



City of Harrisonburg, Virginia

Planning Commission Meeting

March 9, 2011

7:00 p.m.

Regular Meeting
409 South Main Street

1) **Call to order, roll call, determination of quorum, and review/approval of minutes from the February 9, 2011 regular meeting.**

2) **New Business**

Ordinance Amendment – S.U.P. for Fences to Exceed Height Regulations

Public hearing to consider an ordinance amendment that would add a special use permit to residential districts allowing fences to exceed height regulations. The amendment would occur within the Zoning Ordinance Sections 10-3-34, 40, 46, 48.4, 52, 55.4, 56.4, and 57.4.

Special Use Permit – Fence Height (Cale Property)

Public hearing to consider a request from William and Susan Cale for a special use permit per Section 10-3-34 (9) of the Zoning Ordinance to allow a fence to exceed the 6-foot fence height regulation. The property is zoned R-1, Single Family Residential District and is located along Grove Street and can be found on tax map 23-W-2.

3) **Unfinished Business**

4) **Public Input**

5) **Report of secretary and committees**

Proactive Zoning

6) **Other Matters**

Comprehensive Plan – Urban Development Area (UDA) Recommendation

7) **Adjournment**

Staff will be available Monday April 11, 2011 at 4:30 p.m. for those interested in going on a field trip to view the sites for the Wednesday, April 13, 2011 agenda.

MINUTES OF HARRISONBURG PLANNING COMMISSION

February 9, 2011

The Harrisonburg Planning Commission held its regular meeting on Wednesday, February 9, 2011, at 7:00 p.m. in the City Council Chambers, 409 South Main Street.

Members present: Charles Chenault, MuAwia Da'Mes, Judith Dilts, Alan Finks, Deb Fitzgerald, Bill Jones and Henry Way.

Members absent: None.

Also present: Stacy Turner, Director of Planning and Community Development; Adam Fletcher, City Planner; Alison Banks, Planner and Secretary.

Chairman Jones called the meeting to order and determined there was a quorum with all members in attendance. He stated there are two sets of minutes for review and asked for approval of the minutes from the January 12, 2011 regular Planning Commission meeting and the Comprehensive Plan Review meeting.

Dr. Dilts moved to approve the minutes from the regular Planning Commission meeting.

Mr. Chenault seconded the motion.

Mr. Finks and Mr. Way abstained from voting because they were not in attendance at the meeting.

All voted in favor (5-0) of approving the minutes from the regular Planning Commission meeting.

Chairman Jones asked for a motion on the January 12, 2011-Comprehensive Plan Review meeting.

Mr. Chenault moved to approve the minutes.

Dr. Dilts seconded the motion to approve.

Mr. Finks and Mr. Way abstained from voting because they were not in attendance at the meeting.

All voted in favor (5-0) of approving the minutes from the Comprehensive Plan meeting.

New Business

Ordinance Amendment – 10-3-48.6 (b) and (c)

Chairman Jones read the request and asked staff to review.

Mr. Fletcher said after last month's discussion on Velocity Property Group's the Angle project, staff has drafted amendments for Section 10-3-48.6 to allow for flexibility in the design of multi-family developments on sites such as that confronted at the intersection of Foley Road and Ridgeville Lane. The Angle proposal is somewhat of a "perfect storm" scenario to describe why such amendments may be necessary.

With an approved special use permit, the Angle, being situated within what the Zoning Ordinance defines as an established single family and duplex neighborhood, would be required to locate all parking lots/garages to the rear or side of buildings and have building facades face a dedicated public street or the limits of a private parking unit. As was discussed last month, although it may be achievable, designing such a project is difficult and burdensome.

Two amendments are proposed to allow R-3, special use permitted developments, with multiple street frontages, to have less stringent controls. The proposed amendments to Section 10-3-48.6 (b) and (c) are shown below:

(b) Off-street parking regulations for all buildings and uses permitted in this district are governed by article G. When an off-street parking lot/garage containing five (5) or more spaces is to be constructed within an established single family detached or duplex neighborhood, such parking lot(s)/garages shall be located to the rear or side of buildings shall not be located between principal buildings and a public street, unless the parcel has multiple public street frontages, and shall be screened from the public street(s) by the principal buildings or by landscaping or walls. When an off-street parking garage containing five (5) or more spaces is to be constructed within an established single family detached or duplex neighborhood, such parking garage shall be located to the rear or side of principal buildings and screened from the public street(s) by principal buildings or by landscaping or walls. The parking garage cannot be located between principal buildings and public streets. Where such parking lots/garages abut single-family detached or duplex lots, they shall be screened from such lots by landscaping, fences, or walls. An adequate screen shall be a minimum five-foot wide buffer area containing the following: (REMAINDER OF SECTION TO REMAIN)

(c) More than one (1) principal building may be constructed upon an unsubdivided parcel of land as density allows. The open space between each building as measured at the closest point between building walls shall not be less than thirty (30) feet. The minimum separation between buildings may be superseded by building regulations. The front façade of each principal building shall face a dedicated public street or the limits of a private parking unit (as defined) and no building shall have the rear façade facing a dedicated public street, unless the parcel has multiple public street frontages where rear façades may front one (1) public street.

It should be understood that both amendments must take place as they work collaboratively. In brief, the amendments give developments more flexibility related to where parking lots can be located and also to how façades of units can be positioned on properties that have more than one principal building on a parcel. The 10-3-48.6 (b) amendment only pertains to developments located within an established single family detached or duplex neighborhood on parcels having multiple public street frontages. As with the current regulations, developments that are not located in such neighborhoods do not have to meet the additional location and buffering controls.

Staff separated the controls of where parking lots and parking garages can be located, in (b), for a couple of reasons. First, notwithstanding the intent to why the current regulations exist, using the parcel at the intersection of Foley Road and Ridgeville Lane as an example, if someone were to build townhomes on individual parcels on this property, a parking lot could be located adjacent to the public street. This is because townhomes are not bound by the requirements of (c), where units must face a dedicated public street or the limits of a private parking unit. Thus, a townhouse development could meet the controls as specified in (b)—parking lots to the rear or side of buildings—and be built, by right. Understanding the reality of that situation, allowing parcels that have multiple street frontages to locate parking lots adjacent to public streets is arguably justifiable.

The amendments separate parking lots and parking garages because, in these situations, parking garages would be considered accessory buildings. Accessory buildings are permitted by right; however, as regulated in Section 10-3-114, in residential districts, accessory buildings may only be built in rear yards and cannot be located between a principal building and a public street. Staff believes there is merit in such regulations and they should be maintained for developments such as this situation.

In closing, the proposed amendments should accommodate the Angle project at the intersection of Foley Road and Ridgeville Lane. Staff believes there is value in these amendments and supports their adoption.

Chairman Jones asked if there were any questions for staff. Hearing none, he opened the public hearing and asked if there was anyone wishing to speak in favor of the amendment. Hearing none, he asked if there was anyone wishing to speak in opposition of the amendment. Hearing none, he closed the public hearing and asked Planning Commission for discussion or a motion.

Mr. Chenault moved to adopt the Zoning Ordinance Amendment. Staff has done a wonderful job of coming up with an amendment that embraces what Planning Commission was hoping it would do, and that is to provide some flexibility when dealing with irregular shaped lots.

Mr. Da'Mes asked if R-3 was the only applicable district for this amendment.

Mr. Fletcher replied yes. Not only is it applicable to just the R-3 Medium Density, but it is only with apartments that are constructed within an established single-family and/or duplex neighborhood as defined. If apartments are not being constructed within a single-family and/or duplex neighborhood, they do not have to meet the requirements. They are not required to do the additional landscaping, buffering and parking lot location requirements; therefore this does not apply to them at all. This amendment is only in situations where apartment units would be applying for a special use permit and where the development would have multiple street frontages. It should also be made clear that townhomes could do similar situations, such as this, by right; townhomes are not bound by subsection (c) because they do not have to have units facing a public street or the limits of a private parking unit.

Mr. Da'Mes seconded the motion to recommend approval.

Chairman Jones said there is a motion and a second; he then called for a voice vote on the matter.

All voted in favor (7-0) of the motion.

Chairman Jones said the motion to recommend approval of the ordinance amendment will move forward to City Council on March 8, 2011.

Preliminary Plat and Special Use Permit –10-3-48.4 (6) – The Angle (Velocity Property Group)

Chairman Jones read the next two requests and asked staff for a review of both items.

Mr. Fletcher said this brings back before us the two cases Planning Commission heard last month. I do not want to spend a lot of time talking about them in great detail, but I do want to go through the slides again, quickly, for those Commissioners that were not in attendance last month and to remind the rest of us of the issues before us.

He continued by saying the preliminary plat is exactly the same and the recommendation is the same. The applicant is requesting to preliminarily subdivide two properties located in the southeastern portion of the City at the intersection of Foley Road and Ridgeville Lane. Both properties are zoned R-3, Medium Density Residential District. The applicant would like to remove the dividing lot line to establish a 0.68-acre piece of property to potentially allow for the construction of nine apartment units. (A special use permit requesting the allowance for multi-family units will immediately follow this request.) The subdivision is a preliminary plat because the applicant is requesting variances from the Subdivision Ordinance.

Although the proposed request is only vacating a property line, the Subdivision Ordinance defines such action as a "subdivision," thus the applicant must fulfill all obligations as specified in that part of the City Code. Due to the shape of the lot caused by the intersection of Foley Road and Ridgeville lane, and because of the topography of the area, the applicant is requesting four variances. The variances are associated with the requirements to dedicate right-of-way and the obligations to construct street

improvements when subdividing property. The first variance request is from Section 10-2-41, which specifies design standards for streets and alleys. Specifically, sub-section (i) (3) of that section denotes that minor streets, such as Foley Road and Ridgeville Lane, shall have a right-of-way width of 50-feet. The second request is to deviate from Section 10-2-45, which requires the applicant to dedicate all land designated for future street widening. The third request is from Section 10-2-66 that states street improvements shall be provided with each new subdivision in accordance with standards and specifications of the City. These improvements could include pavement, curb, gutter, sidewalk, storm sewer, and/or other enhancements. The final variance is to deviate from Section 10-2-67, which requires the subdivider to finance all street improvements that are required per Section 10-2-66, at their own expense.

The above mentioned sections of the Subdivision Ordinance work collaboratively to require developers to dedicate right-of-way and build the required street improvements to ensure City streets are constructed and improved for the benefit of all citizens. This is not the first application that has requested the same four variances. Some Commissioners may recall the application from Scott Kettelkamp during the spring of 2009, where he proposed to develop three townhomes along Norwood Street. Ultimately, City Council approved his variance requests; one can see this development being constructed today.

