

EXHIBIT NO. 1

4
10-13-01

Docket Item # 7
SPECIAL USE PERMIT #2001-0091

Planning Commission Meeting
October 2, 2001

ISSUE: Consideration of a request for a special use permit for off-street parking located within 300 feet of a church use.

APPLICANT: Scripture Church
by Harry P. Hart, attorney

LOCATION: 706-708 Montgomery Street

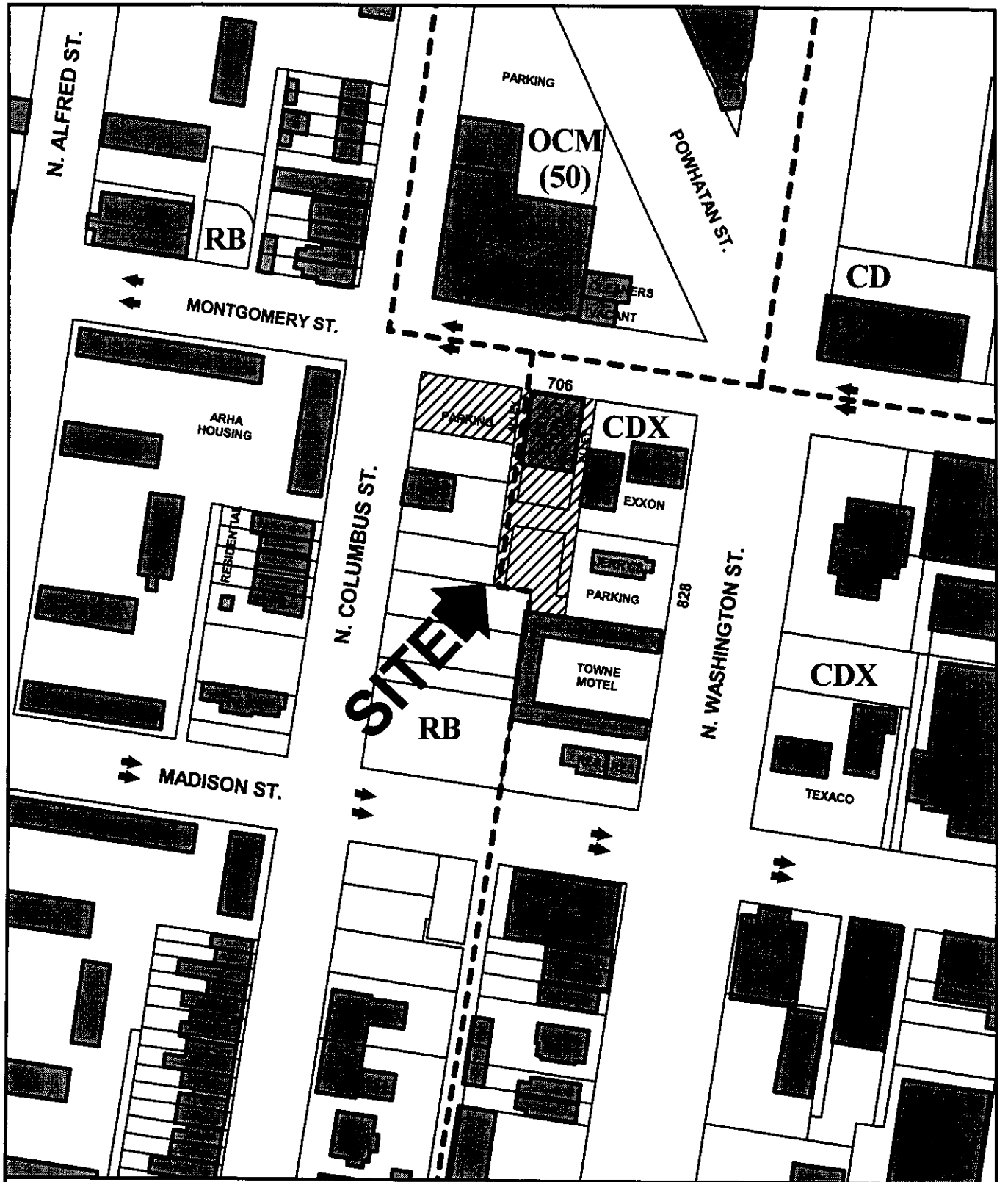
ZONE: CD-X/Commercial Downtown, Old Town North

