



City of Harrisonburg, Virginia

Department of Planning & Community Development

409 South Main Street
Harrisonburg, Virginia 22801
(540) 432-7700 / FAX (540) 432-7777
www.harrisonburgva.gov/community-development

Building Inspections
Engineering
Planning & Zoning

August 30, 2017

TO THE MEMBERS OF CITY COUNCIL CITY OF HARRISONBURG, VIRGINIA

SUBJECT: Public hearing to consider a request from Acorn LC with representative Alan Strawderman for a special use permit per Section 10-3-97 (9) of the M-1, General Industrial District to allow a religious use which does not provide housing facilities. The 4.82 +/- acre site would have frontage along Mount Clinton Pike and is part of a 51.48 +/- acre piece of land in the City that has public street frontage along Mount Clinton Pike, Acorn Drive, and North Liberty Street. The parent tract is larger still and extends into Rockingham County; the 51.48 +/- acre section located in the City is identified as tax map parcel 44-C-2.

EXTRACT FROM MINUTES OF HARRISONBURG PLANNING COMMISSION MEETING HELD ON: August 9, 2017

Mr. Baugh recused himself from this agenda item at 7:09 pm.

Ms. Dang said the Comprehensive Plan designates this area as General Industrial. This designation states that these areas are composed of land and structures used for light and general manufacturing, wholesaling, warehousing, high-technology, research and development and related activities.

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

Site: Undeveloped property, zoned M-1

North: Undeveloped property, zoned M-1

East: Rockingham County School Board offices, zoned M-1

South: Across Mount Clinton Pike, nonconforming agricultural operations, zoned M-1

West: Undeveloped property, zoned M-1

The applicant, Acorn LC, is requesting a special use permit (SUP) per section 10-3-97 (9) of the Zoning Ordinance to allow religious, educational, charitable or benevolent institutional uses which do not provide housing facilities within the M-1, General Industrial District. If approved, it is planned that Manantial De Vida (MDV) church would occupy a 4.82 +/- acre portion of the larger tract. The church would have 360 +/- feet of street frontage along Mt. Clinton Pike. Per Section 10-3-130 (c) of the Zoning Ordinance, when a SUP is approved by City Council, a property owner has one year to establish the use, or to commence or diligently pursue construction for the authorized use, unless at the time of permit approval Council allots a different time period to do the same. The applicant has specifically requested to have up to three years to begin construction.

As described in the applicant's letter, if the SUP is approved, the applicant will reserve an area that is 30-feet in width along the entire length of the subject property's western property boundary line for a

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potential public street. The reserved 30-feet is half the width needed for a public street serving an industrial area. This mirrors the 30-feet that was reserved by the property to the west (identified as tax map 44-C-1, and whose approved SUP request from 2014 to allow a financial institution is described later herein). Although the Comprehensive Plan's Street Improvement Plan does not indicate a planned public street within the area, staff continues to believe that another public street may be needed to serve properties to the rear of this site to alleviate the pressure on Acorn Drive and to preserve Acorn Drive's capacity as an industrial street. With respect to staff's concern, the applicant has provided they will dedicate, at no cost, 30-feet of public street right-of-way along their western property boundary if and when the City deems a public street is necessary. As noted by the applicant's letter, this area shall be reserved only for a period of 10 years. Furthermore, the applicant has noted in their letter that they would be responsible for the cost of relocating their parking entrance to the site if the future street is constructed. The applicant should understand that if the reserved area is to be taken advantage of, the property owner may need to be involved in the platting/dedication of public street right-of-way for the creation of the public street.

Although not a matter associated with the SUP, regardless of how the property develops, the property owner will be required to construct sidewalk along the site's Mt. Clinton Pike frontage.

Previously approved rezonings, special use permits, and development plans in the surrounding area should be understood. A Zoning map and Land Use Guide map of the area are included with this report with references to each location described below.

On June 22, 1998, City Council approved a rezoning a 19-acre site from M-1, General Industrial District to B-2C, General Business District Conditional. The site is identified today as tax map 45-D-1 and located on the northwest corner of Mt. Clinton Pike and Acorn Drive and is referenced as location A on the attached maps. While this request received favorable recommendations from both staff and Planning Commission, the proffers limited uses such that the property owner can only develop a cultural center, family restaurant, conference center, and lodging facility. No other uses are permitted on this site. The cultural center was intended to highlight the history and culture of the Mennonite and Brethren people. At that time, the Land Use Guide recommended the property for General Industrial use, which is described in the 1998 staff report as areas "composed of land and structures used for light and general manufacturing, wholesaling, warehousing, high-technology, research and development and related activities." The staff report further acknowledged that "[t]he General Industrial zoning classification is designed to preserve the land for manufacturing, processing, storage and distribution activities in an effort to avoid conflict between industry and other uses" and goes on to say that "[t]he proposed rezoning request recognizes the need to protect this large industrial area from encroachment by commercial uses."