Neither Foley Road nor Ridgeville Lane has the required amount of right-of-way for minor streets; as a result, almost all subdivisions along these streets must dedicate right-of-way on their side of the street to help establish the required 50-feet of right-of-way. The right-of-way is variable along both streets—measuring from as little as 35-feet to as wide as 47-feet. The streets' widths are closer to 50-feet where other subdivisions have occurred, where the subdividers dedicated the right-of-way during their subdivision processes. Examples include Wishing Well Estates Subdivision and Tamarack Townhomes, both along Ridgeville Lane, and Foley Road Townhomes located on Foley Road. Those developments also built street improvements per the City's requirements at their time of construction. Not every development dedicated the required amount of right-of-way, however. Immediately adjacent to the east of the subject property, Scott and Mendy Miller built a duplex along Ridgeville Lane. Instead of dedicating right-of-way, in 2005 the City allowed the Miller's to dedicate a five-foot easement to the City, where the easement grants the City the permission to use that property's frontage to construct street improvements, when necessary.

For this subdivision, the applicant is dedicating the required five-feet of right-of-way along Foley Road and is also building the required street improvements. In this case, they will provide street widening, curb, gutter, and sidewalk. They would also cost-share with the City to install the appropriate infrastructure to help control stormwater. The variance requests come into play for the Ridgeville Road frontage. As noted above, due to the property's shape caused by the intersection of the two streets, the applicant is requesting to not dedicate the required right-of-way. The developer is also requesting to not build the street improvements. Similar to the Miller's development, the applicant has proposed to dedicate a five-foot easement to the City for future improvements. Because of the unusual and difficult layout of the intersection of the streets, and due to the topography of the area and the uncertainty of the most appropriate design of this stretch of the street and how it should intersect with Foley Road, staff believes the variance requests are justifiable. Staff believes street improvements to this section of Ridgeville Lane and to the intersection should be comprehensively evaluated and constructed.

Staff recommends supporting the variance requests, as presented and described, from Sections 10-2-41 (i) (3), 10-2-45, 10-2-66, and 10-2-67.

Mr. Fletcher added that concurrently, with the separate preliminary plat application requesting four Subdivision Ordinance variances, the Velocity Property Group is requesting a special use permit per Section 10-3-48.4 (6) to allow for the construction of multi-family units on the corner properties at the intersection of Foley Road and Ridgeville Lane. The developer plans to construct nine townhouse-like apartment units on little more than half of an acre.

The submitted layout illustrates two buildings; one, five-unit structure fronting Ridgeville Lane and one, four-unit structure, where the front of the units face the adjoining properties to the east. One ingress/egress would be provided from Foley Road. Due to the topography of the site, the units would be built into the hillside—meaning the front of the units would reveal two stories while the back of the buildings would expose three stories. There would be 24 parking spaces, which is one additional space than the required minimum. Each unit would have a one car garage counting toward the total required parking spaces.

If the ordinance amendments to Section 10-3-48.6 (b) and (c) are approved, the layout's parking configuration would meet the requirements of the Zoning Ordinance because the property has multiple street frontages. As required, vegetative screening would be provided along Foley Road and adjacent to the eastern property boundary. The submission also contains landscaping details including deciduous street trees planted at two inch caliper every 50 feet, and small, ornamental trees, at six-foot minimum height during planting as shown on the submitted layout. Additional hedges and shrubbery would also be provided as illustrated.

As described in the preliminary plat staff report, the developer would dedicate five-feet of right-of-way and construct improvements along Foley Road including street widening, curb, gutter, and sidewalk. They would also cost-share with the City to install the appropriate infrastructure to help control stormwater. No street improvements would occur along Ridgeville Lane.

As part of the requirements for obtaining a special use permit to build multi-family units in the R-3 district, an applicant must substantiate that they have met several conditions to justify the development. Although this development satisfies some of the conditions as described in the Zoning Ordinance Section 10-3-48.6 (e), staff does not believe the proposal demonstrates all of the necessary characteristics that warrant its approval.

Subsection (3) particularly emphasizes the importance that the development's design be compatible with adjacent existing and planned single family, duplex, and townhouse development. Although we appreciate the applicant's intent to use "high quality construction" and to be "eco-conscious," we do not believe compatibility has been achieved. Architecturally, the design of the units is contrary to the residential character of the neighborhood. Staff recognizes the objective of the applicant to build a product that is "contemporary," but the character of these units is out of place in this neighborhood and would be befitting of a more urban setting.

Perhaps more importantly, the density of the proposed development is not compatible with the surrounding area. Currently, the property is 29,810 +/- square feet; after the dedication of right-of-way per the plat variance submission, the property would contain 28,244 +/- square feet. If approved, the lot area would permit a maximum of nine apartment units, which is what is proposed. Staff, however, views the final composition of the lot area differently than the developer. As described in the preliminary plat application staff report, the subdivision of the property requires the applicant to dedicate right-of-way along both street frontages, but the applicant is not dedicating property along Ridgeville Lane, which staff supports, but not to allow for an increase in density. By allowing the applicant to dedicate an easement instead of dedicating the property for street right-of-way, the retained square footage allows

the applicant to build a ninth unit, maximizing, and in staff's opinion, compounding the density on this small property. Staff does not believe it is in this neighborhood's best interest to grant the special use permit.

Staff recognizes that allowing this development would provide this neighborhood with a few street enhancements and potentially improve some of the existing stormwater issues. However, staff does not want to give up the City's planning initiatives and ideals to gain those improvements nor do we want to set a precedent of maximizing density and permitting architectural incongruity to this or any neighborhood in the City. Although staff supported the preliminary plat variances request, staff does not support this special use permit and recommends denial of this application.

Chairman Jones asked if there were any questions for staff. Hearing none, he opened the public hearing and asked the applicant if they would like to speak.

Mr. Hans Harman said he is with Velocity Property Group. Just to make everyone aware, I would like to disclose that I am not the owner of the current property; but, I am the owner's proxy, as I have the property under contract to purchase. I am happy to answer any questions. I believe you all are very aware of this project and the details presented with this project. I really enjoy my profession and job. In a developer role, I think, sometimes, we get a little bit of a bad reputation as someone who tries to use and abuse the system and I do not feel that is the case at all. We (Velocity Property Group) are a community partner, we have been here for over fifty years and the last thing that I want to do is tarnish my name or my family's name and reputation, because I want to be here fifty years from now. I would be happy to answer any questions you may have.

Mrs. Fitzgerald said we have read through the material and seen the presentation a couple of times and it seems to me that one of the major issues of controversy is in the staff report where they say "we do not believe compatibility has been achieved", architecturally. We also received a petition from the neighborhood which says "the repetitive cuboid facade is glaringly incompatible with the traditional architecture of the rest of the neighborhood". I thought I would give you the opportunity to respond to these statements. I feel it is sort of a judgment call; it is an aesthetic judgment rather than talking about square footage or something along those lines.

Mr. Harman said let's talk about fact for a moment, because architectural compatibility is a very subjective thing. There is no Home Owners Association (HOA) in this neighborhood; there is no Architectural Review Board (ARB); nothing that says a certain percentage of the facade needs to meet a standard. All the people that have built in the neighborhood have the same sort of rules. Compatibility is very subjective and I thought I showed that pretty clearly last month in my presentation. The neighborhood is a "sampler platter," so to speak, of properties, genres, and ages. How to be compatible with that is difficult, I am not really certain how to achieve that; and honestly, I am not certain that I want to achieve that. I do not want to put an "ugly duckling" in this area, my name is behind this project and I believe it is something that people's pallet and tastes desire.

Mr. Finks said it is certainly obvious that you are making an attempt to put something there that is very nice and I am always glad to see that. The one thing that concerns me is that we often see this very thing, where neighborhoods are a real mixture and we have tried to remedy that situation to a degree. What happens is we like a project, and the developer is a nice guy, and we want to make an exception for him. But once we make that exception, we have to live with it and is there any remedy for that.

Mr. Harman said that is a strength in my opinion. That is what our Country was founded on; the fact that I have the opportunity to manage my business and develop my product around the brand that I want

to create and if my neighbor wants to do something different that is fine. That is the beauty of a free market economy.

Dr. Dilts said the issue about the easement and having nine units versus eight; does it make it fiscally impossible to go down to eight units?

Mr. Harman replied that it certainly challenges the situation. I think the answer here is simply this is a difficult piece of property. It is a peculiar shape, it has a grade, and if you look at density of other structures in the neighborhood, for instance the six unit apartment complex across the street, they are all maximized density. Each one has maximized the density of their property. In this case, it is an odd ball and compounding the situation even further is the fact that curb and gutter cost money; stormwater management measures cost money; widening the street cost money. So to answer your question, yes, it does make a difference. Last month I discussed some of the very un-responsible paths that I could take regarding development of these parcels and not have to provide any City infrastructure. I could build the same roof area, the same size building, almost the same number of buildings and probably make more money; but, I do not want to do that. I want to build a quality product here that caters to quality people.

Chairman Jones asked if there were any further questions. Hearing none, he asked if there was anyone else wishing to speak in favor of the proposal. Hearing none, he asked if there was anyone wishing to speak in opposition of the proposal.

Ms. Shirley Hottinger, 753 Foley Road, said she lives right across the road from the property. I am not for this proposal, nor am I against this. I am here because I am very concerned about the water runoff. I get flooded as it is now, and development will make it much worse. Mr. Harman has spoken to me about obtaining an easement through my property. I am trying to sell my property now and I do not want things to get worse; it is bad enough now.

Chairman Jones asked if there was anyone else wanting to speak in opposition to the proposal. Hearing none, he closed the public hearing and asked Planning Commission for their comments or a motion.

Mr. Chenault said I would like to make a motion to recommend approving the preliminary plat with the requested variances and the special use permit. My reasons for this motion are: architectural compatibility – I understand staff's evaluation and I know the ordinance requires its consideration. I personally fail to find a unifying architectural theme in the neighborhood. One might argue that if you went to Copper Beach and plucked five of those units and brought them over to this location they might be architecturally more compatible with some of the housing units in this area. I think architectural compatibility is very subjective and I am not so sure it does not address more than just the physical appearance of the structures and goes to a deeper analysis of the quality of the buildings being constructed. Secondly, the density issue. It is a given, that as far as density is concerned, the applicant could probably accomplish the same density with a much less desirable character of development. To me that is not a good argument one way or the other; but, it is a fact. Furthermore, I think all special use permit considerations and variance considerations represent a trade-off of interests. I view the density issue as a trade-off for what I consider to be a higher quality type of development and structure; more so, than some of the developments and structures that we see in this particular neighborhood and area. Finally, Harrisonburg and Rockingham County are projected to be one of the fastest growing areas in the State of Virginia over the next five years and we are already seeing a significant number of projects in the works coming to Harrisonburg. Housing is going to be a need. Frankly, we do not have an overwhelming stock of what I would consider to be affordable, good, well constructed housing available. I see this type of development as, sort of, meeting that type of need; it is in the area of the

hospital and there will be more construction in this area. With that being said, I again move to recommend approval of the plat variance and the special use permit.

