

REVISED STATEMENT OF JUSTIFICATION

1. APPLICATION HISTORY AND JUSTIFICATION FOR REQUEST FOR MODIFICATION OF CERTAIN SETBACKS IN PD-IP DISTRICT.

A. The Applicants have worked with Staff to refine the site design. Staff suggested, during the review process, that the main Church building be moved further north from its initial proposed location. Much more of the paved parking areas were also placed behind the new Church building than was depicted in the initial layout and the number of parking spaces was reduced. This allowed for a much-improved plan.

The result, as shown on the revised Concept Plan, presents an attractive streetscape for this civic use, with augmented landscaping around the main Church building and with open space, landscaping, and a walkway and benches linking the new Church building to the existing dwelling that will remain as a parsonage. New street trees will provide the desired overhead leaf canopy for this section of Cedar Green Avenue and plantings in the buffer areas along the eastern and southern boundaries, enhanced beyond a typical Type 2 buffer, will screen and soften the views from adjoining properties. Since Shaw Avenue is planned for extension just to the north of the northern boundary of the Property, placement of the new Church building further to the north also provides some noise shielding for the usable open space on the site.

B. The Property is located within a larger area planned under the Comprehensive Plan under the "Business" designation. As County Staff noted in its March 23, 2009 Memorandum on this Application: "...the proposed civic use is in conformance with the land use policies of the Plan. Staff supports the Church in the proposed location provided that the Applicant addresses the issues ..." identified in that Memo and in subsequent Memos and communications with Staff. The Applicants have been able to successfully address these issues.

It should first be noted that the rezoning procedure is the appropriate land use procedure to establish this civic use at this location, rather than, for example, a special exception. A special exception, as the name implies, addresses uses that are problematic in relationship to other uses permitted by the particular zone. Here, the civic use proposed is an expressly desired use under the Plan and hence would logically be a *permitted* use in the relevant zoning district. Indeed, the Comprehensive Plan itself identifies the rezoning process as the desired procedure to implement uses falling in the Business designation. Page 6-20 of the Comprehensive Plan specifically states that:

4. All Business land use developments will be located in

planned-development zoning districts to ensure the design and compatibility of new development with adjacent land uses and allows flexibility in such design”.

The Application successfully meets the various issues identified by Staff. As noted, landscaping and related design features present an attractive visual fit in the neighborhood. The landscape plan is proffered, subject to refinement during the site plan process. The Applicants have also committed to: use of innovative stormwater techniques (sheet 1 of Concept Plan and Proffer 3); fully shielded exterior lighting (sheet 1 of Concept Plan); energy efficient appliances (Proffer 3); dedication of right-of-way and construction of frontage improvements (Proffer 6); a contribution to the fire department (Proffer 7). We submit that the application satisfies the criteria for approval and the specific issues identified by Staff.

C. The Applicant requests a modification, pursuant to Section 16-1504 of the Zoning Ordinance, of some building and parking setbacks otherwise required by Sec 4-505 (B) (2) of the Revised 1993 Zoning Ordinance. The required setbacks and the requested modifications are as follows:

Property Line	Zoning/Use of Adjacent Property	Setback Required	Modification Requested
North	Zoned R-4 Use: Buddhist Monastery	Building Setback - 75 ft Parking Setback - 60 ft	15 feet 15 feet
East	N/A		
South	Zoned R-4 Use: Vacant	Building Setback – 75 ft Parking Setback – 60 ft	20 feet 20 feet
West	N/A		

This request is justified by the details specified above, for those details show an innovative plan that satisfies the standards in Section 6-1504 of the Zoning Ordinance. To summarize, without repeating each item discussed above, the Concept Plan is designed to place

the main Church building off-center to the right, as viewed from Cedar Green Road. This opens up an area, as usable open space, between the main Church structure and the existing house that is to be retained as a parsonage. This area will have augmented landscaping, walkway, and benches, framed by the buildings and shielded somewhat, as usable open space, from the eventual extension of Shaw Road to the north. This area will exclude paving for parking and remain as open space in order to create a courtyard effect. The design allows most of the parking to be placed behind the buildings, away from the only street frontage, reducing the visual impact of required parking on the neighborhood. The Applicants also reduced the number of parking spaces, both to reduce impervious surface and to reduce the visual effect of pavement.