In April 2014, the City received an application requesting to rezone 6.69 +/- acres of property from R-2, Residential District to B-2C, General Business District Conditional. The properties are identified as tax map parcels 42-B-8, 8A, 9, 9A & 36, and 44-A-31, along with portions of Wilson Avenue and Boulevard Avenue. This site is referenced as location B on the attached map. The rezoning request was part of several steps initiated by the applicants so that they may sell the property to an interested commercial developer to build a grocery store. The current 2011 Comprehensive Plan designates the majority of that area as General Industrial with small portions designated as Commercial. Although the property is primarily designated for General Industrial use, the June 30, 2014 staff report described it as "an area of transition between General Industrial and Commercial use." Staff recommended in favor of the rezoning and stated in the staff report that "[a]lthough recommending in favor of the requested rezoning, staff does not believe this sets a precedent to look favorably upon further B-2 rezoning requests along the Mt. Clinton Pike corridor. At this time, staff believes the appropriate limit to the B-2 zoning district is at the planned extension of Technology Drive." Planning Commission recommended in favor of this request (7-0). The request was presented to City Council on July 8, 2014 and was approved on the first reading (4-0).

but was then tabled by the applicant. A second reading was never held and in March 2015 the applicant withdrew the rezoning request after the contract between the applicant and purchaser was terminated by the purchaser.

One month after the rezoning above was approved and while the rezoning was tabled by the applicant, on August 12, 2014, City Council approved a SUP to allow financial institutions and offices within the M-1, General Industrial District for a three-acre tract of land west of the subject site (identified as tax map parcel 44-C-1). That site is referenced as location C on the attached map. Staff and Planning Commission recommended in favor of the SUP, stating in the staff report that “[staff] does not believe allowing financial institutions and offices at this corner would have an undue impact on the other uses in this area or negatively impact the City’s long-term plans for industrial operations for this area. Furthermore, at this time, the proposed use would be compatible with existing surrounding land uses. The applicant should understand, however, that because the property is surrounded by M-1 zoned lots, the financial use could be adjacent to intense industrial operations, which they may deem as undesirable neighbors.” While the financial institution is not an industrial use, staff believed that a financial institution at that location would support the surrounding industrial area by allowing employers and employees the opportunity to utilize banking services during the day or when commuting to and from work. The applicant requested and was approved to have up to five years to begin construction. That site remains vacant today and the property owner has until August 12, 2019 to utilize the approved SUP.

While all three requests received favorable support from staff, Planning Commission, and City Council, in each staff report there was acknowledgement of the value of preserving the limited availability of industrial land uses in the City and avoiding conflict between industrial uses and other uses. While there are many properties in the City zoned as M-1, General Industrial (i.e. along or near North Main Street, South High Street, Waterman Drive, and others) most of these areas are recommended by the 2011 Comprehensive Plan to be changed to non-industrial land uses that are more compatible with their surrounding land uses. What makes the Mt. Clinton Pike and Acorn Drive industrial area different is that it is one of the two largest, contiguous industrial areas, making it more valuable and appropriate for preservation for future industrial uses. These industrial lands are intended to be used to promote future growth and development of business activities that will contribute to the City’s tax base and create additional jobs for a growing population.

As most are aware, SUPs are reviewed on a case by case basis and are given considerable evaluation based upon the long-term plans of the City and other miscellaneous information and data. As part of this review, staff evaluated previous SUP requests for religious uses in the M-1, General Industrial district and found no SUP request that met the same circumstances as the current request, where a religious use was proposed on a vacant, M-1 zoned piece of property that was also designated by the Land Use Guide as General Industrial. There were, however, a number of requests that were recommended for approval and later approved, but were in different locations, under other circumstances, or were in locations that the Land Use Guide recommended to become something other than General Industrial uses. Regarding vacant, undeveloped properties, staff recommended in favor of a request (on three separate occasions—in 2003, 2007, and in 2009) for a religious use to be located at 760 Waterman Drive, which was—and remains—a vacant piece of property, but was and continues to be designated Commercial by the Land Use Guide. There was also an application submitted in 2004 for a religious use along Mt. Clinton Pike (at that time it was identified as tax map 46-B-2 but now, due to subdivisions, appears to be part of a portion of tax map 46-B-9). At that time, that property was designated as Mixed Use Development Area; however, the application was withdrawn by the applicant and it appears it was withdrawn early enough in the review process that staff does not have documented comments regarding the request.