Mr. Fletcher said before we ask for a second on the motion, I would like to offer an amendment to the motion if I may. The special use permit should, technically, be conditioned to be permitted only if the ordinance amendment is approved.

Mr. Chenault agreed with including that condition on the special use permit.

Mrs. Turner reminded Planning Commission that there would need to be a separate vote on each matter, the preliminary plat variance request and the special use permit request.

Mr. Chenault said my motion is to recommend approval of the variances and I will wait to renew my motion on the special use permit.

Mr. Da'Mes said regarding the preliminary plat and not wanting to be repetitive or duplicating Mr. Chenault's sentiments, I will just simply add two things. First, in relation to a comparable project, in my tenure here, is the project off of Reservoir Street, on Norwood Street. I visited that site about two weeks ago, and met with the builder, he showed me the structure, which is about 75% complete right now. We had some of the same reservations about the architectural style, and so forth, of that development; but it always seems different when you see it in three dimensions, rather than two dimensions on paper. I really gained an appreciation for what that developer was trying to accomplish. That project is not too far off scale from what Mr. Harman is proposing. I would hope to think that the neighborhood would come around to think as I have after seeing the project surface.

Also, referring to the Zoning Ordinance, with regard to special use permits and compatibility under (Section 10-3-48.6) it says "Multiple-family development special use permits may be approved if the following conditions as determined by city council are met", number (3) "The applicant has demonstrated that the proposed multiple-family development's design is compatible with adjacent existing single-family, duplex and townhouse development. Compatibility may be achieved through architectural design, site planning, landscaping and/or other measures that ensure that views from adjacent single-family, duplex and townhouse development and public streets are not dominated by large buildings, mechanical/electrical and utility equipment, service/refuse functions and parking lots or garages." They did not really answer the question on compatibility, so for me it is very subjective. I respect people's opinions on what is appropriate and what is not. But, at the same time, there is not a cohesive architectural plan in the area. So, with all that said, I would like to second the motion.

Chairman Jones said we have a motion and a second; he then asked for a roll call vote on the motion.

Dr. Dilts asked for clarification on what was being voted on.

Mr. Fletcher replied the four variances for the preliminary plat.

Commissioner Chenault – yes

Commissioner Way – yes

Commissioner Finks – no

Commissioner Dilts – yes

Commissioner Da'Mes – yes

Commissioner Fitzgerald – yes

Chairman Jones – yes

Mrs. Banks said the vote is 6-1 in favor of the motion.

Mr. Chenault said now I renew my motion to approve the special use permit with the caveat that it be subject to the approval of the ordinance amendments.

Mr. Da'Mes asked to hear from Mr. Finks as to why he was in disagreement.

Mr. Finks said he stated why he was opposed, and the example used was Norwood Street. I do not care how pretty it is, they did things that may cause the City problems down the road. It will not be us sitting here then; but somebody will have to fight that battle we allowed. I am sure Mr. Harman has the best intentions; but why did we even worry about changing R-3 if we allow this - put it back in the statues as it was.

Chairman Jones said we have a motion, is there a second.

Dr. Dilts said there is a motion and it needs to be seconded so that it can be discussed and then voted up or down; therefore, I second the motion.

Chairman Jones asked if there was any further discussion.

Dr. Dilts said I would appreciate it if staff would talk a bit more about the easement and density. Let me tell you my understanding and you tell me if my thinking is correct. The property was 29,810 +/- square feet and by doing improvements and right-of-way along Foley Road it took the total down to 28,244 +/- square feet. That amount of square footage is sufficient enough for nine units. But, an easement is provided along Ridgeville Lane, and the argument is that the easement actually should negate, in some effect, the ability to build nine units and allow only eight units.

Mr. Fletcher said yes, that is the angle of interpretation that staff drew. You are correct in your understanding. It should also be understood that the easement does allow more flexibility in design for setback. If you dedicate an easement, you still pull your required setback from the property line and not the easement line. So, there is that five foot flexibility of additional area where he can build.

Dr. Dilts said someday the City could take away or build in that easement, correct?

Mr. Fletcher responded if the City were to build improvements to the street the property owner would be compensated at that time for what the City took for right-of-way purposes. If the City took more property from Ridgeville Lane, it would put those buildings into non-conformance to setback regulations.

Dr. Dilts said it would also take away square footage regarding density.

Mr. Fletcher said it could become non-conforming to lot area requirements as well, that is correct.

Chairman Jones asked if there were any further questions. Hearing none, he asked for a roll call vote on the motion.

Commissioner Chenault – yes

Commissioner Way – yes

Commissioner Finks – no

Commissioner Dilts – no

Commissioner Da'Mes – yes

Commissioner Fitzgerald – no

Chairman Jones – yes

Mrs. Banks said the vote is 4-3 in favor of the motion to recommend approval. This will move forward to City Council on March 8.

Bicycle and Pedestrian Plan

Chairman Jones read the request and asked staff for a review.

Mr. Fletcher said the New Community Project (NCP), a faith-based non-profit organization that focuses on environmental sustainability and global justice, is requesting to amend the City’s Bicycle and Pedestrian Plan to include the concept for an additional shared use path. The shared use path, referred to as the North End Greenway, would generally extend from the northern section of the City’s downtown to the Eastern Mennonite University/Eastern Mennonite School area, mostly following the path of Blacks Run.

The amendments would occur in three places. NCP has proposed to include the North End Greenway within the “Goals to Complete Within 5 Years” table that begins on page 23 of the Bicycle and Pedestrian Plan. The text would appear as shown below:

	Facility Type	Approximate Distance (Miles)	Estimate Cost
North End Greenway – construct a shared use path approximately following Blacks Run from North Main Street near Johnson Street to Mt. Clinton Pike toward Park Road.	Shared Use Path	1.6	\$1,023,277

The general layout of the path would also be appropriately illustrated on the Bicycle Facilities Map and the Pedestrian Facilities Map. (The existing Bicycle and Pedestrian Plan has been provided within the packet for your reference.)

As described in the table above, the path is planned to follow the course of Blacks Run, but more specifically it could extend—south to north—from North Main Street at its intersection with Johnson Street and northward crossing West Washington Street and Madison Street. It would continue westerly along the undeveloped right-of-way of Monroe Street, where it would utilize the Brookside Park recreation area within an easement that has already been dedicated to the City. It would then cross North Liberty Street and continue northward on the largest private property owner’s property (Harman Development Inc.) to Mt. Clinton Pike. Once the path reaches Mt. Clinton Pike it would cross the intersection of Virginia Avenue onto property owned by Eastern Mennonite High School. From this point it could extend in one of several different directions to ultimately reach Park Road. (Within the packet of information, the requestors have provided aerial photographs illustrating this potential layout.)

It should be understood that the Commission is not considering the specifics of the layout or any of the related construction details that you will view in the packet, but rather just the concept as described in the above table and as shown on the maps.

The Commission shall note that the existing Bicycle and Pedestrian Plan includes numerous recommended projects. Approving the amendment essentially adds the North End Greenway to the list. However, unlike other projects in the Plan, this concept is being actively pursued by NCP. NCP is

leading the charge to make this path a reality. They have already partnered with Johann Zimmerman, a local engineer, to design the trail, and they have initiated a process to begin receiving funds.

It is NCP's hope that once the path is constructed, the City will take ownership and provide long-term maintenance. Amending the Plan to include this concept acknowledges the City's support to have such a trail in the lasting components of an efficient transportation network including modes of transportation other than traditional roads and vehicles. It does not mean the City has a financial obligation to build the trail or to maintain it. Nevertheless, amending the Plan allows the City to embrace its concept, provide funds—if it chooses, and to include it within the overall transportation network.

The North End Greenway has been extensively discussed within the Bicycle and Pedestrian Committee, that Committee's Advisory Committee (which includes planning staff), and with the Transportation Safety and Advisory Committee (TSAC). In fact, members of the TSAC are present to publicly endorse their support to City Council for this concept.

Staff supports the proposed amendment.

Chairman Jones asked if there were any question for staff.

Mr. Da'Mes said as far as the priorities list, where would this lie within that list?

Mr. Fletcher referred the question to Thanh Dang, Public Works Planner.

Ms. Dang said this is within the five-year plan. If you recall the Bicycle and Pedestrian Plan is broken into a two-year priorities list and a five-year priorities list, and then we have the "wish list" items that we broke-down into -high, -medium, and -low; this would fall into the five-year priority list.

Mr. Da'Mes said in terms of cost per foot, this seems like a relatively low cost compared to some of the other pathways; is that correct.

Ms. Dang replied it is comparable. Right now we are working on the Blue Stone Trail and we are finding that the costs are going up. This trail is comparable as to length of trail with the Blue Stone Trail, especially with some stream crossings involved with each trail.

Mr. Da'Mes asked if the railroad crossings would be skewed or perpendicular?

Ms. Dang replied that the design details had yet to be determined; but we envision that it would have to be a straight, 90 degree crossing. But as stated in the staff report, this is just an amendment to put this concept within the Bicycle and Pedestrian Plan. Staff will be working with NCP, who is taking the lead on the design.

Mr. Da'Mes asked if there has been any feedback from Eastern Mennonite University (EMU) in terms of the right-of-way they are allowing.

At this time Mr. Jacob Zumfelde, an intern working with NCP on this concept, and Mr. Tom Benevento, coordinating with NCP, came forward to discuss their conversations with EMU

Mr. Zumfelde said in discussions with EMU, they have expressed an interest in having this connect into existing paths, including one that they are putting in behind the turf field. Another area that was not shown is Park Woods, an area north of Park Woods Road, which is also part of the campus. There would be various ways of doing this trail. I do not perceive EMU desiring an easement with the City on their property, which is what we are discussing with other property owners. EMU is very interested in having this connect to paths on campus and allowing users to access the trail through their property.

Mr. Benevento added that EMU sees this as a major asset to the University and what it promotes for their students, particularly incoming students. I also want to add that we have talked to about 99 percent of all of the land owners along the trail route and there has been all positive support.

Mr. Fletcher asked if the cost included estimates for acquiring right-of-way.

Mr. Benevento replied yes, it does. That is why the price is at that level, because we incorporated the costs for easements per square foot.

Mr. Finks said do we think we may run into the problem of having to condemn property in order to obtain an easement?

Mr. Zumfelde said there is one area that goes near a building, which makes it questionable as to whether the building could stay; but, that is at the very extreme of the route. The suggestion would be if there were such significant hurdles, the route would be stopped earlier or taken another direction. So, no, the plan is not to condemn.

Mr. Finks said thank you; that is what I wanted to hear.

At this time Chairman Jones opened the public hearing and asked if there was anyone wishing to speak in favor of the request.