PLANNING COMMISSION ACTION, OCTOBER 2, 2001: On a motion by Mr. Komoroske, seconded by Mr. Leibach, the Planning Commission voted to recommend approval of the request, subject to compliance with all applicable codes, ordinances and staff recommendations and to amend Conditions # 5 and #6, and to delete Condition #9. The motion carried on a vote of 6 to 0. Mr. Gaines was absent.

Reason: The Planning Commission agreed with the staff analysis regarding the use and the parking issue. The Planning Commission amended Conditions #5 and #6 at the request of the applicant and with the agreement of staff, to say that \$3,500 would be a reasonable maximum for the work required in Conditions #5 and #6 and that the timing of the work would be to the satisfaction of Transportation and Environmental Services. The Planning Commission deleted Condition #9 requiring fencing for the parking area with staff's agreement.

Speakers:

Mary Catherine Gibbs, attorney for the applicant, asked for the amendments described above.



SUP #2001-0091

10/02/01



STAFF RECOMMENDATION:

Staff recommends **approval** subject to compliance with all applicable codes and ordinances and the following conditions:

1. The special use permit shall be granted to the applicant only or to any business or entity in which the applicant has a controlling interest. (P&Z)
2. The maximum number of church attendees on-site shall not exceed 94. (P&Z)
3. The use of loudspeakers outside the building shall be prohibited. (T&ES)
4. The applicant shall provide lighting for the parking lot to meet minimum city standards. Lighting shall be shielded to prevent glare and excess spillover lighting in accordance with City Code. (T&ES)
5. **CONDITION AMENDED BY PLANNING COMMISSION:** The applicant shall re-grade, place additional gravel on the lot as needed, and install anchored wheel-stops in accordance with a parking plan design satisfactory to the director of the Department of Transportation and Environmental Services. An Erosion and Sediment Control plan must be approved by T&ES prior to any land disturbing activity greater than 2500 square feet. The maximum expense incurred by the applicant for all work required by Conditions #5 and #6 shall be \$3,500. (T&ES) (PC)
6. **CONDITION AMENDED BY PLANNING COMMISSION:** The applicant shall replace the easternmost driveway apron and repair the 10-foot alleys to the satisfaction of the Director of T&ES. The maximum expense incurred by the applicant for all work required by Conditions #5 and #6 shall be \$3,500. (T&ES) (PC)
7. The applicant shall improve the landscaping of the front yard located along Montgomery Street and maintain it in good condition to the satisfaction of the Director of Planning and Zoning. The applicant shall submit a scaled landscape plan for the front yard for approval by Director of Planning and Zoning, and install the landscaping within a year of approval of this special use permit. (P&Z)
8. The applicant shall remove the abandoned roof-mounted sign within one year of the approval of this special use permit request. (P&Z)

9. **CONDITION DELETED BY PLANNING COMMISSION:** ~~The applicant shall enclose and screen the entire parking area with a six-foot high wooden fence to the satisfaction of the Director of Planning and Zoning. (P&Z) (PC)~~
10. The applicant shall contact the Crime Prevention Unit of the Alexandria Police Department regarding a security survey and alarms for the church. (Police)
11. The Director of Planning and Zoning shall review the special use permit one year after approval and shall docket the matter for consideration by the Planning Commission and City Council if (a) there have been documented violations of the permit conditions, (b) the director has received a request from any person to docket the permit for review as a result of a complaint that rises to the level of a violation, or (c) the director has determined that there are problems with the operation of the use and that new or revised conditions are needed. (P&Z)

Staff Note: In accordance with section 11-506(c) of the zoning ordinance, construction or operation shall be commenced and diligently and substantially pursued within 18 months of the date of granting of a special use permit by City Council or the special use permit shall become void.