Section 10-3-125 of the Zoning Ordinance establishes criteria for evaluating SUP applications. Staff does not believe that this SUP request meets criteria (1), which reads:

- (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.

Staff believes allowing a religious use to establish at this location will have an impact on the City's economic development strategies, which includes attracting industrial uses to this area to promote future job growth and development of business activities that will contribute to the City's tax base. Additionally, a religious use at this location is likely to discourage future industrial uses from locating in this area, and will necessitate reevaluation of the draft Land Use Guide Map that is current being vetted through the Comprehensive Plan Update process.

It should also be acknowledged that presently, the Comprehensive Plan Update's Advisory Committee #1 on Land Use & Transportation is recommending that the Mt. Clinton Pike and Acorn Drive properties designated in the 2011 Comprehensive Plan's Land Use Guide map for General Industrial uses, including this property, remain as General Industrial. (The exception being the 6.69 +/- acres of land closer to North Main Street that was considered for rezoning in 2014 to B-2C for a grocery store; that area is being recommended for Mixed Use designation.)

Staff recommends denying the special use permit request.

However, if the SUP is approved, staff recommends that the approval not include educational, charitable or benevolent institutional uses, and should be limited only to religious uses. The applicant should also understand that because the property is surrounded by properties zoned M-1, General Industrial and identified in the City's Land Use Guide for General Industrial uses, intense industrial operations could locate adjacent to or near the church and could create noise, odor, traffic, or other byproducts of industrial operations that may be seen as unpleasant or distracting for the church, and which they may deem as undesirable neighbors.

Vice Chair Fitzgerald asked if there were any questions for staff. Hearing none, she opened the public hearing and asked if anyone would like to speak regarding this request.

Todd Rhea, attorney at Clark and Bradshaw, said I have been coming before the City and County with zoning matters for 22 or 23 years now, so it is a familiar setting for me; and as usual, I would commend Ms. Dang's report for being very well prepared and informative, laying the ground work for our discussion tonight. This is an interesting land use matter. The applicants are here, our two pastors Juan Carlos and Wendy Malvaez along with other congregation members. We will refer to the religious use as MDV church, so no one struggles with pronunciation.

Since this is a land use focused body, we will take up three or four points that I have focused on from the land use perspective with respect to this special use permit request. Again, this is not a rezoning request, it is a special use request and what we are asking for here is for a church. MDV operates here in the City. They serve a lot of challenged populations. They are very active in the local high school and they have a particular focus on youth.

The current location off Franklin Street is in a leased building that is no longer adequate for their space and so they need room to expand. They have searched around the city and located this site. This site is an affordable alternative for them to construct their new church facility. It is also very convenient to their congregation and the population they serve from a transportation basis, which is not surprising given that transportation is a key part of where you put industrial districts.

The first thing I will focus on is the precedence set in the 2014 special use request by DuPont Community Credit Union, which is parcel "C" on the corner. When that came before this commission, I believe Commissioner Colman made the motion to approve the request. It received staff support in 2014, it

received unanimous Planning Commission approval 4-0, and it received unanimous City Council support for a financial institution use.

I want to read a quote that was not brought out in the staff's presentation tonight, from the public hearing in the 2014 staff report relating to this corridor of Mt. Clinton Pike before Acorn Drive. It talked about the fact that this was an M-1 area designated general industrial and quote "however, much of this area does not include the intense manufacturing and processing uses that are permitted by right in the M-1 district." That is still true today, the nearby properties include undeveloped tracks, nonconforming agriculturally used property, the Virginia Department of Agricultural and Consumer Services building, the Rockingham County School Board office building, and the technology oriented uses located along Mt. Clinton Pike and Technology Drive.

I asked staff to display on the screen the existing land use map, which is part of your current Comprehensive Plan review. If you look at the area that we are talking about along this corridor you see very little existing industrial. There is the technology incubator, Jenzabar, the County School Board offices, and this is the commercially zoned special use permit track for the bank.