Mr. Hans Harman said he represents the largest private property owner involved with this project. I am very supportive of this as a part of the Comprehensive Plan or whatever. When Tom and Jacob approached us, we loved the idea. I was privileged to live in a community for five years that had a fantastic network of pedestrian and bike pathways; I utilized it often. I think this is a fantastic project and I applaud these folks for making it happen on their own time; it will make our community a better place. Hopefully, you will recognize this as well. I might be speaking a little out of turn, but, as far as right-of-way and easements, we have 20 acres and would like to pledge that at no charge to the City of Harrisonburg. You might see me back here at some point, looking at using this land in a little different light than how it is currently looked at, should this project come to fruition. I think this is a game changer, it is putting infrastructures in the City, and maybe you'll see me back here again saying "hey, because this pathway is here, perhaps we should look at this property in a different way; maybe be more creative with its use." Therefore, I am very supportive of the idea.

Chairman Jones asked if there was anyone else wishing to speak in favor of the request.

Jacob Zumfelde said this is not just a connection path for the Park View Neighborhood and Downtown; it is also an asset for the neighborhoods that it travels through. Many are low income neighborhoods, a point that I wanted to make because that is an important part of the work of NCP in Harrisonburg.

Chairman Jones asked if there was anyone else wishing to speak in favor of the request. Hearing none, he asked if there was anyone wishing to speak in opposition of the request. Hearing none, he closed the public hearing and asked Planning Commission for any discussion or a motion.

Mr. Chenault moved to recommend approval of the amendment to the Bicycle and Pedestrian Plan. It is an incredible project, it is do-able, and if there is any group that can work with the City and get it done, it is the NCP. One element of this trail that is particularly sustainable is the fact that, like the Bluestone Trail, it is not just there for recreational purposes. It serves a truly human purpose of being able to transport people to and from work; to and from the grocery store; and more. There are also a lot of folks in these neighborhoods that choose to travel by bicycle, as opposed to automobile, and this is a great project for them. I have enjoyed working with everyone involved. I think it is appropriate to include it in the five-year plan; but, that does not mean we will not get to it sooner.

Mrs. Fitzgerald seconded the motion.

Chairman Jones asked for a voice vote on the motion to recommend approval.

All voted in favor (7-0) of the motion to recommend approval of the amendment to the Bicycle and Pedestrian Plan.

Chairman Jones said this will move forward to City Council on March 8th.

Mr. Bill Blessing, Chairman of the Transportation Safety Advisory Commission (TSAC), said he wanted to add that the TSAC is strongly in favor of adding this amendment to Bicycle and Pedestrian Plan and we will be making that recommendation to City Council. There is a great value in having projects like this as part of that plan, because, from a safety perspective, we need to make sure that everything is done on a uniform basis. Our dream is to provide connections, all over the City, for both bicyclist and pedestrians; and we do not want that done in an independent, hap-hazard manner. Having the Bicycle and Pedestrian Plan, where our City staff can oversee and make sure that things are done the right way.

I also want to say that we will be recommending to City Council a couple of other items in connection with this and we ask for your support in making these recommendations. One is that we want to make sure that the NCP designers continue to work with Public Works staff. We will be asking Council to direct the developers to continue working closely with staff, particularly in the areas of the street crossings along Mt. Clinton Pike, Virginia Avenue, Jefferson Street, and others. Safety is our concern and those are areas where we want to make absolutely certain that those crossings are done correctly, and in the most safe way.

We will also be asking City Council to make sure that the Crime Prevention Through Environmental Design (CPTED) is used during the design and development of the trail. We are going to be setting a precedent with this trail, because, there will be other trails that we eventually do and we do not want these trails to become sloppy, ugly, and unsafe. We have an opportunity to do some good stuff with this trail.

Finally, we want to make certain that the City is prepared, from a maintenance and enforcement effort, for this project. Therefore, we will be recommending that City Council direct City staff to have prepared a maintenance and enforcement plan. Again, we asked for Planning Commission's support as we go forward with this. Thank you for your time.

Mr. Finks said thank you Mr. Blessing. I would like to say that for many, many years the City looked the other way when it came to sidewalks and bicycle paths. Thank you all, for bringing it to the forefront.

Unfinished Business

None.

Public Input

None.

Report of secretary and committees

Mr. Fletcher said the proactive zoning inspectors visited the Reherd Acres neighborhood section of the City this month. There they found nine violations consisting of inoperable vehicles and discarded materials. Next month they will visit the Route 33 West area of town.

Other Matters

Mr. Fletcher said he wanted to bring up for discussion the Planning Commission tour day and time. What are your thoughts on a day or time change? The available times emailed in by some of you were all over the place, there was not a time or day that fit for everyone.

Mrs. Fitzgerald suggested leaving it as it is.

Mr. Fletcher said to be quite honest, the Tuesday at 2:30 P.M. time is not working out either. As we discussed last month, Monday and Tuesday before the meeting are really our only two days for this. If we have a new suggestion, we are completely open to it.

Mr. Way asked if there was one day that looked better.

Mr. Fletcher said that Tuesdays appear to be "dead in the water" for at least three of you.

The suggestion of 4:30 P.M. on Monday before the meeting was agreed upon by all the Planning Commissioners.

Mr. Fletcher said we will start this in April and I will send out a reminder.

Mr. Fletcher reminded everyone that next month Planning Commission would be looking at the Urban Development Area (UDA) recommendations to be included in the Comprehensive Plan. Then on March 23 at 7:00 P.M. until 9:00 P.M. is the Comprehensive Plan public input meeting at the Lucy F. Simms Center for Continuing Education. Also, at next month's meeting we will have an ordinance amendment proposal with a special use permit to increase the heights of fences in residential districts.

Mrs. Turner said in fact, I have some discussion regarding that amendment request. When someone makes an ordinance amendment request they pay the advertising cost; but, in some cases, like the one that occurred with Mr. Harman's development, there is no cost involved, because Planning Commission told staff that you felt an amendment may need to be addressed. The City then absorbs the cost of the advertisement. In discussing the ordinance amendment with the applicant's attorney, it was a question that their attorney asked us to bring to your attention, to see if you felt strongly one way or the other. Right now, our ordinance only allows fence heights in residential areas of six foot. The attorney asked if anyone here has ever had an inclination to initiate that amendment on the behalf of Planning Commission instead of the applicant. I offered that staff would bring it up at Planning Commission.

Dr. Dilts said she had no inclination to initiate an ordinance amendment to raise the height limit on fences in a residential area. All members of Planning Commission agreed with that statement.

Adjournment

The meeting was adjourned at 8:10 P.M.



City of Harrisonburg, Virginia

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

STAFF REPORT

March 9, 2011

ZONING ORDINANCE AMENDMENT

Sections 10-3-34, 40, 46, 48.4, 52, 55.4, 56.4, and 57.4.

An application was submitted by William and Susan Cale to amend the Zoning Ordinance to add a use to the list of special uses available in the R-1, Single Family Residential District. The use would permit fences to exceed height regulations, which in residential districts is generally restricted to six feet. (In business and industrial districts, if the fence is used for security purposes, there is no height restriction.) After reviewing the application and discussing the impact it could have on neighborhoods within the R-1 district, staff believed that if such a use should be added to this classification, in particular circumstances, it could be appropriate in other residential districts. Thus, staff is proposing to further modify the Zoning Ordinance by adding the same use to each residential district (R-1, R-2, R-3, R-4, R-5, R-6, and R-7) special use permit list.

The following language would be added to each residential district special use section: *Fences greater than the height otherwise permitted, under such conditions as are deemed necessary by the City Council.*

The proposed language specifically calls attention to allowing “fences greater than the height otherwise permitted” because the maximum height, which is generally limited to six feet, can sometimes be taller than six feet or be further restricted to less than six feet. This is clarified within Section 10-3-115 of the Zoning Ordinance, which regulates walls and fences, and explains that fences shall not exceed six feet except in specific situations when they are attached to a principal building, where they can reach a height of eight feet. This section also points out that fences on corner lots may be further restricted in height, and location, due to sight distance issues.

In particular, the Cales proposed the amendment to be able to erect a fence taller than six feet in height to help control deer movement on their property. Concurrently with the ordinance amendment, the Cales are applying for a special use permit to install an eight-foot fence.

There are situations that may arise where it could be appropriate for a fence to be taller than what is permitted by right, thus staff believes this amendment is justifiable. Adding this as a special use requires public hearings, notifications to adjoining property owners, advertising on the property and in the newspaper, and provides the opportunity to add conditions that City Council may deem appropriate. Thus staff does not foresee negative side effects in modifying the Zoning Ordinance for this purpose.

Staff recommends approval and supports a favorable recommendation to City Council.

Draft

ORDINANCE AMENDING AND RE-ENACTING SECTION

10-3-34

OF THE

CODE OF ORDINANCES

CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of
Harrisonburg, Virginia:**

That Section 10-3-34 be amended as follows:

Section 10-3-34. Uses Permitted Only By Special Use Permit.

Add Subsection (9) as shown:

(9) Fences greater than the height otherwise permitted, under such conditions as are deemed necessary by the City Council.

The remainder of Section 10-3-34 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the ____ day of _____, 2011.
Adopted and approved this ____ day of _____, 2011.

MAYOR

ATTESTE:

CLERK OF THE COUNCIL

Draft

ORDINANCE AMENDING AND RE-ENACTING SECTION

10-3-40

OF THE

CODE OF ORDINANCES

CITY OF HARRISONBURG, VIRGINIA

Be it ordained by the Council of the City of Harrisonburg, Virginia:

That Section 10-3-40 be amended as follows:

Section 10-3-40. Uses Permitted Only By Special Use Permit.

Add Subsection (10) as shown:

(10) Fences greater than the height otherwise permitted, under such conditions as are deemed necessary by the City Council.

The remainder of Section 10-3-40 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the _____ day of _____, 2011.
Adopted and approved this _____ day of _____, 2011.

MAYOR

ATTESTE:

CLERK OF THE COUNCIL

Draft

ORDINANCE AMENDING AND RE-ENACTING SECTION

10-3-46

OF THE

CODE OF ORDINANCES

CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of
Harrisonburg, Virginia:**

That Section 10-3-46 be amended as follows:

Section 10-3-46. Uses Permitted Only By Special Use Permit.

Add Subsection (7) as shown:

(7) Fences greater than the height otherwise permitted, under such conditions as are deemed necessary by the City Council.

The remainder of Section 10-3-46 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the _____ day of _____, 2011.
Adopted and approved this _____ day of _____, 2011.

MAYOR

ATTESTE:

CLERK OF THE COUNCIL

Draft

ORDINANCE AMENDING AND RE-ENACTING SECTION

10-3-48.4

OF THE

CODE OF ORDINANCES

CITY OF HARRISONBURG, VIRGINIA

Be it ordained by the Council of the City of Harrisonburg, Virginia:

That Section 10-3-48.4 be amended as follows:

Section 10-3-48.4. Uses Permitted Only By Special Use Permit.