Without the modifications to the setbacks, more of the paved area for parking would have to be placed in front of the Church or otherwise closer to the frontage on Cedar Green Avenue. Most, if not all, of the usable space courtyard would be lost or its effect reduced, defeating Comprehensive Plan goal for usable open space and a well-designed streetscape. The positive visual and other effects of a tree canopy on Cedar Green Avenue created by new trees would also then be reduced.

We submit that the reduction in the width of setbacks is considerably outweighed by the Applicant by the design features depicted on the Concept Plan and the proffers addressing design factors, including the landscape plan.

2. PROJECT SUMMARY

A. This application proposes to re-zone the Properties from the R-4 District to the PD-IP District.

B. Each Lot currently contains a single-family dwelling. The location of each is shown on the Existing Conditions Plat submitted as part of the application. The applicants wish to rezone the Properties to PD-IP and then develop the Properties as one parcel for a church use. It is expected that the existing dwelling on existing Lot 24 would then be demolished and the two lots would then be consolidated. A new church structure would then be constructed on the consolidated lots at the approximate location shown on the Concept Plan that accompanies the application. The existing dwelling on existing Lot 25 (shown on the Concept Plan) would be retained as an accessory/rectory use.

C. The adjacent property uses are as follows:

North: A residence that, combined with the lot to its north, is used as part of a Buddhist monastery, zoned R-4.

South: Parcels to the South are currently single family uses zoned R-4.

- West: A furniture warehouse/showroom (Belfort) commercial use, zoned PD-IP.
- East: Townhouse dwelling development, part of subdivision known as Old Sterling Gable, zoned R-4.

3. WRITTEN STATEMENT DESCRIBING THE PROPOSED DEVELOPMENT'S COMPLIANCE WITH THE ENVIRONMENTAL, CULTURAL, LAND USE, ECONOMIC AND FISCAL, AND DESIGN GOALS AND POLICIES OF THE COMPREHENSIVE PLAN

The planned use of the Properties complies as follows:

- **Environmental** – This site is substantially cleared as a result of existing uses. The proposed .12 FAR is considerably below the maximum FAR of .40 permitted in the Revised General Plan and the PD-IP District Regulations. No material negative environmental impacts would result from this proposed development.
- **Cultural** – There is no basis to believe that the Properties contain any cultural features needing preservation. The Director, by a letter dated September 25, 2008, waived the need for a Phase I Archaeological survey.
- **Land Use** – The PD-IP District is an appropriate incremental addition to the nearby areas, to the north and west, which have been rezoned for commercial, retail and other non-residential uses, consistent with the Revised General Plan. See attached copy of zoning map for the area.
- **Economic and Fiscal** – The Revised General Plan designates the Properties in the “Business” designation (See revised General Plan pp 6-20 and 6-21 and see Record of Pre-Application Conference dated May 27, 2008, included in application). This designation includes public/civic uses, including churches. (Revised General Plan pg. G-2). The PD-IP is an appropriate zoning district. The proposed church use contributes to a mix of residential and non-residential uses within the Business designation and the PD-IP District.
- **Design Goals and Policies of the Revised General Plan** – The intention is to formulate a design in keeping with the scale of the surrounding area and the applicable design goals and policies in the Revised General Plan.

4. RESPONSE FOR THE MATTERS FOR CONSIDERATION CONTAINED IN 6-1211(E) OF THE ZONING ORDINANCE:

1. **Whether the proposed zoning district classification is consistent with the Revised General Plan.**

As noted above, the Revised General Plan designates the Properties in the "Business" category (See Revised General Plan pp 6-20 and 6-21). This designation includes public/civic uses, including churches. (Revised General Plan pg G-2). The PD-IP is the appropriate zoning district. The proposed church use contributes to a mix of residential and non-residential uses within this District and the neighborhood generally.

2. Whether there are any changed or changing conditions in the area affected that make the proposed rezoning appropriate.

Virtually all of the contiguous or nearby parcels to the west and north have been rezoned to PD-IP or C-1 Districts and have current industrial or commercial uses. We understand that there is a pending application to rezone lots to the south to the PD-IP District, to become part of the adjacent existing Belfort Furniture warehouse/showroom complex. The proposed rezoning would be a natural progression in this planned trend, while continuing a mixture of uses within the Business category.