What we are asking for is the last piece in this corridor and we will discuss what implications that has for the wider use of this larger industrial area. The absorption rate for industrial land in this vicinity is measured now in generations, not years and the precedence has been set from the existing land use development of one where heavy industrial is not a concern. If it is a concern, there are plenty of preexisting uses in that area, which really are not that much different from what is being requested for the church. It is the last parcel in this whole corridor that would be zoned or permitted for a non-industrial use.

The staff report made a comment with respect to the economic viability of this area for industrial use should this little piece be permitted for this religious use; again, they talked about the types of things, the types of industries in the 21st Century that the City is trying to attract, technology base industries, distribution industries such as a Target or Amazon. We are not talking about refineries that are likely to go in there. It is not my sense that any sort of distribution user, or technology base user would have any objection to a religious activity next door or vice versa. I am not sure what type of industrial uses are going to be persuaded by having a church next door, when there is a school board office, a technology incubator, and a bank right along the same street. Those are the land use arguments.

We were very careful as an applicant to make the application as attractive to the City as the DuPont application. We provided identical voluntary conditions, if not greater than the approved DuPont special use permit next door. Between the DuPont parcel and the voluntary conditions with this request, the City has a full 60-foot wide industrial street capacity that they can easily put in that location.

We feel like the church should be on the same ground as a bank, a school board office, or a technology incubator; it is consistent with the non-industrial uses along the Mt. Clinton Pike corridor from a land use perspective. I think this body and City Council recognized that in 2014, when they approved other non-industrial uses, unanimously, along this corridor. That will wrap up my discussion of how we see the land use issues playing out. We think this is a great use for the City but rather than me try and explain it, I will have the pastors come up and outline to you a little bit more about their mission and history here in the City and what their visions are for the site.

Carlos Malvaez, Pastor at Manantial de Vida (MDV), said this is my wife Wendy, and other members of the church. This has been a challenge to be able to find a place for us. We have been in ministry serving the community for a little over 14 years and we are part of the Virginia Mennonite Conference. Although we started as a Hispanic outreach, we made a transition to become a bilingual multicultural church and multicultural ministry. I believe that the growth and expansion of the City has influenced our growth as well and we can see that in many other congregations that are either expanding, remodeling, or building

additions; responding to the needs of the community. I think our church is very attractive with the programs we have available in the City, like the refugee programs.

I believe the growth is parallel. The City is growing, the community is growing in many other ways, and I think the church function is also growing in a positive way. We are serving a specific community, second and third generations of immigrants. We have more than 10 countries represented; we have both Central and South America, Caribbean, Russia, and India. What we do is more than gathering to worship on Sunday morning, we try to provide serviced as a church. It is getting very hard to have a place accessible for the community and that is pretty much the main reason why we are requesting this special use permit. We want to be close to the people we serve, that is number one, and number two, we need room for expansion.

Wendy Alvarez, Pastor at MDV, said as you have heard Pastor Carlos state, we have experienced new rapid migration growth in the City and I believe that Harrisonburg has successfully undertaken the task to build bridges to welcome new comers and to unify us as a community in order to serve the needs of immigrants and refugees. As a ministry, we have acknowledged and we are aware that they are here and that they have come here for a reason. They are either running away from war torn countries, violence, poverty, or abuse and now they are here. They are carrying deep issues. Issues like trauma, emotional detachment, alienation, a sense of loss due to family separation and our ministry is aware of these deep needs that will be eventually reflected in general misconduct in children, high rates of drop outs in high school, or children getting involved in gang related activities.

We are aware that these deep issues will be reflected in our society in any way or form. When we are receiving these families, our mission has expanded and we are here to serve and to support the emotional and spiritual needs that these families have. We are more than a house of worship. We are here like a safe haven, a safe place where families are receiving support, spiritual support, emotional support, that abuse, violence, and neglect has had its effects on. Our mission in this City is to restore families; we are focused on healing and unifying families. We have been doing it for 15 years and we are experiencing a demand. We want to expand, we want to collaborate with our community. We are proud to be part of what is now a Welcoming America City, that is Harrisonburg, and we are collaborating, we are contributing and our deepest desire is to restore families, bring healing to brokenness, so that they can become useful contributors in this community.

Mr. Finnegan said you talked about service as a church that goes beyond Sunday morning, can you talk a little bit about that in terms of what besides the Sunday morning service you will offer.