Add Subsection (8) as shown:

(8) Fences greater than the height otherwise permitted, under such conditions as are deemed necessary by the City Council.

The remainder of Section 10-3-48.4 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the ____ day of _____, 2011.
Adopted and approved this ____ day of _____, 2011.

MAYOR

ATTESTE:

CLERK OF THE COUNCIL

Draft

ORDINANCE AMENDING AND RE-ENACTING SECTION

10-3-52

OF THE

CODE OF ORDINANCES

CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of
Harrisonburg, Virginia:**

That Section 10-3-52 be amended as follows:

Section 10-3-52. Uses Permitted Only By Special Use Permit.

Add Subsection (5) as shown:

(5) Fences greater than the height otherwise permitted, under such conditions as are deemed necessary by the City Council.

The remainder of Section 10-3-52 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the ____ day of _____, 2011.
Adopted and approved this ____ day of _____, 2011.

MAYOR

ATTESTE:

CLERK OF THE COUNCIL

Draft

ORDINANCE AMENDING AND RE-ENACTING SECTION
10-3-55.4

OF THE
CODE OF ORDINANCES
CITY OF HARRISONBURG, VIRGINIA

**Be it ordained by the Council of the City of
Harrisonburg, Virginia:**

That Section 10-3-55.4 be amended as follows:

Section 10-3-55.4. Uses Permitted Only By Special Use Permit.

Add Subsection (5) as shown:

(5) Fences greater than the height otherwise permitted, under such conditions as are deemed necessary by the City Council.

The remainder of Section 10-3-55.4 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the ____ day of _____, 2011.
Adopted and approved this ____ day of _____, 2011.

MAYOR

ATTESTE:

CLERK OF THE COUNCIL

Draft

ORDINANCE AMENDING AND RE-ENACTING SECTION
10-3-56.4

OF THE
CODE OF ORDINANCES
CITY OF HARRISONBURG, VIRGINIA

Be it ordained by the Council of the City of Harrisonburg, Virginia:

That Section 10-3-56.4 be amended as follows:

Section 10-3-56.4. Uses Permitted Only By Special Use Permit.

Add Subsection (e) as shown:

(e) Fences greater than the height otherwise permitted, under such conditions as are deemed necessary by the City Council.

The remainder of Section 10-3-56.4 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the _____ day of _____, 2011.
Adopted and approved this _____ day of _____, 2011.

MAYOR

ATTESTE:

CLERK OF THE COUNCIL

Draft

ORDINANCE AMENDING AND RE-ENACTING SECTION
10-3-57.4

OF THE
CODE OF ORDINANCES
CITY OF HARRISONBURG, VIRGINIA

Be it ordained by the Council of the City of Harrisonburg, Virginia:

That Section 10-3-57.4 be amended as follows:

Section 10-3-57.4. Uses Permitted Only By Special Use Permit.

Add Subsection (e) as shown:

(e) Fences greater than the height otherwise permitted, under such conditions as are deemed necessary by the City Council.

The remainder of Section 10-3-57.4 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the _____ day of _____, 2011.
Adopted and approved this _____ day of _____, 2011.

MAYOR

ATTESTE:

CLERK OF THE COUNCIL

Date Application Received: 2-8-2011

Application for Ordinance Amendment
City of Harrisonburg, Virginia

Fee: \$325.00

Total Paid: \$ 325.00 *pd CB.*

Applicant's Name: William and Susan Cale

Street Address: 710 New York Avenue Email: _____

City: Harrisonburg State: VA Zip: 22801

Telephone: Work _____ Fax _____ Mobile _____

Applicant's Representative: Lisa Anne Hawkins, Esq.

Street Address: 90 North Main Street, Suite 201 Email: lah@lolafirm.com

City: Harrisonburg State: VA Zip: 22802

Telephone: Work (540) 437-3118 Fax (540) 437-3101 Mobile _____

Description of Amendment

Zoning Ordinance Section: 10-3-34

Proposed Text: Add a new clause (9) to Section 10-3-34, Uses Permitted only by special use permit in R-1 zone district, reading as follows: "(9) Fences greater than the height otherwise permitted, under such conditions as are deemed necessary by the City Council."

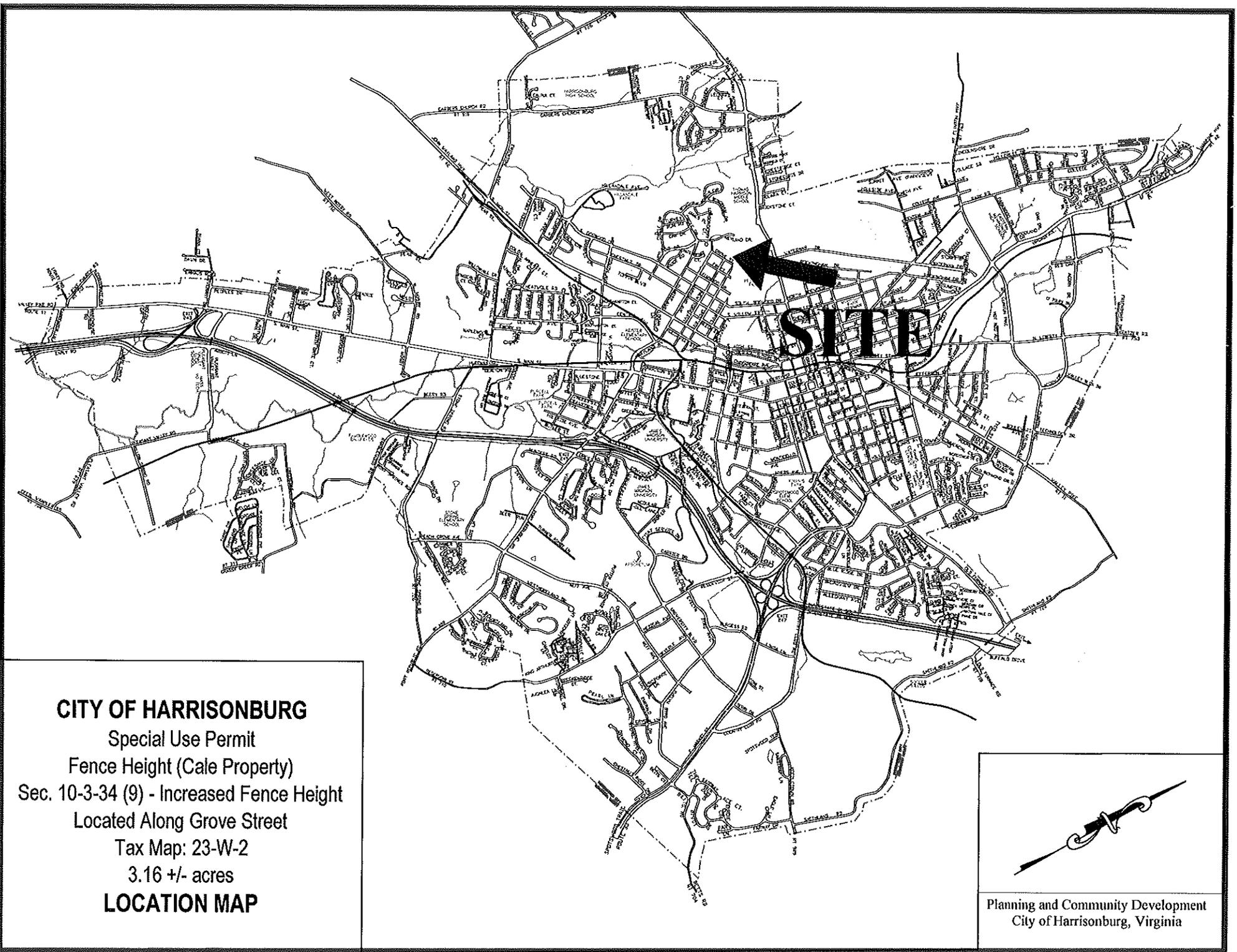
Certification: I certify that the information contained herein is true and accurate.

Signature: *Lisa Anne Hawkins*, Authorized Attorney Agent
Applicant Signature

ITEMS REQUIRED FOR SUBMISSION

- Completed Application
- Ordinance Text
- Letter of description

- Fees Paid
-
-



CITY OF HARRISONBURG

Special Use Permit

Fence Height (Cale Property)

