

EXHIBIT NO. 1

6
3-15-03

Docket Item #15
SPECIAL USE PERMIT #2002-0128

Planning Commission Meeting
March 4, 2003

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

APPLICANT: Scripture Church
by Harry P. Hart, attorney

LOCATION: 706-708 Montgomery Street

ZONE: CDX/Commercial Downtown

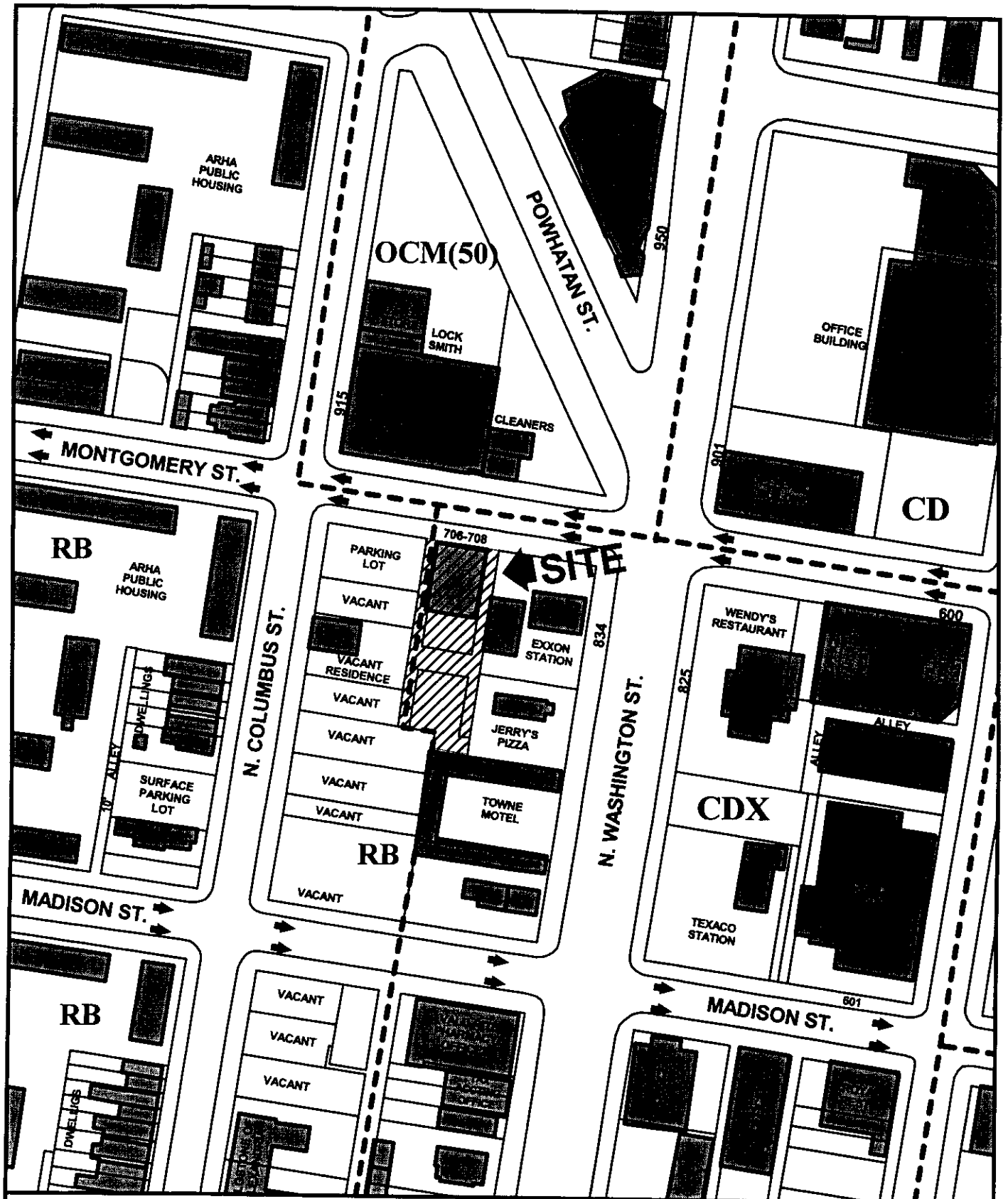
PLANNING COMMISSION ACTION, MARCH 4, 2003: On a motion by Mr. Komoroske, seconded by Mr. Gaines, the Planning Commission voted to recommend approval of the request, subject to compliance with all applicable codes, ordinances and staff recommendation. The motion carried on a vote of 7 to 0.

Reason: The Planning Commission agreed with the staff analysis.

Speakers:

Bud Hart, attorney for the applicant, requested approval of the special use permit.