Mr. Malvaez said as an example, we have been there for 14 years as a ministry, we have children that grew up and now they are youth; we have a strong and numerous youth group. In the last four years, we have experienced this new wave of immigrants that came from Central and South America and that was a surprise. I believe none of us were ready to receive that number of youth that came three to four years ago. I remember my wife telling me the school is not ready; they do not have the resources, they do not have the bilingual personnel, they were just not ready. We contribute in the integration of those immigrants. Number one we have a challenge because we need to unify the families, some of the families were members of MDV. We walk with them, we make sure they stay in school, they learn the language and today some of them graduated from high school and they are either JMU, EMU or Blue Ridge Community College students. Some others are contributing in the economic force and the others remaining in high school. It is just an example of the kind of service we provide, is not like a professional official service, but we do what we are supposed to do as a church, trying to unify families and provide a safe place for the youth.

Mr. Finnegan asked do you have after church programs or programs during the week days.

Mr. Malvaez said we do. We have after school programs, we have education for all levels. We have more than 66 children and we provide education and information for all of them from kindergarten all the way up to sixth grade. We have more programs planned. We have been hosted by Ridgeway Mennonite Church and the building is being used a lot. It is a lot of conflict with schedules. They are the owners of the building so they do not need to tell us that they need the building, so we have had to cancel so many other activities that we would like to do. We do not have the availability that we would like to have.

Vice Chair Fitzgerald asked is it fair to say that you could, if you had the room and the space, be open every day for programs.

Mr. Malvaez said we have not considered that with our mission; we are open to that. We have been working with the Cultural Center, New Bridges Immigrant Center, Eastern Mennonite High School and EMU, in partnership with them in whatever we can help.

Vice Chair Fitzgerald said I think what we are trying to get a handle on here is not what you would use the building for, but how frequently. What kind of traffic there would be, how often would people be coming and going.

Mr. Malvaez said most of the time our activities would be in the afternoon, after 6 pm. The traffic impact would be very low since it would be an activity not the whole congregation is involved. Most of the traffic would be Saturday night and Sunday morning, and actually we did not need to do a Traffic Impact Analysis because of the difference in the use and the schedules.

Vice Chair Fitzgerald said I think part of the question is that it is clear that you are not a typical "I am just open on Sunday" kind of a church, because your mission extends beyond that and we are just trying to get a handle on how that land might be used.

Mr. Malvaez said yes it does extend more than that, but of course there will be an office available for counseling and things that are typically used for a church. It is beyond Sunday, but there would not be traffic implications since our schedule is totally different than the rest of the places that open during the morning and we would be open in the afternoon.

Vice Chair Fitzgerald asked if anyone else would like to speak in favor of this application.

Dick Blackwell, 70 Peyton Randolph Court, said this location is basically on the edge of the industrial area. It would be our great pleasure in the City to see the industrial really develop and if it does it will have a lot of Hispanics working there. A church in that area, to me, seems adequate, if it was in the middle of the property it would maybe seem out of place, but on the edge it seems that it could be a great blessing to those working there. I am familiar with this area and there are many Hispanics working in jobs in this area. It just seems like it could be a good use.

Vice Chair Fitzgerald asked if anyone else would like to speak in favor or against this request. Hearing none, she closed the public hearing and asked Planning Commission for a motion on the request for the purpose of discussion.

Mrs. Whitten said I have one general question, because I know when a business wants to locate in our City, the Economic Development office is there to assist and to guide and make suggestions about appropriate locations. I am just wondering, do we have anybody specifically that would be the point person for a group such as this who would help find an affordable piece of property? Obviously, they picked this area because it is affordable, but also because it happens to be nearby transportation and their congregation. How could we do better customer service is what I am asking.

Mr. Fletcher said anytime somebody is looking for any kind of property in the City for any use, anyone is more than welcome to come and speak with planning staff. We have done it many times. Often times we are not looked at as a resource, but if you are knowledgeable in what we do, people come to us and there

is back and forth between our office and the Economic Development office. I am unaware of Economic Development specifically assisting any kind of religious establishment, because I am not really sure they are looking at that as an economic development generator; they are really focused on job creation. We many times will meet with folks who will say “we are just trying to find a piece of property in the City that can make it work for us.” No one came and asked us and we would be happy to help. It is not our primary responsibility or goal, but we absolutely help try to find locations. We know things about properties and areas that people might not even have for sale, but are always willing to sell if the right client comes along.

