City still has the control, because they do not have to approve the special use permit.

Chair Way said you presented very well all the basis for approving, or not approving, the special use permit. What I am trying to think of are what sort of problems can we get into.

Mrs. Fitzgerald said checking the unintended consequences.

Mr. Fletcher said we think through those scenarios all the time, we rely heavily on the ability of going through the review. This concept that we are talking about tonight has been discussed before; an application was made and then withdrawn. It was another property, in a totally different area in the City, it was not U-Haul, but had this same concept. Staff felt very comfortable believing it will work. But we rely on the fact that we are meeting with people early in the process. We do the staff the review, we talk about it here, you get to ask us all these questions and then we go to City Council. In theory it works quite well, and we rely heavily on the conditions that City Council can put on them.

Mr. Baugh said I have had some similar experiences over the years. With this, I think the reason for that traditional sense of warehousing, while this would open the door for that, I think that is what a piece of discussion is focusing on. I noticed you do not have to grant special use permits or that arguably, if we are applying our standards correctly, we would not grant them except for in those places, maybe potentially rare spots in B-2, where you would say "you know what, it actually would not hurt anything, it fits to let that traditional warehouse go there."

Mr. Fletcher said you have just described an instance that Mrs. Banks and I dealt with several years ago where somebody really wanted to have a traditional warehouse and they were going to have this little section of retail for the things they were not warehousing; the percentage was off. It was a warehouse. If they would have had this opportunity they could have made it work. Maybe it does not come off clear in the memorandum but the whole point of talking about how long we have had special use permits in the Zoning Ordinance is that this special use has been in existence since its creation. I think there was hesitancy in 1996 to open it up to all kinds of special use permits and to ease into it a little bit. We are now two decades down the road and it has not been a major concern.

Mr. Colman said what would keep somebody in the B-2 zoning from putting a whatever size structure in since it does not have to be contiguous to the use, they can say well “I have a mini-storage unit?”

Mr. Fletcher said they would have to have a special use permit to do it.

Mr. Colman said right, but nothing keeps us from allowing that. The question is what is the intent of this change, I am supportive of this proposal, I think it fits here. I am just wondering, same question as before, what are the ramifications if more people are going to be asking for these things. Of course, you can turn them away but at some point, you say that is not a bad idea, we allow one and then it starts cascading from one.

Mr. Fletcher said for us they are always site specific and I cannot say what the other site was because it never came to fruition. But the other one did not have public street frontage. You did not even know the parcel was there.

Mrs. Whitten said we were saying at the site visit yesterday, Grand Furniture has a business where they sell furniture, but they have a large warehouse. There are a lot of them that you do not really think of.

Mr. Fletcher said quite honestly Grand Furniture is a play on what we were just discussing, what Mr. Baugh described where you have this person who really is warehousing and sells so much online and they really do not have a retail component.

Mr. Finks said I am a sound engineer and so many of the companies that I work with that is their exact operation. They have a warehouse, all their sales are online, and they have a tiny showroom upfront just in case someone wants to show up and buy something onsite.

Mrs. Whitten said when it comes to paying taxes they have stuff in that warehouse, they need to collect money on that stuff.

Chair Way asked for a motion on the request.

Mr. Finks moved to approve the Zoning Ordinance Amendment – Section 10-3-91 (2), Uses permitted only by Special Use Permit, to allow warehousing and other storage facilities with no sizing details or associations to a continuous use permitted in the district as presented by staff.

Mrs. Fitzgerald seconded the motion.

Chair Way said we have a motion and a second for approval. He called for a voice vote on the motion.

All voted in favor (7-0) to approve the Zoning Ordinance Amendment – Section 10-3-91 (2), Uses permitted only by Special Use Permit, to allow warehousing and other storage facilities with no sizing details or associations to a continuous use permitted in the district as presented by staff.

Chair Way said this will go forward to City Council on April 10, 2018.

Mr. Colman moved to approve the special use permit with conditions at 145 East Kaylor Park Drive (Section 10-3-91 (2) to Allow Warehousing and Other Storage Facilities) with the conditions as presented by staff.

Mr. Finnegan seconded the motion.

Chair Way said we have a motion and a second for approval. He called for a voice vote on the motion.

All voted in favor (7-0) to approve the special use permit at 145 East Kaylor Park Drive (Section 10-3-91 (2) to Allow Warehousing and Other Storage Facilities) with the conditions as presented by staff.

Chair Way said this will go forward to City Council on April 10, 2018.

Respectfully Submitted,

Alison Banks

Alison Banks
Senior Planner