DISCUSSION:

1. The applicant, Scripture Church, by attorney Harry P. Hart, requests special use permit approval to provide parking on a lot adjacent to the church. The church is located at 706-708 Montgomery Street.
2. The subject property is one lot of record with 46.1 feet of frontage on Montgomery Street, 100 feet of depth and a total lot area of 4,610 square feet. The site is developed with a single story masonry commercial building.

The church is bordered to the north and east by commercial uses, including a printing company, an Exxon gas station, a restaurant, and a hotel. A surface parking lot and single-family home stand immediately to the west of the subject site. Vacant lots occupy land to the southwest along North Columbus Street. Residential buildings spread north and west beyond the subject block, and commercial uses extend east of the subject block. The subject site is one block west of the intersection of Montgomery Street and North Washington Street.

3. On October 17, 1998, City Council granted Special Use Permit #98-0089 for the operation of a carry-out restaurant at 706-B Montgomery Street.
4. The building, 706-708 Montgomery Street, is now occupied by Scripture Church, which leases the property. A church is a permitted use in the CD-X zone. The church wants to increase the number of its members from 25 to 94. The zoning ordinance requires the church to provide additional parking for the proposed increase in church goers. Since the church cannot provide all the parking required by the zoning ordinance on its site, it has applied for special use permit approval to provide the majority of the required parking on a lot immediately behind, but not contiguous with, the church's lot. A public alley runs behind and parallel to the church and separates it from the vacant lot where the church wants to locate additional parking.
5. Pursuant to Section 8-200(A)(10) of the Zoning Ordinance, the church requires one parking space for each five seats in the principal sanctuary. Pursuant to Section 8-200(C) (4), off-street parking may be permitted offsite if it is within 300 feet of the main building with a special use permit.

The applicant is required to provide 19 parking spaces for the proposed expansion of the church use; increasing from 25 to 94 church members. The church can provide only six parking spaces on the subject lot. The applicant proposes to provide the additional required 13 parking spaces on the adjacent vacant lot (see attached plans). The applicant also has

permission to the use the paved parking lot next door, 831-837 North Columbus Street, for 12 more parking spaces (see attached agreement). The two sites proposed for additional parking space are well within 300 feet of the subject property.

6. The church's hours of operation are Sundays from 9:00 a.m to 3:00 p.m., Wednesday from 8:00 p.m. to 10:00 p.m., and Friday from 8:00 p.m. to 10:00 p.m.
7. The church has one employee whose shift varies during the week. These shifts coincide with the hours that the church operates.
8. If this special use permit request is approved, the applicant will be able to provide a total of 94 seats for Sunday services. Because it only has six on-site parking spaces, the church is currently limited to 25 seats for church attendees.
9. Zoning: The subject property is located in the CD-X/Commercial Downtown zone (Old Town North). Section 4-602 of the zoning ordinance allows a church in the CD-X zone as a permitted use. Section 8-200 allows the provision of off-street parking within 300 feet of a church use.
10. Master Plan: The proposed use is consistent with the Old Town North small area plan chapter of the Master Plan which designates the property for CD-X/Commercial downtown use.

STAFF ANALYSIS:

Staff supports the church use as it is compatible with surrounding commercial and residential uses. Staff also has no objection to the applicant's request to comply with the zoning ordinance's off-street parking requirement by providing 13 spaces within 300 feet of the church use located at 706-708 Montgomery Street. The parking requirement is met by the proposed six on-site parking spaces and the proposed additional 13 spaces located on a vacant lot behind the church to the south (see attached plan). The 12 parking spaces leased from 831 to 837 North Columbus Street are an added benefit and is an arrangement supported by staff. These 12 spaces, however, are not necessary for the applicant to comply with the parking requirements.

Staff visited the site and recommends that the site be improved by the removal of the roof sign, by landscaping the front yard, by defining and screening the parking areas with wooden fencing and by lighting the parking lots. Conditions regarding these improvements and others are included as staff recommendations.

