



Staff Report

Board of Supervisors

February 21, 2023

Case #: P-23-2
Applicant: Ruth E. Moogalian
Rezoning Request: Business, Limited, B-1 to Business, General, B-2
Property Location: 20515 Cox Road, Sutherland
Tax Map Parcel(s): 19-2-D
Property Size: 2.17 +/- acres
Magisterial District: Namozine

CASE OVERVIEW

The applicant, Ruth E. Moogalian, is requesting to rezone property containing approximately 2.17 +/- acres from Business, Limited, B-1 to Business, General, B-2. The B-2 zoning district allows for general businesses. The property is located at 20515 Cox Road in Sutherland, Virginia and is further defined as Tax Map Parcel No. 19-2-D. As indicated in the Dinwiddie County Comprehensive Land Use Plan, the subject property is located within the Urban Area.

ATTACHMENTS

Rezoning Application, Property Location Map

LAND USE/ZONING ANALYSIS

The subject property is located on the south side of Cox Road (Route 460) approximately 0.2 miles west of Sutherland Drive (Route 1501) which accesses Sutherland Manor Subdivision. The applicant is requesting the rezoning of the subject property containing 2.17 acres from Business, Limited, B-1 to Business, General, B-2 in order to operate an automobile self-service station. As indicated in the Dinwiddie County Comprehensive Land Use Plan, the subject property is located within the Urban Area.

The subject property was rezoned to B-1 in 1972 (Case P-72-7) and initially developed with a supermarket (grocery store) which is permitted by right in the B-1 District. Fuel pumps were later added to the property (exact date unknown) which changed the character of the original business to an automobile self-service station (gas station or convenience store) which is not permitted in the B-1 District. The subject property ceased operation prior to the 2020 pandemic and has since been vacant. In accordance with Sec. 22-246 (Continuation generally) of the Zoning Ordinance, *"If any nonconforming use (structure or activity) is discontinued for a period exceeding two years, after the enactment of the ordinance from which this chapter derives [August 5, 1964], or after any subsequent ordinance amendments of this chapter, it shall be deemed abandoned and any subsequent use shall conform to the requirements of this chapter"*. The applicant therefore requests the rezoning to reopen the business and operate an automobile self-service station as a use by right instead of a nonconforming use.

The subject property is immediately surrounded by single-family residential development but located within the vicinity of other business, civic and light industrial uses along Route 460. The Dinwiddie Sports Complex, Sutherland Elementary School and Walmart Distribution Center are located to the east less than one mile from the subject property on property zoned A-2 (Agricultural, General) and M-1 (Industrial, Limited). A farm market and a vacant restaurant are located west of the subject property adjacent to Ocran United Methodist Church on parcels zoned B-1, and Sutherland Pharmacy and a Shell gas station are located at the intersection of Route 460 and Claiborne Road (Route 631) on parcels zoned B-2. Additional parcels zoned B-1 are also located along Hart Road (Route 743) west of the subject property.

The subject property is designated by the Comprehensive Land Use Plan (the “Plan”) as being within the Urban Area, which “*contains medium to high-density residential, commercial, and industrial development. Sewer, water and roads are available for future growth with some upgrades and extensions needed to accommodate higher density residential and heavy commercial and industrial development*”.

The proposed rezoning to B-2 would eliminate the nonconforming status of the property and allow an established commercial business to resume operation.

OVERVIEW OF IMPACTS

Public Utilities, School System, & Public Safety

The proposed use is existing and therefore will not impact public utilities, schools or public safety.

Transportation

As the subject property is already developed with existing entrances, the request will have no impact on the existing transportation network.

RECOMMENDATIONS

Staff recommends APPROVAL of the request to rezone the subject property given that:

1. The requested zoning classification, B-2, Business, General, is compatible with the surrounding zoning pattern and surrounding land uses;
2. The proposed use conforms to the underlying uses recommended in the Urban Area in the Comprehensive Land Use Plan for this general area.

Planning Commission

The Planning Commission heard this request for rezoning at their meeting on February 8, 2023.

Mr. Robinson asked if there were any questions from the Commissioners.

The Chairman said if there are no questions for Mr. Robinson, would the applicant like to come forward and add anything.

Mr. Jeffrey Moogalian, 245 East Broadway Apt 207, Hopewell, VA came forward and explained how long the business at this location had been in operation. He also expressed his dislike for having to do the rezoning. He said the service station has operated as such for forty years (40) and he cannot understand why it was good then, but it is not good now. He understands that Mr. Robinson has to do his job. He just believes some provision could have been made other than the current one we have before us.

The Chairman asked the members if they had any questions for the applicant.

Dr. Prorise told the applicant that we (Dinwiddie County Planning Commissioners) hear your concerns. This B-2 rezoning is set forth to fix the situation, so that you can have a service station at this location.

The Chairman said if there are no questions for the applicant, he was opening the public hearing portion of this case. He asked if there was anyone signed up to speak. He said since there is no one, he was closing the public hearing portion of the meeting. He asked the Commissioners if they had anymore comments before they voted.

Mr. Tucker asked Mr. Robinson if this location had been operating as a non-conforming use. If that was the case, what we are doing tonight is making it a conforming use so that the applicant can now sell gas.

Mr. Robinson said that is correct.

Since there were no more questions, Mr. Titmus made a motion and read the following: BE IT RESOLVED, that in order to assure compliance with Virginia Code Section 15.2-2286(A) (7) it is stated that the public purpose for which this Resolution is initiated is to fulfill the requirements of public necessity, convenience, general welfare and good zoning practice, I move that rezoning P-23-2 be recommended for approval to the Board of Supervisors. It was seconded by Mr. Tucker and with Mr. Tucker, Mr. Cunningham, Mr. Harvell, Mr. Hayes, Mr. Titmus and Dr. Prorise voting "AYE", P-23-2 was recommended for approval to the Board of Supervisors.

BOARD OF SUPERVISORS ACTION

Since this is a zoning matter, staff has prepared the following standard statement to assist the Board of Supervisors:

BE IT RESOLVED, that in order to assure compliance with Virginia Code Section 15.2-2286(A) (7) it is stated that the public purpose for which this Resolution is initiated is to fulfill the requirements of public necessity, convenience, general welfare and good zoning practice, I move that rezoning P-23-2 as presented, be (approved OR disapproved) by the Board of Supervisors.