

## Special Use Permit - Bryton TOD-R

### Request

Request by American Asset Corporation (AAC), one of the developers of Bryton Subdivision, to amend the Special Use Permit (SUP) originally issued on October 16, 2006 to exceed permitted non-residential square footage in Transit-Oriented Development – Residential (TOD-R), by not mandating two (2) story minimum building heights to front on Hambright Road.

### Special Use Permit Criteria

During the initial approval of the Bryton Development, a Special Use Permit was requested because the AAC wished to exceed the maximum first floor area for non-residential uses within the Transit Oriented Development – Residential (TOD-R) areas of the project. Section 9.47 of the Zoning Ordinance outlines the criteria by which Special Use Permits may be granted – and AAC satisfied that criteria. AAC still wish to exceed the maximum; and have re-addressed the criteria for issuing a Special Use Permit.

As part of the determination for issuing or modifying a Special Use Permit, both Section 3.2.13 *Transit-Oriented Development – Residential* and Section 9.47 *Special Uses in TOD-R Districts* must be addressed and satisfied. For reference, both sections are included in Attachment A.

### Special Use Permit Issues

The 10-16-06 Special Use Permit addressed each of the Section 9.47 tests sufficiently for the Town to approve. Influential to that approval was the concentration of development along Hambright Road (which served as primary pedestrian access to a transit station). The current application seeks to reduce the concentration along Hambright Road and identifies a new primary pedestrian access road, but does not require the same level of development concentration. It should be understood that the location of the transit station has been identified as shifting southward from the 2006 location (closer to a potential new bridge) which will greatly influence where development should concentrate. Based on the number of single-family homes in Bryton, TOD-R zoning would permit approximately 100,000 square feet of non-residential development. This proposed change would increase the permitted non-residential to approximately 407,000 square feet (see SUP 1) - a significant increase over what would typically be permitted. How the Special Use Permit criteria (from Section 9.47) will be addressed is summarized below:

The Town Board shall issue a Special Use Permit for the subject use(s) and building(s) if, but not unless, the evidence presented at the Special Use Permit hearing establishes each of the following:

- .1 That along any street providing primary pedestrian access to a transit station:
  - Street level building edge(s) shall line at least one-half of the approved block length, and  
*Applicant's response – As shown on SUP 4, Road I has been identified as the primary pedestrian access to the transit station and building edges line at least one-half of the block length.*
  - Distance between pedestrian entries at street level shall not exceed 100 feet, and  
*Applicant's response – As shown and noted on the schematic building elevation on SUP 5, the maximum distance between pedestrian entries at street level of Road I shall not exceed 100 feet.*
  - at least thirty percent (30%) of the area of the street level façade shall be composed of windows and doors, and

Applicant's response – As noted on the schematic building elevation on SUP 5, at least thirty percent (30%) of the area of the street level façade along Road I shall be composed of windows and doors.

- standards above are met by either the principal building, or by the construction of liner buildings along street level.

Applicant's response – As noted on the schematic building elevation on SUP 5, the standards for Section 9.47 of the Zoning Ordinance are met by either the principal building or by the construction of liner buildings along the street level of Road I.

.2 That the proposed buildings and uses shall not substantially increase the demand for automobile access to the transit-oriented development.

Applicant's response – Refer to memo from Steve Blakely, Kimley-Horn and Associates, Inc. (dated 8-22-08).

.3 That the proposed buildings and uses meet the Intent statement for the district.

Applicant's response – Refer to the statement of support letter from Susan Irvin (dated 9-23-08).

#### Staff Recommendation

The criteria for granting a special use permit, as outlined in Section 9.47 of the Zoning Ordinance, have been satisfactorily addressed, as they were in 2006. Based upon this compliance, staff recommends approval as presented.

#### Attachments/Enclosures

- Attachment A – Section 3.2.13 *Transit Oriented Development – Residential (TOD-R) & Section 9.47 Special Uses in TOD-R Districts*
- Attachment B - Section 11.4.10 *Special Use Permit Standards*
- Attachment C - Memorandum from Steve Blakley, Kimley-Horn and Associates, Inc. (dated 08-22-08)
- Attachment C - Applicant's updated statement addressing Special Use Permit requirements (Section 9.47) from 09-23-08 approval.
- Attachment D - Applicant's original statement addressing Special Use Permit requirements (Section 9.47) from 10-16-05 approval.
- Attachment E - Special Use Permit (SUP) Overall Schematic Plan

### **Section 3.2.13 TRANSIT-ORIENTED DEVELOPMENT – RESIDENTIAL (TOD-R)**

**Intent:** The transit-oriented residential district is established to support higher density residential communities that include a rich mix of retail, restaurant, service, and small employment uses within a pedestrian village format. Land consuming uses, such as large lot housing and large retail outlets are excluded from this district. The TOD-R may be located on developable and re-developable parcels generally found within the ½ mile catchment area of designated rapid transit station sites. Nothing in these regulations shall preclude application of the TOD-R beyond the ½ mile radius when site-specific development plans demonstrate efficient resident access to a rapid transit station. The district establishes a primarily residential village within a 10-minute walk of a M.I.S. designated transit station that serves a residential population of sufficient size to constitute an origin and destination for purposes of rapid transit service.

#### **a) Permitted Uses**

##### **Uses permitted with a Special Use Permit**

- any non-residential use permitted by right or with conditions where size of first floor area exceeds 15,000 SF, (9.47)
- any permitted non-residential use or collection of non-residential uses that exceeds the maximum permitted in the district by paragraph e) 5) of this section, (9.47)
- parking lot or structure as principal use (9.47)
- schools, (9.47)

e) 5) Siting requirements for non-residential development: All non-residential development shall be oriented to provide direct pedestrian access from the transit station by way of the public street system, designated pedestrian paths, or any combination of the two. In addition, the location standards below shall apply.

- Within a ¼ mile walking distance of the station site, a master subdivision sketch plan may include up to 10,000 square feet of retail/services/commercial/office development for each 250 dwelling units master planned in the ½ mile catchment area.
- If placed in a TOD-R district, religious institutions without shared parking, schools, and neighborhood recreation facilities, up to the maximum size permitted in the district, should be located between the ¼ mile and ½ mile walk of the station site.
- Without regard to station proximity, day care centers and religious institutions with shared parking provisions that meet the size provisions of the TOD-R are permitted.

#### **Section 9.47 Special Uses in TOD-R Districts**

Uses permitted in the TOD-R district that exceed maximum first floor area or exceed the maximum limit for non-residential uses are permitted subject to approval of a Special Use Permit. The procedures of Section 11.4.10 shall be followed.

The Town Board shall issue a Special Use Permit for the subject use(s) and building(s) if, but not unless, the evidence presented at the Special Use Permit hearing establishes each of the following:

- .1 That along any street providing primary pedestrian access to a transit station:
  - Street level building edge(s) shall line at least one-half of the approved block length, and
  - distance between pedestrian entries at street level shall not exceed 100 feet, and
  - at least thirty percent (30%) of the area of the street level façade shall be composed of windows and doors, and
  - standards above are met by either the principal building, or by the construction of liner buildings along street level.
- .2 That the proposed buildings and uses shall not substantially increase the demand for automobile access to the transit-oriented development.
- .3 That the proposed buildings and uses meet the Intent statement for the district.