Planning Staff agrees with the Department of Transportation and Environmental Services and the Police Department's recommendations to provide lighting in the church's proposed parking areas. The Department of Transportation and Environmental Services, however, has advised staff that the Police Department's recommendation—that lighting be a minimum of 2.0 candles—is excessive and might be a nuisance for nearby homes. Therefore, staff supports the Department of Transportation and Environmental Services's recommendation that the applicant provide lighting that meets minimum city standards, which is a much lower power of lighting than the 2.0 candles recommended by the Police Department, and has included a condition to this effect.

Staff recommends approval of the special use permit application for 706-708 Montgomery Street subject to the recommended conditions described above.

STAFF: Eileen P. Fogarty, Director, Department of Planning and Zoning
Barbara Ross, Deputy Director
Mary Hashemi, Urban Planner

CITY DEPARTMENT COMMENTS

Legend: C - code requirement R - recommendation S - suggestion F - finding

Transportation & Environmental Services:

- C-1 The applicant shall comply with the City of Alexandria's Noise Control Code, Chapter 11, Section 5, which sets the maximum permissible noise level as measured at the property line.
- F-1 T&ES is concerned that the applicant is able meet actual parking requirements only by the use of off-site facilities that may not be available long term.
- F-2 If regrading of the rear parking area results in land disturbing activity in excess of 2500 square feet, the applicant is required to comply with the provisions of Article XIII of the City's zoning ordinance for storm water quality control. The applicant may request, in writing to the director of T&ES, a waiver from the requirements of the ordinance.
- R-1 The use of loudspeakers outside the building shall be prohibited.
- R-2 The applicant shall provide lighting for the parking lot to meet minimum city standards. Lighting shall be shielded to prevent glare and excess spillover lighting in accordance with City Code.
- R-3 Applicant shall re-grade, place additional gravel on the lot as needed, and install anchored wheel-stops in accordance with a parking plan design satisfactory to the director of T&ES. An Erosion and Sediment Control plan must be approved by T&ES prior to any land disturbing activity greater than 2500 square feet.
- R-4 Applicant shall replace the easternmost driveway apron and repair the 10-foot alleys to the satisfaction of the director of T&ES.

Code Enforcement:

- F-1 No comments.

Health Department:

F-1 No comments.

Police Department:

- R-1 The applicant is to consult with the Crime Prevention Unit of the Alexandria Police Department regarding a security survey and alarms for the church.
- R-2 Lighting for the parking lots is to be a minimum of 2.0 foot candles minimum maintained. The lights are to be used during evening events. The lights do not need to come on every night.

APPLICATION for SPECIAL USE PERMIT # 2001-0091

PROPERTY LOCATION: 706/708 Montgomery St.

TAX MAP REFERENCE: 54.02-08-05 ZONE: CD-X

APPLICANT Name: Scripture Church

Address: P.O. Box 102, Alexandria, Virginia 22313

PROPERTY OWNER Name: Rafat Mahmood

Address: 702 N. Washington St., Alexandria, VA 22314

PROPOSED USE: Special Use Permit for Off-Street Parking within 300 feet of Church.

Parking reduction

THE UNDERSIGNED hereby applies for a Special Use Permit in accordance with the provisions of Article XI, Section 11-500 of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.

THE UNDERSIGNED, having obtained permission from the property owner, hereby grants permission to the City of Alexandria to post placard notices on the property for which this application is requested, pursuant to Article XI, Section 11-301(B) of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.

THE UNDERSIGNED hereby attests that all of the information herein provided and specifically including all surveys, drawings, etc., required to be furnished by the applicant are true, correct and accurate to the best of their knowledge and belief. The applicant is hereby notified that any written materials, drawings or illustrations submitted in support of this application and any specific oral representations made to the Planning Commission or City Council in the course of public hearings on this application will be binding on the applicant unless those materials or representations are clearly stated to be non-binding or illustrative of general plans and intentions, subject to substantial revision, pursuant to Article XI, Section 11-207(A)(10), of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.