Mrs. Whitten said I would love it if what I heard was more “we are out there advocating for people who are maybe looking” instead of not everybody knows about this resource. Maybe we can do something to make that more known.

Mr. Fletcher said we do not serve folks the same way that maybe a realtor does, but we just have a different perspective on them. We have a different look at it and we know the things that we are talking about when we are looking for land uses for particular kinds of uses and if we think the long-term plan of the City blend well with particular uses.

Vice Chair Fitzgerald said what kind of barriers might be for development.

Mrs. Whitten said that is the thing that I am saying. Before we get to this place where we are having to be the planners and the zoners who say “well this really does not fit;” it honestly does not fit with what we would like to see happen in this area.

Mr. Colman said along those same lines, I have a question for the church, has the church discussed other properties with City Staff; has City Staff directed them in any way?

Mr. Rhea said you all have a wonderful staff. They were proactive in having us look at other properties. It is a challenge in the City. If you look at your existing land use guide and the number of parcels with five acres that are available in the City, they are very few and far between. The ones that are available are either exorbitantly expensive or have very significant transportation hurdles to them. This is near a transportation hub, it has acreage, and affordability. I do not believe another track of this nature exists in the City with all of those attributes, and yes that discussion was had during the search phase for this particular use.

Vice Chair Fitzgerald said it is a combination of location to the clientele; the people who would be most likely to be coming.

Mr. Rhea said for instance there is a parcel that staff shared with us that could be potentially available behind the high school by the radio towers. But that is not an accessible parcel to public transportation, it is not an accessible parcel to the community served by this church, and that is one example. Are there five acre parcels near transportation hubs that are more accessible, yes, but they are priced in the millions of dollars; given the fact that most of the land in the City is built out. There is just not a lot of readily available land. There is another parcel on Stone Spring Road off the new bypass, but there is a lot of fill and geotechnical issues that make that site an expensive proposition for a non-profit entity, whereas this site is flat it has public utilities to it, it has a street that is well below capacity. It is not as easy as it might seem to find something that is a reality for an expanding church.

Mr. Finnegan said when you are talking about the transportation hub, I assume you are talking about the bus routes; is that what you are referring too?

Mr. Rhea said yes. Number one is the bus route and number two, if you look at the population served by this church, a lot of them live from the Cloverleaf area out towards Vine Street and that is a direct walkable, drivable, busable, straight shot to this site right across the intersection of Route 11. So it is directly accessible to the folks that this church currently serves.

Mr. Finnegan said one concern I have is when we were doing the site visit yesterday, there is no bike lane, there is no sidewalk. Obviously, the sidewalk would go in with this, but trying to get from Vine Street, if you had to walk, would not be advisable. There is just no sidewalk, no bike lane, no shoulder.

Mrs. Whitten said I have ridden my bike there, it is dicey.

Mr. Finks said I would not consider that a very walkable road or bikable either. It would be tough if you did not have a car.

Mr. Finnegan asked when it comes to the tax base, is Economic Development usually consulted when there is stuff like this that comes up.

Mr. Fletcher said when we do evaluations like this for Planning Commission and City Council items, traditionally Economic Development is not consulted. Economic Development and Planning do not usually try to connect, because we are looking at the land use and they are looking at economic drivers. The one exception is often times when we have areas in the industrial categories, whether it is the south side of the City or the north side of City, we will have discussions with Economic Development. We spoke with Brian Shull, Director of Economic Development, and said here is the situation, we know M-1 is very important to Economic Development, here is what we are thinking. Are we way off base? Mr. Shull did not think staff's recommendation for denial was off base. We do not ask for their recommendation, we do not say give us a statement, because there is some clashing of interests. Sometimes they do not agree with us. We will even have conversations on why we recommend against or in favor of this, because they have their own objectives as well.

One of the first things I remember saying to Mr. Sietz, their architect, "this one can be tricky," and I remember immediately talking about the M-1 area, the jobs and all sorts of things. We knew it was not going to be an easy one to evaluate because all of the services that MDV offers and there are people that need those services. We have to look at it with the lense of "we like the use, just not at this location" and sometimes we are the bad guy. I hope that answered your question. Economic Development's office did not say you are way off base, they were okay with the recommendation.