Sec. 10-3-34 (9) - Increased Fence Height

Located Along Grove Street

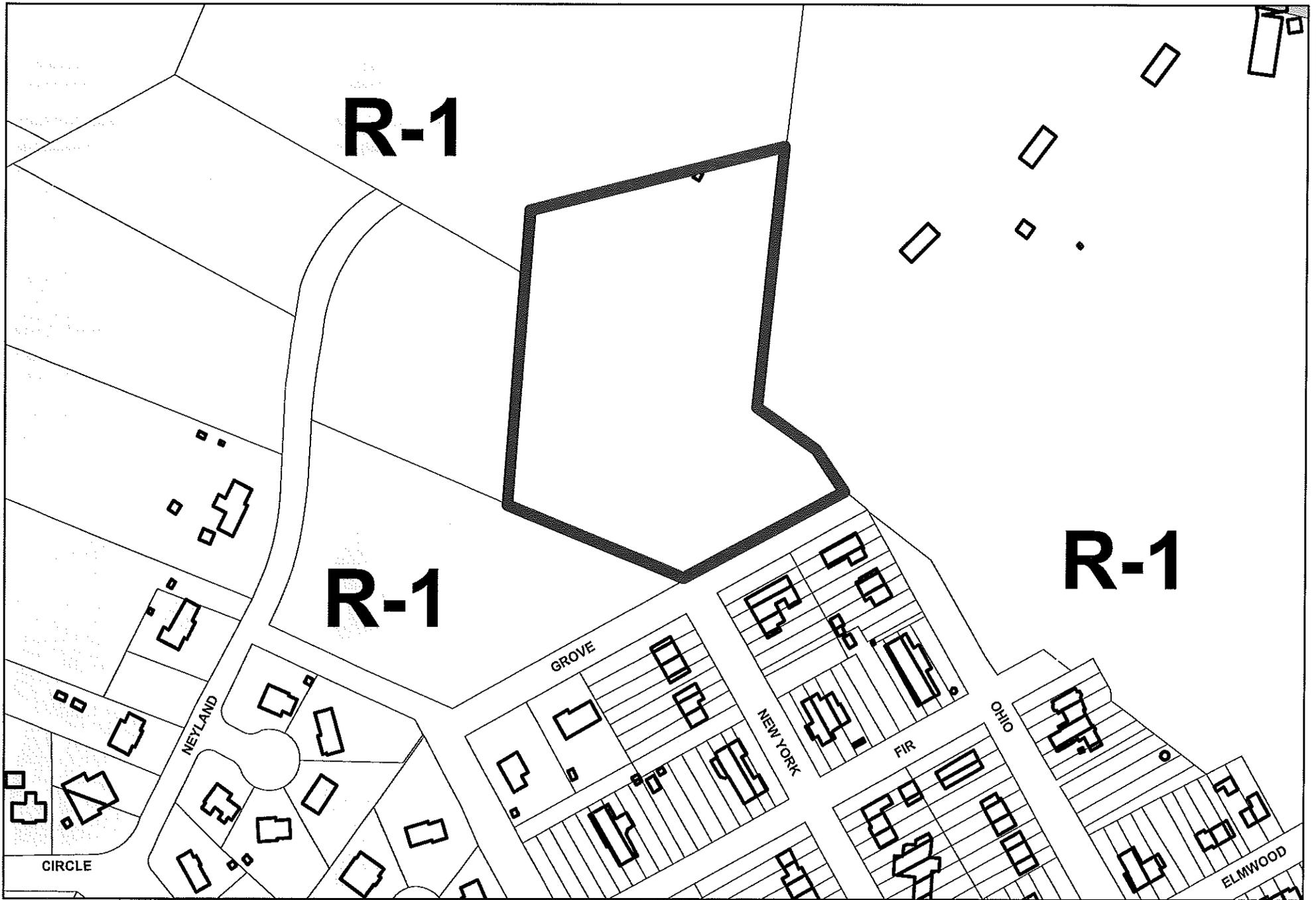
Tax Map: 23-W-2

3.16 +/- acres

LOCATION MAP



Planning and Community Development
City of Harrisonburg, Virginia



**Special Use Permit 10-3-34(9) Fence Height
Cale Property - Along Grove St. (23/W/2)**



City of Harrisonburg, Virginia

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

STAFF REPORT

March 9, 2011

SPECIAL USE PERMIT – FENCE HEIGHT (CALE PROPERTY) **GENERAL INFORMATION**

Applicant: William and Susan Cale

Tax Map: 23-W-2

Acreage: 3.2 +/- acres

Location: Located along Grove Street

Request: Public hearing to consider a request for a special use permit per Section 10-3-34 (9) of the Zoning Ordinance to allow a fence within the R-1, Single Family Residential district to exceed the six-foot maximum height regulation.

LAND USE, ZONING, AND SITE CHARACTERISTICS

The Comprehensive Plan designates this area as Low-Density Residential. This designation states that these areas consist of single-family detached dwellings with a maximum density of 1 to 4 units per acre. Low-density sections are found mainly in well-established neighborhoods and are designed to maintain the existing character of neighborhoods and to provide traditional areas for home ownership.

The following land uses are located on and adjacent to the property:

Site: Undeveloped wooded lot, zoned R-1

North: Undeveloped wooded lot, zoned R-1

East: Westover Park, zoned R-1

South: Across Grove Street, single family homes, zoned R-1

West: Undeveloped wooded parcels, zoned R-1

EVALUATION

Concurrently, with the Zoning Ordinance amendment to modify the R-1, Single Family Residential District to add a special use to allow fences to exceed maximum height regulations, the applicants are requesting a special use permit per proposed Section 10-3-34 (9) to allow an eight-foot in height fence. The property is located between Westover Park and Thomas Harrison Middle School accessible via New York Avenue along Grove Street. More specifically, it is a 3.2 +/- acre, wooded lot located across Grove Street from the applicants' residence at 710 New York Avenue.

As illustrated in their submitted materials, the applicants would like to install the Deer Blocker Deer Fence, a product from Nixalite of America Incorporated. The fence would be eight feet in height knotted with four-inch, open squares made of polyethylene mesh. The fence would be supported by black enamel finished posts, which match the color of the fencing material, positioned at a maximum

distance of 20-feet apart. (The photographs provided within the packet are pictures of the existing fence.) The product is described to be virtually invisible at normal viewing distances. The fence, and several gates, would be installed to help prevent damage by white tailed deer and would be positioned around the perimeter of the subject property, except along the boundary with Westover Park where it will be located a few feet away from the property line. The applicants' contractor met with Lee Foerster, the Director of Parks and Recreation, to explain more specifically where the fence would be installed. Mr. Foerster had no concerns.

By-right, property owners may install fences on their property boundaries. In residential districts, walls and fences cannot be electrified, barbed, or otherwise secured in a manner inappropriate or dangerous to the neighborhood. Fences are generally restricted to six feet in height; however, if the fence is attached to a principal building, and it is clearly incidental to the function of the building, they may be as high as eight feet. In business and industrial districts, if the fence is used for security purposes, there is no height restriction. Building permits are not required unless the fence is taller than six feet; therefore, if this request is approved, the applicants will be required to obtain a building permit before installing the fence.

As described above, the subject property is a 3.2 +/- acre wooded lot adjacent to Westover Park. This parcel is part of more than 40 acres of wooded area (excluding the acreage of Westover Park) adjacent to the Wyndham Woods neighborhood that has historically had deer nuisance problems. Without a doubt, the applicants' property is home to many deer.

Staff does not foresee negative side effects in approving this application. The property is somewhat remote and surrounded by relatively quiet uses including single family homes, undeveloped property, and Westover Park. In fact, this type of fence could be more welcomed by neighbors and users of Westover Park as it would preserve the natural, forested, and park-like viewscape rather than erecting a by-right alternative, which could be a six-foot opaque fence. Staff understands the reasoning behind the applicants' desire to have such a fence and it proves to be a situation with appropriate characteristics, suitable for special use approval.

Staff recommends approving the special use permit with the following conditions:

1. The special use shall only be applicable to the proposed fence in this application.
2. There shall be no advertising on the fence.
3. If in the opinion of Planning Commission or City Council, the fence becomes a nuisance, the special use permit can be recalled for further review, which could lead to the need for additional conditions, restrictions, or the revocation of the permit.



90 North Main Street, Suite 201
Post Office Box 1287
Harrisonburg, Virginia 22803

Phone: (540) 437-3100
Facsimile: (540) 437-3101
www.lenhartobenshain.com

To: City of Harrisonburg
City Council
Planning Commission
Community Development Department

From: Lisa Anne Hawkins, Esq. 

Date: March 1, 2011

Re: Special Use Permit Request - Supplemental Information
William and Susan Cale

This memorandum is provided in response to questions asked by the staff pertaining to the pending request of the Cales for a special use permit allowing increased fence height. It has been prepared based on information provided by the Cales.

As your site visit will demonstrate, Mrs. Cale is an avid gardener. For the past 15 years, the Cales have constructed a native woodland garden composed mostly of the region's trees, small hardwood bushes and wildflowers. Water has been brought to the garden by the Cales, who have nurtured the land and their plantings.

The current fencing around the garden area is not keeping the deer out of the woodland garden. (The height of the current fence varies, but is estimated to range from 5-6 feet in most places, with a few places nearing 7 feet. Although it is marked as electrified, no portion of the fence is actually "hot" or electrified.) Despite the existing fencing and the best efforts of the Cales to protect the garden, the deer have destroyed hundreds of saplings and shrubs. With the emerald ash borer now becoming a threat to this mostly ash forest, the Cales would like to plant the more disease-resistant hybridized American chestnut. But the saplings need more protection from the deer than the current fence provides.

The request for special use permit will allow the installation of special deer fence which is approx. 8 feet tall, as described in the materials submitted with the application, and which is designed and intended to keep the deer away from the interior plants and bird feeders. The proposed fence is composed of black metal posts and black heavy mesh, with four gates (the same gates from the existing fence will be used but relocated as part of the new fence, and use of those existing gates is requested as part of the permit request). We expect that the new fence will be approximately 8 feet

March 1, 2011

Page 2

high and will have little visual impact on the three residences located across Grove Street (one of which is occupied by the Cales). The materials provided by the fence manufacturer describe this fence as "nearly invisible."

The Cales have spoken with the neighbors across Grove Street from the site, and no one has expressed concern. A letter of support from Hugo Warns, Jr. of 760 Grove Street is attached. Like many of the other neighbors, who the Cales allow to use the walking trails within the Cales' garden, Mr. Warns uses the walking trails within the garden to walk his dog.

The boundaries of the new fence will track portions of the existing fence, but will expand the fenced area to encompass tax parcel 23-W-2 as reconfigured by the attached plat. A portion of the fence will replace the existing fence that runs along the border between the Cales' property and Westover Park. The fence contractor has indicated that he met with a representative of City Park and Recreation Department in that regard, but additional coordination and approval will be obtained prior to installation of the new fence, if approved.

Thank you for your consideration.

271573

PLAT OF HARRISONBURG OASIS, LLC & ELM STREET PROPERTIES, LLC SUBDIVISION

LOCATED JUST NORTH OF GROVE STREET IN THE CITY OF HARRISONBURG, VIRGINIA
 SCALE: 1" = 100 FT.

SURVEYED AUGUST 21, 2009
 LAND COVERED IN DB. 2158, 2234
 PG. 680 766

- Legend**
- Point
 - Set 3/4" Iron Rod
 - △ Found Iron Rod
 - ▲ Found Iron Pipe
 - Found Con. Mon.

(Residue)
 10.664 Acres By Subtraction
 T.M. 37-A-10
 Harrisonburg Oasis, LLC
 2234-766

2.494 Acres
 New Division
 T.M. 37-A-10

T.M. 36-P-1
 City of Harrisonburg
 361-235

1-2	N. 50 36 16 W.	191.62 ft.
2-3	N. 19 00 41 E.	21.91 ft.
3-4	N. 53 22 04 W.	120.00 ft.
4-5	N. 53 22 04 W.	128.63 ft.
5-6	N. 14 35 21 E.	102.28 ft.
6-7	N. 85 45 59 E.	436.10 ft.
7-8	S. 15 53 50 W.	370.00 ft.
8-1	S. 15 56 50 W.	68.65 ft.
9-5	N. 14 35 22 E.	376.34 ft.
5-4	S. 53 22 04 E.	128.63 ft.
4-9	S. 34 33 42 W.	349.06 ft.