Harry P. Hart
Print Name of Applicant or Agent

Harry P. Hart by mcb
Signature

HART, CALLEY, GIBBS & KARP, P.C.
Mailing Address

(703) 836-5757 (703) 548-5443
Telephone # Fax#

307 N. Washington St., Alex. VA 22314
City and State Zip Code

July 24, 2001
Date

=====**DO NOT WRITE BELOW THIS LINE - OFFICE USE ONLY**=====

Application Received: _____ Date & Fee Paid: _____ \$ _____

ACTION - PLANNING COMMISSION: _____

ACTION - CITY COUNCIL: _____

All Applicants must complete this form. Supplemental forms are required for child care facilities, restaurants, automobile oriented uses and freestanding signs requiring special use permit approval.

1. The Applicant is (*check one*) the Owner Contract Purchaser

Lessee or Other: _____ of the subject property.

State the name, address and percent of ownership of any person or entity owning an interest in the applicant, unless the entity is a corporation or partnership in which case identify each owner of more than ten percent.

N/A

If property owner or applicant is being represented by an authorized agent such as an attorney, realtor, or other person for which there is some form of compensation, does this agent or the business in which the agent is employed have a business license to operate in the City of Alexandria, Virginia?

Yes. Provide proof of current City business license.

No. The agent shall obtain a business license prior to filing application, if required by the City Code.

2. Submit a floor plan and a plot plan with parking layout of the proposed use. One copy of the plan is required for plans that are 8 1/2" x 14" or smaller. Twenty-four copies are required for larger plans or if the plans cannot be easily reproduced. The planning director may waive requirements for plan submission upon receipt of a written request which adequately justifies a waiver. This requirement does not apply if a Site Plan package is required.

NARRATIVE DESCRIPTION

4. The applicant shall describe below the nature of the request in detail so that the Planning Commission and City Council can understand the nature of the operation and the use, including such items as the nature of the activity, the number and type of patrons, the number of employees, the hours, how parking is to be provided for employees and patrons, and whether the use will generate any noise. (Attach additional sheets if necessary.)

Scripture Church wishes to use the space it leases at 706/708 Montgomery Street for its church with 25 its required parking spaces located within 300 feet of the site. Scripture Church currently can park only six cars on the property it leases at 706/708 Montgomery Street. Lot 501, behind the 706/708 Montgomery Street lot, across an alley to the south, can also accommodate 13 other parking spaces. (See the attached plat of the land.)

The pastor of Scripture Church, Reverend John P. Moore, entered into an agreement with Gates, Hudson & Associates, Inc. to use 12 parking spaces located in a parking lot across a 10 foot alley from its leased property to the west, at 831 and 837 N. Columbus Street. The parking spaces can be used from 9:00 a.m. to 3:00 p.m. on Sundays and from 8:00 p.m. to 10:00 p.m. on Wednesdays and Fridays. (A copy of the agreement is attached.) The applicant seeks the City's permission, pursuant to § 8-200(C)(4), for an S.U.P. to use the 12 spaces on the Gates, Hudson property and the 13 spaces on Lot 501 as part of its required parking.

USE CHARACTERISTICS

4. The proposed special use permit request is for: (check one)

- a new use requiring a special use permit,
- a development special use permit,
- an expansion or change to an existing use without a special use permit,
- an expansion or change to an existing use with a special use permit,
- other. Please describe: S.U.P. to use parking spaces within 300 feet.

5. Please describe the capacity of the proposed use:

A. How many patrons, clients, pupils and other such users do you expect? Specify time period (i.e., day, hour, or shift).

94 seats for Sunday services.

B. How many employees, staff and other personnel do you expect? Specify time period (i.e. day, hour, or shift).

One employee - shifts vary during the week, Evening Services on Wednesday and Friday evenings from 8:00 pm to 10:00 pm and Sunday services from 9:00 a.m to 3:00 pm.

6. Please describe the proposed hours and days of operation of the proposed use:

Day:	Hours:
<u>Wednesday</u>	<u>8:00 to 10:00 p.m.</u>
<u>Friday</u>	<u>8:00 to 10:00 p.m.</u>
<u>Sundays</u>	<u>9:00 a.m to 3:00 p.m.</u>
_____	_____
_____	_____

7. Please describe any potential noise emanating from the proposed use:

A. Describe the noise levels anticipated from all mechanical equipment and patrons.

Normal noise associated with worship services and limited office use evenings.