/



SUP #2002-0128

03/04/03



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) (SUP# 2001-0091)
2. The maximum number of church attendees on-site shall not exceed 94. (P&Z) (SUP# 2001-0091)
3. The use of loudspeakers outside the building shall be prohibited. (T&ES) (SUP# 2001-0091)
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) (SUP# 2001-0091)
5. 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. (PC) (SUP# 2001-0091)
6. 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. (PC) (SUP# 2001-0091)
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) (SUP# 2001-0091)

8. **CONDITION DELETED BY STAFF:** ~~The applicant shall remove the abandoned roof-mounted sign within one year of the approval of this special use permit request. (P&Z) (SUP# 2001-0091)~~
9. Condition deleted. (SUP 01-091)(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) (SUP# 2001-0091)
11. **CONDITION AMENDED BY STAFF:** The Director of Planning and Zoning shall review the special use permit ~~one year~~ six months 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) (SUP# 2001-0091)

DISCUSSION:

1. The applicant, Scripture Church, is before the Planning Commission for a review of the special use permit for off-street parking located within 300 feet of the church 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 are located 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. On October 13, 2001, Special Use Permit #2001-0091 was approved, allowing Scripture Church to provide off-street parking within 300 feet of the church.
4. The church is approved to have a maximum of 94 church attendees on-site at one time, and currently has approximately 50 members. The church's original special use permit application included the following hours of operation: Sundays from 9:00 a.m. to 3:00 p.m., Wednesdays from 8:00 p.m. to 10:00 p.m., and Friday from 8:00 p.m. to 10:00 p.m. A sign posted on the front of the church, seen by staff in February 2003, shows hours generally consistent with the above stated times. The church has Sunday school at 10:00 a.m., Sunday Service at 11:30 a.m., and meetings Wednesday nights at 8:00 p.m. and Friday night at 7:30 p.m. The church provides parking on-site and off-site on the vacant lot located immediately south of the church.
5. On December 9, 2002, the zoning staff made an inspection of the subject property to determine if the applicant was in compliance with the conditions of the special use permit. Staff found violations of Conditions #4 (lighting improvements), #5 (parking lot improvements), #6 (driveway apron improvements), and #7 (landscaping improvements), and issued a ticket for the violations.

6. 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.
7. 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 continued operation of the church. The church's representative, Reverend Moore, responded quickly to the ticket issued by staff for uncompleted site improvements, and contacted staff to discuss ways to comply with the conditions of the church's special use permit. Reverend Moore has requested assistance from the Department of Transportation and Environmental Services to ensure that the lighting is in compliance with Condition #4, and states that he has arranged for contractors to do the work required in Conditions #5 and #6. He has also hired a landscaper for the required landscape work (Condition #7), and has submitted a landscape proposal for staff review.

The church's representative stated that the required work was not done due to financial hardship and a misunderstanding over how much time he had to complete the work. The applicant has recently taken steps towards performing the required work. It is also important to note that the applicant has removed the abandoned roof mounted sign as required in Condition #8. Staff recommends that this condition be deleted since it has been met.

Staff recommends approval of the special use permit subject to the existing conditions and a review of the church in six months to ensure that the required work is completed.

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, Title 11, Chapter 5, which sets the maximum permissible noise level as measured at the property line.
- R-1 The use of loudspeakers outside the building shall be prohibited. (T&ES)
- 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. (T&ES)
- F-1 Although the applicant has been in contact with T&ES staff no discernable improvements related to the following conditions have been completed.

The following conditions were amended by the Planning Commission on SUP #2001-0091:

- 5. 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. (PC)
- 6. 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. (PC)

Code Enforcement:

- C-1 A fire prevention code permit is required for the proposed operation. An egress plan showing fixture location, aisles and exit doors shall be submitted for review with the permit application.

Health Department:

F-1 No comments.

Police Department:

F-1 Concur

MH

APPLICATION for SPECIAL USE PERMIT # 2002-0128

[must use black ink or type]

PROPERTY LOCATION: 706 MONTGOMERY ST

TAX MAP REFERENCE: 54.02-08-05 ZONE: CDX

APPLICANT Name: SCRIPTURE CHURCH

Address: _____

PROPERTY OWNER Name: _____

Address: _____

PROPOSED USE: REVIEW OF OFF-STREET PARKING WITHIN
300 FEET OF A CHURCH

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 notice 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 *esq.*
Print Name of Applicant of Agent

Signature

Mailing/Street Address

Telephone #

Fax #

City and State

Zip Code

Date

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

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

ACTION - PLANNING COMMISSION: _____

ACTION - CITY COUNCIL: _____



ALEXANDRIA DEPARTMENT OF
PLANNING AND ZONING
301 King Street, Room 2100
Alexandria, Virginia 22314

TICKET NO. **2735**

NOTICE OF VIOLATION

**YOU ARE CHARGED WITH VIOLATING THE
ALEXANDRIA, VIRGINIA ZONING ORDINANCE**

12.9.02 Monday 9:45
Date ticket served Day of Week Time (AM/PM)

Location of Violation: 706-708
Montgomery St

Ord. Section: 11-500

Description of Violation: Conditions #4
(lighting), #5 (parking lot),
#6 (driveway apron), #7
(landscaping), #8 (security
stairway alarms) MVH

Penalty \$: warning; No Fee

1st 2nd

3rd/MORE

IF THE VIOLATION IS NOT CORRECTED BY

15 days AN ADDITIONAL MONETARY

PENALTY WILL BE ASSESSED. Dec. 24, 2002

May V. Hashemi
Inspector's Signature ID Number

I personally observed or investigated the commission of the violation noted above and/or violation was based upon signed affidavit.