3. Whether the range of uses in the proposed zoning district classification are compatible with the uses permitted on other property in the immediate vicinity.

The relatively small scale church use would be compatible with existing and prospective uses. It will contribute to the mix of uses within the planned Business designation for the area, while also serving as an appropriate transition from the industrial/business commercial uses to the west to the residential uses to the east.

4. Whether adequate utility, sewer and water, transportation, school or other facilities exist or can be provided to serve the uses that would be permitted on the property if it were rezoned.

Existing sewer and water lines are located at or near the Property (see, e.g., details on the Existing Conditions Plat), and other required facilities are adequate for the proposed use.

5. The effect of proposed rezoning on the County's ground water supply

The proposed rezoning would have no effect on ground water. Existing wells would be abandoned and the Properties would be served by public water lines.

6. The effect of uses allowed by the proposed rezoning on the structural capacity of the soils.

The Properties do not appear to contain problem or hazardous soils that would impact construction. The proposed use is anticipated to have no effect on soils.

7. The impact that the uses that would be permitted if the property were rezoned will have upon the volume of vehicular and pedestrian traffic and traffic safety

in the vicinity and whether the proposed rezoning uses are sufficient measures to mitigate the impact of through construction traffic on existing neighborhoods and school areas.

Applicant has obtained a traffic analysis from Kimbly-Horn and Associates, Inc., dated September 29, 2008 (copy included as part of rezoning application). The analysis concludes that the proposed rezoning will result in fewer peak hour trips than the permitted density of the existing zoning district. Traffic generated by the proposed use can be accommodated on surrounding roadways, with no road safety hazards.

8. Whether a reasonably viable economic use of the subject property exists under the current zoning.

The Properties lie in an older subdivision, platted in 1948, that has already become predominantly industrial/commercial. The Revised General Plan itself, by defining these areas as Business, confirms that category as a better range of uses of the Properties. Given the age of the dwellings, a continuation of residential use alone is not a reasonably viable use.

9. The effect of the proposed rezoning on the environment or natural features, wildlife habitat, vegetation, water quality and air quality.

The site is substantially clear, as are most parcels in the vicinity. The impact of the proposed use on the natural features would not be detrimental.

10. Whether the proposed rezoning encourages economic development activities in areas designated by the Revised General Plan and provides desirable employment and enlarges the tax base.

The zoning category to allow non-residential uses in the PD-IP zone is consistent with trends in the vicinity. The change in use would provide a civic component adding to variety.

11. Whether the proposed rezoning considers the needs of agriculture, industry, and businesses in future growth.

See response to Number 10.

12. Whether the proposed rezoning considers the current and future requirements of the community as to land for various purposes as determined by population and economic studies.

The Properties are relatively small (total of 2.6 acres) and economic studies would not be useful and would be cost prohibitive. By adding to the mixture of Business uses, the Properties continue a value to the community contemplated by the Revised General Plan.

13. **Whether the proposed rezoning encourages the conversion of properties and their values and the encouragement of the most appropriate use of land throughout the County.**

The rezoning would continue the neighborhood trend, as envisioned by the Revised General Plan, resulting in a logical and appropriate use of land.

14. **Whether the proposed rezoning considers trends of growth or changes, employment and economic factors, the need for housing, probable future economic and population growth of the county and the capacity of existing and/or planned public facilities and infrastructure.**

The Properties are relatively small (total of 2.6 acres) and economic studies would not be useful and would be cost prohibitive. By adding to the mixture of Business uses, the Properties continue a value to the community contemplated by the Revised General Plan.

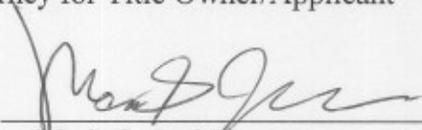
15. **The effect of the proposed rezoning to provide moderate housing by enhancing opportunities for all qualified residents of Loudoun County.**

Again, the Properties are relatively small. The proposed rezoning is not directly relevant to moderate housing, but the provision of a modest and relatively small church use indirectly serves the needs of the community.

16. **The effect of the rezoning on natural, scenic, archaeological, or historic features of significant importance.**

There is no indication that the Properties contain any features of this nature (e.g., see photograph), so no effect should result.

Mark G. Jenkins, P.C.
Attorney for Title Owner/Applicant

BY:  _____

Mark G. Jenkins

Date: 12/2/09