B. How will noise from patrons be controlled?

N/A.

8. Describe any potential odors emanating from the proposed use and plans to control them:

N/A

9. Please provide information regarding trash and litter generated by the use:

A. What type of trash and garbage will be generated by the use?

Normal type generated by worship use and limited office.

B. How much trash and garbage will be generated by the use.?

Normal amount.

C. How often will trash be collected?

On an as needed basis, private pick-up is ordered by the Church.

D. How will you prevent littering on the property, streets and nearby properties?

Regular review of the site by the members of the congregation.

10. Will any hazardous materials, as defined by the state or federal government, be handled, stored, or generated on the property?

Yes. No.

If yes, provide the name, monthly quantity, and specific disposal method below:

11. Will any organic compounds, for example, paint, ink, lacquer thinner, or cleaning or degreasing solvent, be handled, stored, or generated on the property?

Yes. No.

If yes, provide the name, monthly quantity, and specific disposal method below:

12. What methods are proposed to ensure the safety of residents, employees and patrons?

Normal precautions will be taken by members of the congregation to ensure their safety and the safety of their sanctuary.

ALCOHOL SALES

13. Will the proposed use include the sale of beer, wine, or mixed drinks?

Yes. No.

If yes, describe alcohol sales below, including if the ABC license will include on-premises and/or off-premises sales. Existing uses must describe their existing alcohol sales and/or service and identify any proposed changes in that aspect of the operation.

PARKING AND ACCESS REQUIREMENTS

14. Please provide information regarding the availability of off-street parking:

A. How many parking spaces are required for the proposed use pursuant to section 8-200 (A) of the zoning ordinance?

19 (1 per five seats - 94 seats)

B. How many parking spaces of each type are provided for the proposed use:

30 Standard spaces

 Compact spaces

1 Handicapped accessible spaces.

 Other.

C. Where is required parking located? [6] on site [25] off-site (check one)

If the required parking will be located off-site, where will it be located?

Within 300 feet at 831 & 837 N. Columbus Street and on Lot 501.

Pursuant to section 8-200 (C) of the zoning ordinance, commercial and industrial uses may provide off-site parking with 500 feet of the proposed use, provided that the off-site parking is located on land zoned for commercial or industrial uses. All other uses must provide parking on-site, except that off street parking may be provided within 300 feet of the use with a special use permit.

D. If a reduction in the required parking is requested, pursuant to section 8-100(A)(4) or (5) of the zoning ordinance, complete the PARKING REDUCTION SUPPLEMENTAL APPLICATION.

15. Please provide information regarding loading and unloading facilities for the use:

A. How many loading spaces are required for the use, per section 8-200 (B) of the zoning ordinance? 0

B. How many loading spaces are available for the use? N/A

C. Where are off-street loading facilities located? N/A

D. During what hours of the day do you expect loading/unloading operations to occur?

N/A

E. How frequently are loading/unloading operations expected to occur, per day or per week, as appropriate?

N/A

16. Is street access to the subject property adequate or are any street improvements, such as a new turning lane, necessary to minimize impacts on traffic flow?

Street access is adequate.

SITE CHARACTERISTICS

17. Will the proposed uses be located in an existing building? Yes. No.

Do you propose to construct an addition to the building? Yes. No.

How large will the addition be? _____ square feet.

18. What will the total area occupied by the proposed use be?

2,600 sq. ft. (existing) + _____ sq. ft. (addition if any) = 2,600 sq. ft. (total)

21. The proposed use is located in (*check one*):

a stand alone building a house located in a residential zone a warehouse

a shopping center. Please provide name of the center: _____

an office building. Please provide name of the building: _____

other, please describe: _____

GATES, HUDSON & ASSOCIATES, INC.

April 3, 2001



Harry P. Hart, Esq.
Hart, Calley, Gibbs & Karp, P.C.
307 N. Washington Street
Alexandria, Virginia 22314

Re: Parking Lot at 831 & 837 N. Columbus Street
Alexandria, Virginia

Dear Mr. Hart:

Per our telephone conversation of March 23, 2001, I am responding on behalf of Jefferson Building, LLC, Landlord of 831 & 837 N. Columbus Street, Alexandria, Virginia regarding a parking request by Rev. John Moore of Scripture Church.

