



City of Harrisonburg, Virginia

Department of Planning & Community Development

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Building Inspections
Engineering
Planning & Zoning

To: Kurt Hodgen, City Manager
Ande Banks, Deputy City Manager
From: Adam Fletcher, Director – Department of Planning and Community Development
and Harrisonburg Planning Commission
Date: September 12, 2017 / October 24, 2017
Re: Special Use Permit – Along Mount Clinton Pike Between Technology Drive and Acorn Drive
(To Allow a Religious Use in M-1)

Summary:

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.

Background:

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

Key Issues:

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 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 currently 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.

Environmental Impact:

N/A

Fiscal Impact:

N/A

Prior Actions:

N/A

Alternatives:

- (a) Approve the special use permit as requested to include religious, educational, charitable, and benevolent institutional uses which do not provide housing facilities and grant the property owner the ability to have three years from the date of approval to begin construction;
- (b) Approve the special use permit for religious uses which do not provide housing facilities and grant the property owner the ability to have three years from the date of approval to begin construction;
- (c) Approve the special use permit with conditions; or
- (d) Deny the special use permit request as recommended by staff.

Community Engagement:

As required, the request was published in the local newspaper twice advertising for Planning Commission’s public hearing and twice advertising for City Council’s public hearing for the special use permit. The advertisement was published as shown below:

Special Use Permit – Along Mount Clinton Pike Between Technology Drive and Acorn Drive (To Allow a Religious Use in M-1)

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 frontages 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.

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 (d) to deny the special use permit request.

Attachments:

- 1. Zoning and Land Use Guide Maps – Sites of previously approved rezonings, special use permits, and development plans (2 pages)
- 2. Site maps (2 pages)
- 3. Application, applicant letter, and supporting documents (11 pages)

Review:

Planning Commission recommended 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. (Vote of 5-0, Chair Way was absent and Commissioner Baugh recused himself from this agenda item.)