S. 50° 28' 14" E.
 229.75'

N. 37° 20' 40" E.
 200.00'

N. 24° 50' 40" E.
 183.97' L.C.
 R=425.00'

N. 55° 41' 10" W. 317.98'

Neyland Drive

Grove Street

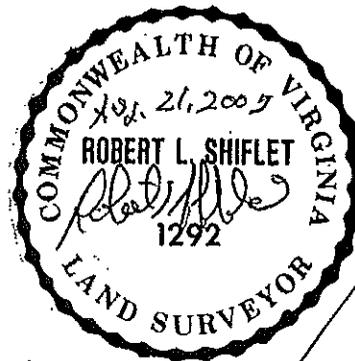
New York Avenue

(Residue)
 2.435 Acres By Subtraction
 T.M. 23-W-3
 Elm Street Properties, LLC
 2158-680

Bearings Shown On This
 Residue Parcel Are Based
 On Plat Record In D.B.
 1048, Pg. 389

0.515 Acre
 New Division
 T.M. 23-W-3

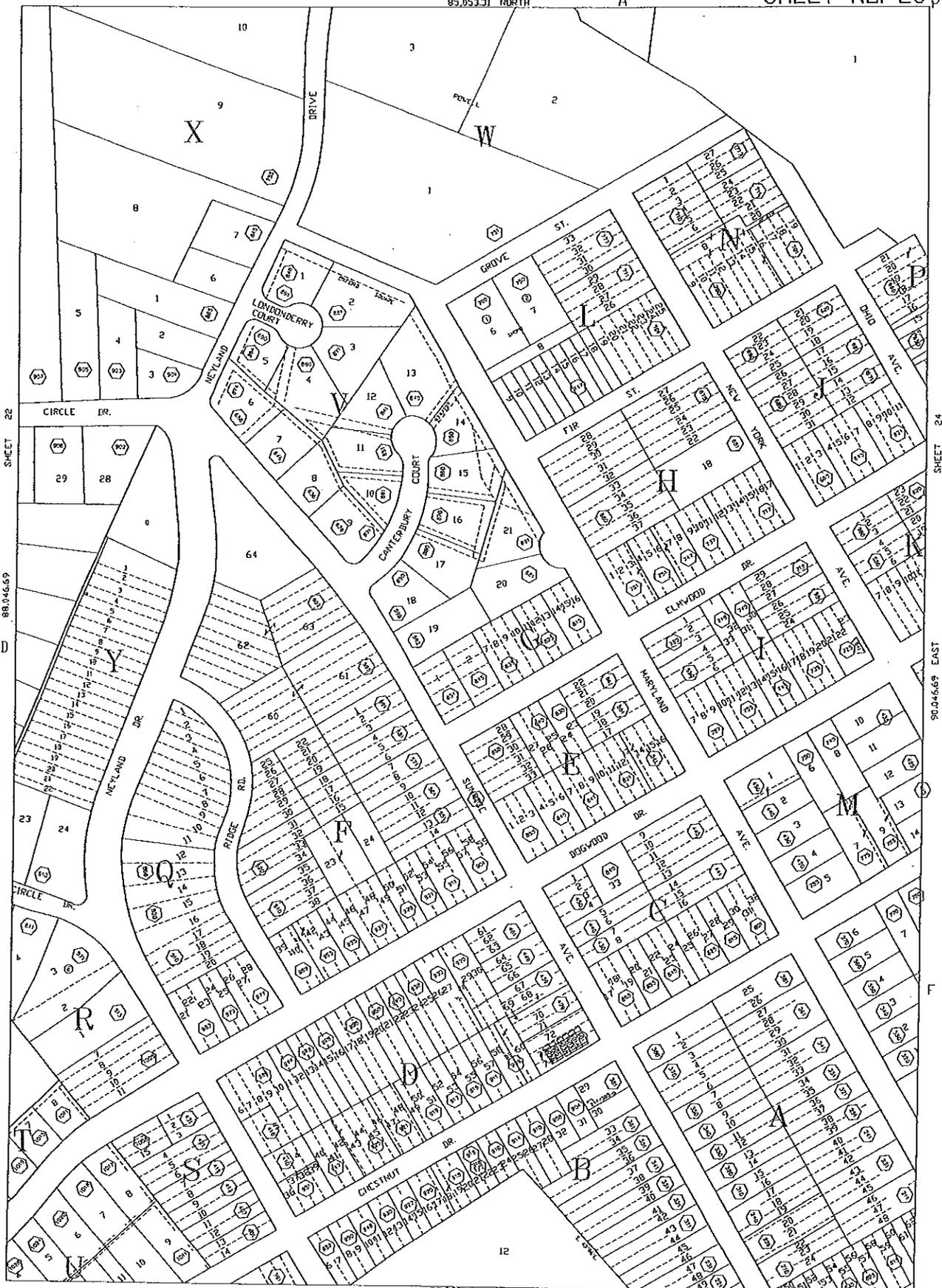
T.M. 23-W-2
 William F. Cole
 1054-215



I Herby Certify That The Plat
 Shown Hereon Is A True Representation
 Of A Survey Actually Made On The
 Ground Under My Supervision And
 To The Best Of My Knowledge And
 Belief Is Correct.

Given Under My Hand This 21st.
 Day Of August, 2009

HILL & SHIFLET, Inc.
 Land Surveyors
 Dayton, Va.



SHEET 28
88,046.69

D

CIRCLE DR.

MEYLAND DR.

RIDGE RD.

CANTONRY COURT

LONDONRY COURT

GROVE ST.

ELWOOD DR.

MAPLELAND DR.

DOGWOOD DR.

82,283.15 C

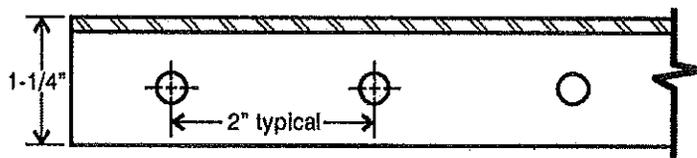
REV 9/1/01

SHEET 24

90,046.69 EAST

F

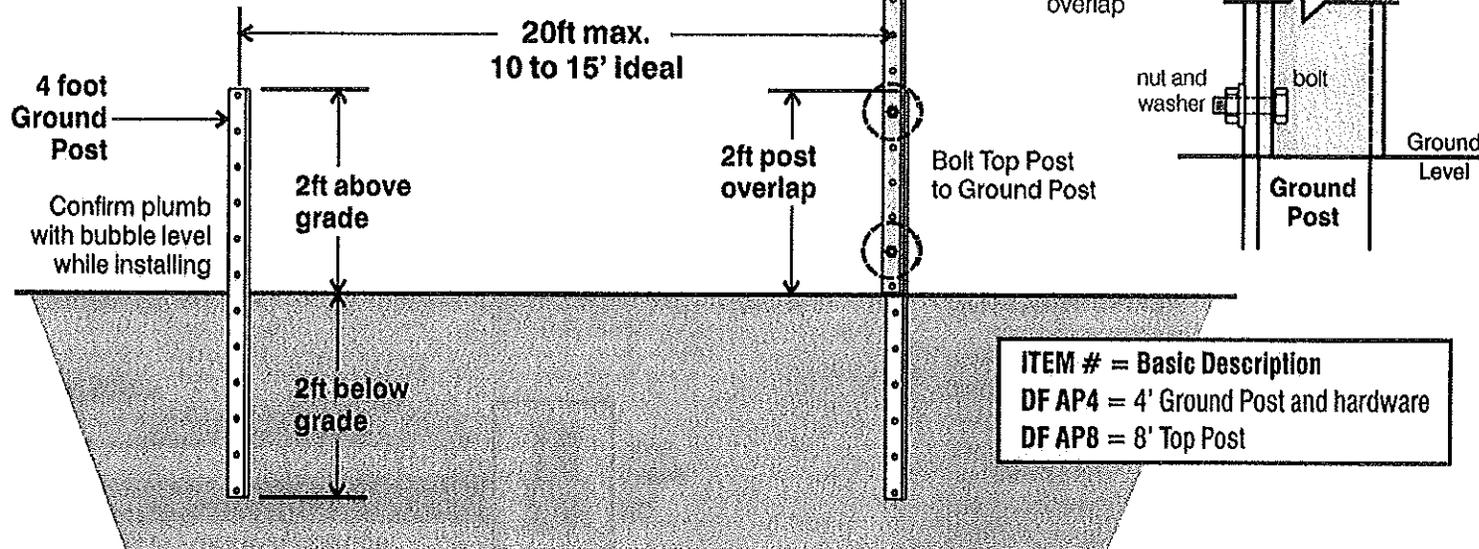
Black steel angle posts - 1/2 scale



Steel angle posts with 11 GA (0.12") flanges at 90° angles. Black in color. 80K tensile strength and 50K yield strength. 5/16" dia. holes (0.312"), 2" o.c., along one side of angle. Use hardware supplied to join posts together.

1. Drive Ground Post

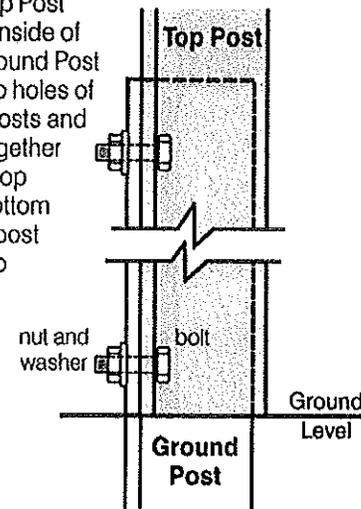
Drive 4 ft Ground Post 2ft into the ground. Check plumb with a bubble level while driving post. A straight Ground Post will ensure a straight Top Post.



2. Bolt Top Post to Ground Post

Use supplied hardware to bolt the 8 foot high Top Post to the Ground Post. Repeat at each post location.

The Top Post nests inside of the Ground Post. Line up holes of both posts and bolt together at the top and bottom of the post overlap.



ITEM # = Basic Description
 DF AP4 = 4' Ground Post and hardware
 DF AP8 = 8' Top Post

Drawing For:

Deer Blocker Deer Fence
 EZ-Set Post System - basic
 installation instructions

Description:

Support posts for Deer
 Blocker Deer Fencing
 system

Recommended Items:

DF AP4, DF AP8 and
 included hardware

Acceptable Material:

Posts: black, 11 ga. 50K
 steel 1-1/4 x1-1/4 angles,
 offset holes along one side.

Hardware: zinc plated 5/16
 bolt, nut and washer.