We will agree to let Scripture Church utilize 12 parking spaces free of charge at 831 & 837 N. Columbus Street on Sundays from 9:00 a.m. to 3:00 p.m. as well as Wednesday and Friday evenings from 8:00 p.m. to 10:00 p.m. According to information supplied by your office, this parking request is to comply with code requirements from the City of Alexandria for use of our paved lot in lieu of the unpaved lot currently at Scripture Church. In the event the church paves the dirt parking lot on site at 708 Montgomery Street, this agreement will be canceled immediately.

Cars parked on the 831 & 837 N. Columbus Street lot at any other time than the hours specified above are subject to tow at the owner's expense.

We reserve the right to cancel this agreement at any time with 5 days written notice for any reason.

Please indicate your acceptance on behalf of Scripture Church by signing and dating a copy of this letter and returning it to me via fax (703) 876-9458.

Sincerely,

Karen A. Jennings
Karen A. Jennings
Property Manager
Commercial Division

Agreed & Accepted: *On behalf of Scripture Church (Rev. Moore)*

Harry P. Hart
Harry P. Hart, Esq. *attorney for*
Scripture Church
Rev. John P. Moore Pastor

Date: 4/24/01

Management • Development • Leasing

#7.

City of Alexandria, Virginia

MEMORANDUM

DATE: SEPTEMBER 28, 2001
TO: CHAIRMAN AND MEMBERS OF THE PLANNING COMMISSION
FROM: EILEEN P. FOGARTY, DIRECTOR, PLANNING AND ZONING *Eileen Fogarty*
SUBJECT: SUP #2001-0091
706-708 MONTGOMERY STREET
SCRIPTURE CHURCH

Condition #9 of the staff report states: "The applicant shall enclose and screen the entire parking area with a six foot high wooden fence to the satisfaction of the Director of Planning and Zoning." Staff, upon request by the applicant's attorney, reconsidered the proposed condition, and now recommends that it be deleted because the proposed fencing for the parking area could create maneuvering difficulties for automobiles and limit access to the alleys.

APPLICATION for SPECIAL USE PERMIT # 2001-0091

PROPERTY LOCATION: 706/708 Montgomery St.

TAX MAP REFERENCE: 54.02-08-05 ZONE: CD-X

APPLICANT Name: Scripture Church

Address: P.O. Box 102, Alexandria, Virginia 22313

PROPERTY OWNER Name: Rafat Mahmood

Address: 702 N. Washington St., Alexandria, VA 22314

PROPOSED USE: Special Use Permit for Off-Street Parking within 300 feet of Church.

[Handwritten signature]

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THE UNDERSIGNED hereby attests that all of the information herein provided and specifically including all surveys, drawings, etc., required to be furnished by the applicant are true, correct and accurate to the best of their knowledge and belief. The applicant is hereby notified that any written materials, drawings or illustrations submitted in support of this application and any specific oral representations made to the Planning Commission or City Council in the course of public hearings on this application will be binding on the applicant unless those materials or representations are clearly stated to be non-binding or illustrative of general plans and intentions, subject to substantial revision, pursuant to Article XI, Section 11-207(A)(10), of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.

Harry P. Hart
Print Name of Applicant or Agent

[Handwritten Signature]
Signature

HART, CALLEY, GIBBS & KARP, P.C.
Mailing Address

(703) 836-5757 (703)548-5443
Telephone # Fax#

307 N. Washington St., Alex. VA 22314
City and State Zip Code

July 24, 2001
Date

=====**DO NOT WRITE BELOW THIS LINE - OFFICE USE ONLY**=====

Application Received: _____ Date & Fee Paid: _____ \$ _____

ACTION - PLANNING COMMISSION: 10/02/2001 RECOMMEND APPROVAL 6-0

ACTION - CITY COUNCIL: 10/13/01PH-- CC approved the Planning Commission recommendation.