Mr. Colman said I think the arguments are certainly good arguments. We do want to provide services to the people that need it and we want to be in the right place, the right location for it. That is where things get a little bit sticky because part of our job, and as we are working towards the Comprehensive Plan review, we are looking far into the future as far we can in terms of what the City is going to look like and what areas do we want to plan for what in terms of land use. It is true this area has remained unused.

Every time that we say "well, we do not have anything here, we will allow something different," it takes away from it. I understand the argument that it is adjacent to a different use that is not industrial use, perhaps commercial or institutional. As much as that is true I follow the applicant's argument that this is sandwiched between the two and why can we not add to it? What is next, since we have this here, we can certainly keep moving. Personally, I think I made the argument last time when I supported the previous special use permit, that the front of those lots could be good to have a different use because that is commercial or something more service oriented.

Vice Chair Fitzgerald said something that can support the industrial use, like the bank can support the people who work in those places.

Mr. Colman said correct. I am still on the same way of thinking for that area; but, the reality is that area, when it comes down to it, the left industrial area, is very limited. I am just elaborating on that, I am not moving in any direction yet. I just appreciate the services you provide very much. I think the City should be very appreciative of that.

Mr. Finks said this is a really tough one. There is a lot on both sides, I think the organization is providing services that the City desperately needs. I agree with them, I think the location works for them, at least

for public transportation, and of course we all understand the issues with pricing on property. The issue we must look at is as we keep building the City, we start losing these vacant lots, it will get to a point where, if we keep letting precedence decide what we are going to allow, we will not have any M-1 left. Because this will just set a precedence for something else, and then there is no M-1 in that area; no one was interested because the property kept shrinking and shrinking. It is really a tough one.

Vice Chair Fitzgerald said for me as well, because as a School Board member I understand that it is often hard to put a dollar value on the services you provide to folks who are coming into the City. I also know that the argument that this would be part of a corridor of uses that are sort of similar, makes sense except for the fact that there are holes in the corridor, I mean the bank is not there, the Cultural Center is not there, and those other couple of uses are. So, the question to me is, if we said yes to this, does that increase the chance that the bank would come in and does it increase the chance that the Cultural Center would get started and develop that whole area in this different way than the Comprehensive Plan envisions? I am having a very hard time with this as well because I value what you do, I am just not sure as to whether putting it there is best overall for the City.

Mrs. Whitten said it is not always black and white; this one is very gray.

Mr. Finnegan said for me I would be inclined to say yes to this if there was already sidewalk, crosswalks and everything connecting all the way to the site.

Mrs. Whitten said it seemed like it was good a safe option.

Mr. Finnegan said right, because Vine Street is densely populated, but I think it is so dangerous to try and make it on foot; you have that trucking depot right on the corner, on that side of the street, and lots of trucks. When we did our site visit there were trucks pulling in and out of there. Does anyone know the bus schedule on Sunday morning? The website states Shuttle 1 and 2 begin at 6 pm, I do not know if the bus schedule ties into that, I am just concerned how people will get to and from this site.

Vice Chair Fitzgerald said people are getting to Franklin Street, people get to where they need to go. If we can get a motion on the table and then a second, we can then go to discussion and talk about it a little bit more.

Mr. Colman moved to approve the special use permit along Mount Clinton Pike between Technology Drive and Acorn Drive (To Allow a Religious Use in M-1) as presented by staff with the conditions stated.

Mr. Finnegan seconded the motion.

Vice Chair Fitzgerald asked if there was any other discussion. The motion on the table is to approve.

Mr. Finnegan said the condition does not include educational, charitable or benevolent institutional uses. Some of what they talked about could fall under educational, charitable or benevolent uses.

Mr. Fletcher said are you saying some of what the church does.

Mr. Finnegan said yes.

Mr. Fletcher said no, we would not categorize them in that way. Their primary use is a religious establishment. All the things they do are accessory to their primary use. The educational uses are schools or private schools. The charitable and benevolent use are things like the VFW, the Elks Lodge, and non-profit organizations.

Mr. Colman said then the question is why are those uses not allowed, even if the church uses would be somewhat similar to that. I know it is not the primary use, but what is the reason?

Mr. Fletcher said I do not see them as similar for the way we look at it. The VFW has bingo, they have a private bar, all these things that are nothing like the things the church is doing. You just have to look at

how we interpret those uses, they are very different in our eyes. Everything they discussed, is all accessory to the religious use. There would be nothing that would be limited in what they have said if Council approved it. The religious establishment would be able to do all those accessory things that they do. It is very similar to a church that has a daycare associated with it, there is a distinction drawn between a church that has a daycare as part of the church and a church that leases out a space for a daycare, two different things.

