

RZ08-01
Request of Dennis Fleming
To Rezone .6 Acres
From R2 (Medium-Density Residential)
To B1-C (Business with Conditions)

Location

The site is located at the corner of South Antioch Road and Fairview Road. The “Fairview Store” is located on the site and is situated on two parcels totaling approximately .6 acres.

Proffers and Background

Through voluntary proffers, the applicant has eliminated a number of B1 uses. The applicant is seeking to rezone the subject site from R2 to B1 in order to potentially expand the existing store.

A complete copy of the proffers is attached.

Presently the site is zoned R2 and a commercial use is located on the site, and this use is considered to be a “legal nonconforming use”. Because this operation is a legal nonconforming use expanding the operation is not allowed.

The Fairview Store has operated in the general area of its present location since 1907. The store has been in its current location – at the corner of South Antioch Road and Fairview Road – since 1991. Additionally, in 1985 the store was annexed into the Town of Luray.

Zoning and Existing Land Use

The subject parcels are zoned R2 (Medium-Density Residential), and the Fairview Store is located on these parcels. The store’s building is approximately 1,700 square feet in size and it has been continuously utilized as a convenience store since 1991.

The applicant has indicated that during the annexation of 1985 the store’s former location was annexed into the Town as a R2 property and when the store relocated in 1991 it again relocated to a nearby R2 zoned parcel. In hindsight, the applicant has indicated that during these two previous events – annexation and relocation – it likely would have been appropriate to request a business zoning for the store.

Floodplain

No portion of the site is located in a 100-year floodplain.

Comprehensive Plan

The Comprehensive Plan states “consider rezoning land so that the zoning will reflect the actual use.”

RZ08-1
Dennis Fleming
R2 to B1-C

Because the Fairview Store has been operating as a commercial use on the subject parcels for approximately 17 years it is apparent that this is an instance where actual use and zoning do not coordinated.

Considerations

If the subject parcels are rezoned the applicant would be required to submit a commercial site plan to the Town for approval prior to expanding the operation. This site plan would be required to be in compliance will all relevant code requirements (parking, access, etc.) before expansion could occur.

Staff Recommendation: Approval

January 8, 2008

The site has operated as a commercial use at its current location for almost 17 years, albeit as a legal nonconforming use. The applicant has submitted proffers which eliminate several by-right uses in the business zoning district. If rezoned to business, expansion of the subject site would be required to conform to all relevant commercial site plan requirements. Additionally, rezoning the subject site from R2 to B1 would fulfill the Comprehensive Plan's objective to maintain that zoning reflects actual use. Approving this requested is not expected to adversely impact the surrounding area.

RZ08-1
Dennis Fleming
R2 to B1-C