- VIOLATORS COPY - WHITE
- CITY ATTORNEY COPY - YELLOW
- FINANCE COPY - PINK
- PLANNING AND ZONING COPY - ORANGE

NOTICE SERVED ON:

NAME: LAST FIRST MIDDLE

PROPERTY OWNER
 COMPANY

NAME

POSITION

OTHER

ADDRESS

CITY/TOWN STATE ZIP

SIGNATURE DATE

I hereby acknowledge receipt of this Notice of Violation. Signature is not an admission of guilt.

PERSON REFUSED TO SIGN DATE

CERTIFICATE OF SERVICE

Mailed/posted a true copy of this notice to the last known home or business address of the respondent or the respondent's agent

Scripture Church
Name of Person or Business Served

P.O. Box 102
Address of Service

Alexandria, V.A. 22313
City/State

Posted true copy of this notice at the site of the infraction

The undersigned states that he/she is an employee of the City of Alexandria Department of Planning and Zoning and knows this Certificate of Service to be true to the best of his/her knowledge.

Signature _____

Print Name _____

Date Phone # _____

WARNING

YOU ARE REQUIRED TO RESPOND TO THIS NOTICE OF VIOLATION WITHIN 15 DAYS OF THE DATE OF SERVICE IN ONE OF THE FOLLOWING WAYS

1. TO PAY PENALTY AND WAIVE YOUR RIGHT TO A HEARING:

- Check the "Admit Violation" or "No Contest" box below;
- Make personal check, cashier's check, certified check or money order payable to City of Alexandria. Do not send cash through the mail;
- Print violation notice number on the check or money order;
- Payment may be made by mail, or in person, at the Treasury Office, City Hall, 301 King Street, Room 1510, Alexandria, Virginia, between the hours of 8:00 a.m. - 5:00 p.m., Monday-Friday, phone 703-838-4949.

2. TO REQUEST A COURT HEARING:

- Check the "Contest in Court" box below and;
 - (a) Mail this completed notice to the Office of the City Attorney, City Hall, Suite 1300, 301 King Street, Alexandria, Virginia, 22314; or
 - (b) Appear in person or by an authorized representative, at the above address between the hours of 8:00 a.m. - 5:00 p.m., Monday-Friday, phone 703-838-4433.

- If you wish to contest this violation a date will be set for trial in the General District Court of Alexandria, Virginia. Failure to appear in court on the date set for trial, unless prior approval has been granted by a judge of that court, will result in the entry of a default judgement against you.

3. TO CONTEST THE INTERPRETATION OF THE ORDINANCE:

- You have the right to appeal the interpretation of the zoning ordinance upon which this violation is based to the Board of Zoning Appeals within 30 days in accordance with 15.2-2311 of the Code of Virginia. The interpretation shall be final and unappealable if not appealed within 30 days.

FOR INFORMATION CONCERNING THIS TICKET CALL PLANNING AND ZONING AT 703-838-4688

FAILURE TO RESPOND AS PROVIDED ABOVE WILL RESULT IN THE ISSUANCE OF A SUMMONS TO APPEAR IN COURT AND ANSWER TO THE VIOLATION FOR WHICH THIS NOTICE WAS ISSUED

YOU MUST COMPLETE AND SIGN THIS CERTIFICATION:

ADMIT VIOLATION NO CONTEST CONTEST IN COURT

Name (print) _____

Street Address _____

City _____ State _____ Zip _____

I hereby certify under penalty of law, that I have answered as indicated above, and corrected or made substantial efforts to correct the violation that I have admitted or for which I have pleaded no contest.

Signature _____ Date _____

SUP 2002-0128

MH

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APPLICATION for SPECIAL USE PERMIT # 2002-0128

[must use black ink or type]

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HARRY P. HART *esq.*
Print Name of Applicant or Agent

Signature

Mailing/Street Address

Telephone #

Fax #

City and State Zip Code

Date

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

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

ACTION - PLANNING COMMISSION: 03/04/03 RECOMMEND APPROVAL 7-0

ACTION - CITY COUNCIL: 3/15/03PH--CC approved the Planning Commission recommendation.