Mr. Colman asked do we know if the City has any plans to expand bike lanes, sidewalks, or shared use paths, by the City, directly in that area.

Ms. Dang said to the plan question, yes, the bicycle and pedestrian plan shows a shared use path along one side of Mt. Clinton Pike. Whether that would be constructed by the City or not, I do not know if that is a position the City has taken at this time. Just like the grocery store that was being proposed near at the corner of North Main Street and Mt. Clinton Pike, the proposal at that time was that the private developer would be constructing that section of shared use path. Similar to how we have seen segments of sidewalks being constructed in the City.

Mr. Fletcher said the shared use path is on the south side of Mt. Clinton Pike and then that ties into the Northend Greenway, which is all on the south side of Mt. Clinton Pike.

Mr. Colman said which means it would require crossing the street somewhere there.

Mr. Fletcher said yes.

Vice Chair Fitzgerald asked how do we feel about the idea of the corridor argument here, with the bank that may or may not come in under the deadline, and this being right next to it. How do we feel about that corridor being a transition of sorts between the industrial and commercial?

Mr. Colman said I think we need to carry that conversation into the Comprehensive Plan. In some ways, it is forcing that conversation. Like I said before, I am inclined to support that aspect of it. Then the question is, is this a service that will support and serve that area, that population?

Mr. Finnegan said I think it changes the nature of that area if there are more industrial uses that go there. If I am looking on the bright side of things, if you put a community center of sorts in the middle of that, I think there are potential positive and negative connotations with that; but I think it changes the nature of that area.

Mrs. Whitten said I remember after 9/11 the place that became the gathering spot, the spot where firefighters got meals and took naps was that little church that was right there in the middle of that and it stood and it was a real beacon.

Vice Chair Fitzgerald asked do you feel that, in the transitioning kind of discussion here, that the size of that property chips enough away from the M-1; does the M-1 become less valuable? I know that there is this idea of the precedence and if you keep chipping away and soon there is so little left. But the question then is does this chip enough away that it is worth saying no?

Mr. Finks said I do not think this one individually chips away enough that in two years we will have someone look at the adjoining parcel and say "well in 2017 you approved this as well."

Vice Chair Fitzgerald said the bank has used that precedence. Good argument.

Mr. Finks said it is not a bad argument it is just a question of what are we doing here. Are we going to go on precedence?

Vice Chair Fitzgerald said for me it comes down to: is this a corridor that is a transition area of sorts? And would it possibly support the use that will go into that large M-1 area that we are hoping to attract to the land in that part of the City?

Mr. Finnegan said I do not know enough about the businesses that are already there other than I do know that Jenzabar moved out of that area. I do not know if someone else took their place, I have no idea. We have no crystal ball.

Vice Chair Fitzgerald asked what should we advise to City Council. Are we ready to vote or do we want to talk about it some more?

Mr. Finks said I feel that we have talked about it and I do not know what else there is to bring up.

Vice Chair Fitzgerald asked are we ready to vote. The motion is in favor of the proposed special use permit with conditions.

Mr. Fletcher clarified the conditions were as suggested by staff.

Vice Chair Fitzgerald said and it has been seconded, are we ready to vote. She called for a roll call vote on the motion.

Commissioner Colman – Yes, on the basis of looking at this as an outside corridor as we look into the planning of this area and the services adjacent to it.

Commissioner Whitten – Yes, the same basis. Also considering the community oriented aspect of this facility.

Vice Chair Fitzgerald – Yes. It is a close call for me, but I think that the benefits out weigh the costs for the reasons that have already been stated.

Commissioner Finks – Yes, it is also very close, but I think that this idea will not prevent this from continuing as an M-1 corridor.

Commissioner Finnegan – Yes, because of the reasons stated about the community center aspect and that it perhaps will give a different flavor to that neighborhood; add something to that area beyond just industrial use.

Vice Chair Fitzgerald said the final vote was five to zero (5-0) to approve the special use permit along Mt. Clinton Pike between Technology Drive and Acorn Drive (To Allow a Religious Use in M-1) as presented by staff with the conditions stated.

Vice Chair Fitzgerald said this will go forward to City Council on September 12, 2017.

Mr. Baugh returned to the chambers at 8:18 pm.

Respectfully Submitted,

Alison Banks

Alison Banks

Senior Planner