Drawn By:

George Winhurst
 Planning Department
 Nixalite of America Inc

Questions?:

Call, fax or e-mail your
 questions to Nixalite at:

Nixalite of America Inc

Ph: 309.755.8771

Fax: 309.755.0077

Email: sales@nixalite.com

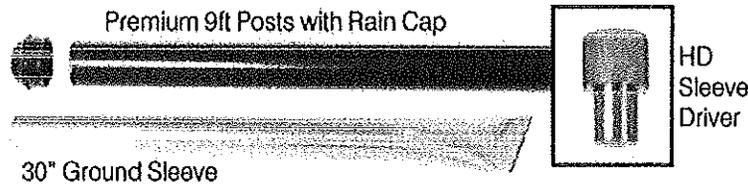


Nixalite® of America Inc.
 1025 16th Avenue East Moline, IL. 61244
 Experts In Architectural Bird Control Since 1950

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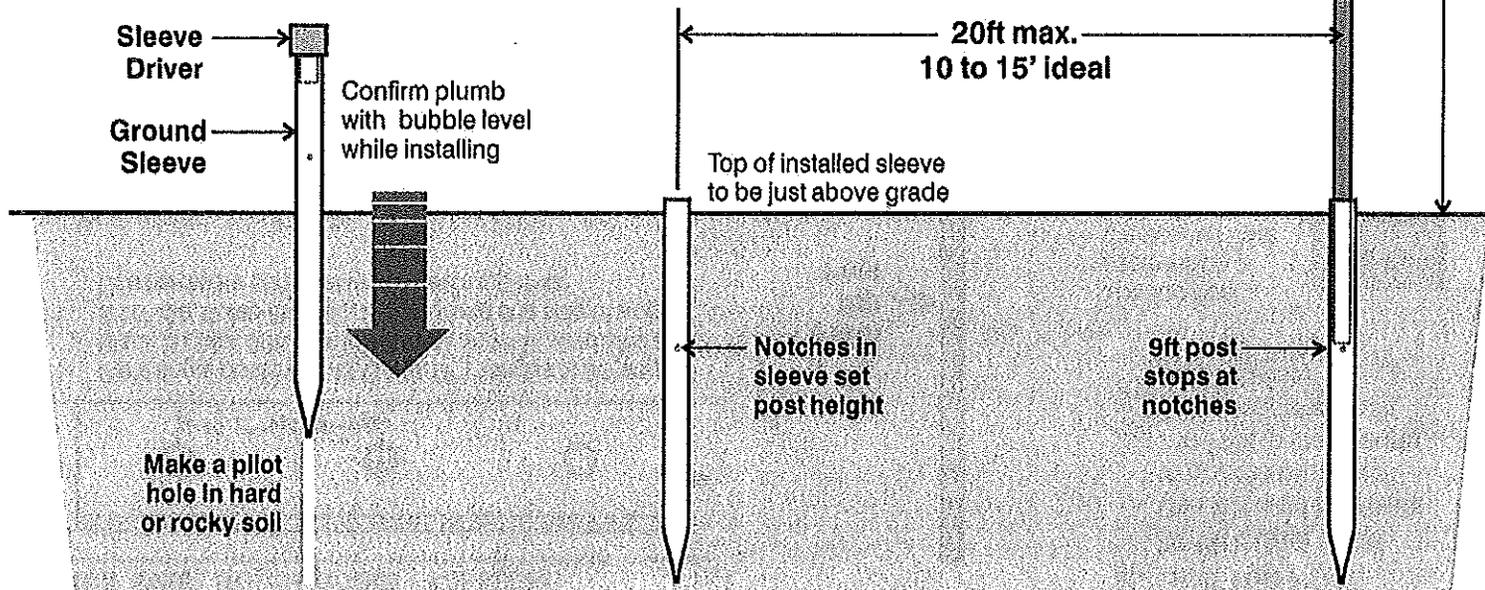
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Premium Post Components



1. Drive Ground Sleeve

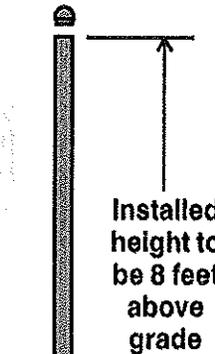
Do not hammer directly on the Ground Sleeve! This will damage the sleeve, preventing the posts from fitting properly. Use the HD Sleeve Driver to drive the sleeve into the ground. Use a bubble level to make sure the sleeve is driven straight into the ground. The top of the installed sleeve should be just above ground level. In hard or rocky soil, make a pilot hole first. This eases installation and prevents damage to the sleeve. Make sure pilot hole is plumb.



2. Set Posts

Slide the Premium Post into the sleeve. The post will stop at the notches inside the sleeve. Installed height will be 8ft above grade. Repeat at each post location.

Sleeve allows for quick post removal. Cap the ground sleeve when the post is removed. This prevents the sleeve from filling up with debris.



Drawing For:

Deer Blocker Deer Fence
Premium Post System. Basic installation instructions

Description:

Premium support posts for Deer Blocker Deer Fencing

Recommended Items:

DF-RP9, DF-GS, DF-GSD and fence hardware accessories.

Acceptable Material:

Premium Posts: black, 9ft x 1-5/8" dia steel fence post with included rain cap.

Ground Sleeve: HD, thick wall galvanized steel ground sleeve for posts.

HD driver: HD steel plug for driving sleeves.

Drawn By:

George Winthurst
Planning Department
Nixalite of America Inc

Questions?:

Call, fax or e-mail your questions to Nixalite at:

Nixalite of America Inc

Ph: 309.755.8771

Fax: 309.755.0077

Email: sales@nixalite.com



Nixalite® of America Inc.
1025 16th Avenue East Moline, IL. 61244
Experts In Architectural Bird Control Since 1950

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Why Use Deer Blocker?

Deer Problem:

Over development of rural areas forces wild deer into urban areas, leading to unexpected and unwelcome problems and conflicts.

- Deer can ruin landscaping, trees, seedlings and gardens.
- Deer parasites carry Lyme disease, Tularemia, Rocky Mountain Fever, etc.
- Deer can transmit diseases and parasites to you, your pets and livestock.
- Deer vs. auto accidents kill and injure thousands of people every year.

Deer Blocker Solution:

A Deer Blocker Fence enclosure provides a humane and discreet barrier that keeps deer out of sensitive areas without relying on chemicals or electricity.

- Protects everything from small gardens to golf courses.
- Keeps deer separated from livestock, horses, pets, etc.
- Can help in keeping deer away from busy roads and trails.

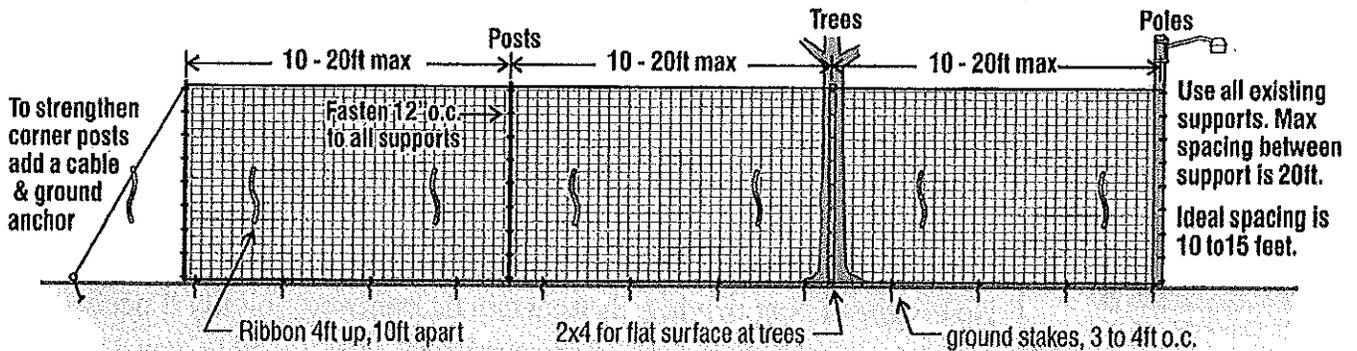
Why Deer Blocker Is Superior:

Deer Blocker is the best in the business because it offers the best value. It is long lasting, lightweight, very strong and easy to install. The 4" square mesh is nearly invisible and has very little wind loading. It is MANY times less expensive and less conspicuous than an all metal or wood fence.

Protect:

- Landscaping
- Nurseries
- Trees, shrubs
- Lawns, gardens
- Orchards
- Vineyards
- Sod farms
- Municipal parks
- Golf courses
- Cemeteries
- Ball fields
- Busy roads
- Livestock pens
- Stables, barns
- Grain storage
- Many more

Deer Blocker Installation Guidelines



Use Deer Blocker Fence to protect your entire property or just selected areas within it. Be sure to completely enclose the area to be protected.

Accurately measure perimeter of the enclosure. Note any trees or existing objects that could be used to support the fence. Deer Blocker Fence must be supported every 10 to 20 feet. If existing trees and objects are too far apart, install additional posts to maintain this spacing. If trees or objects are not available, use our Deer Fence posts for the entire enclosure.

To install Nixalite's Deer Fence posts, use the instructions included with the post. If needed, reinforce corner posts with a cable and anchor system.

Fasten the fence to existing supports with u-nails, staples, etc. Secure the fence every 12" along the support (from top to bottom). Pull the fence tight and fasten to the next support.

Fasten the fence to Nixalite posts with Net Ties. Secure the fence every 12" along the post (from top to bottom). Pull the fence tight and fasten to the next post or support.

To prevent deer from pushing under the fence, stake the bottom edge of the fence to the ground every 3 to 4 feet using Nixalite's Ground Stakes.

IMPORTANT. Attach 2ft long strips of Repeller Ribbon to the fence. Space them every 10 ft along the fence, 4ft up from the ground. This makes the fence more visible to deer (day and night) and helps prevent collisions. Add ribbon to any corner cables as well.

If you have any questions about the Deer Blocker Fencing, posts or any other detail, please contact Nixalite.

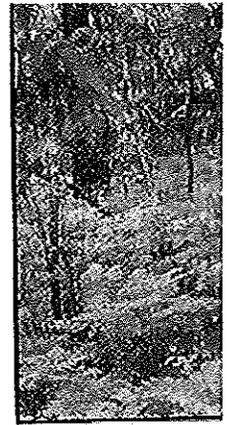
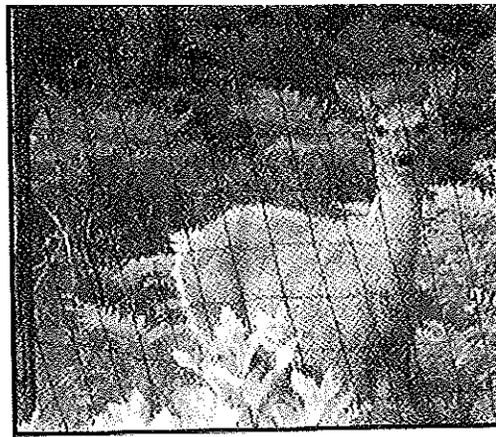
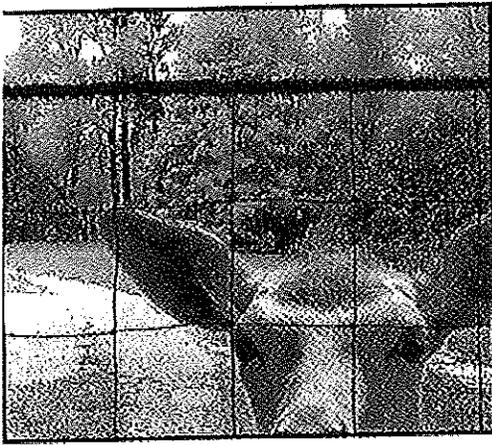


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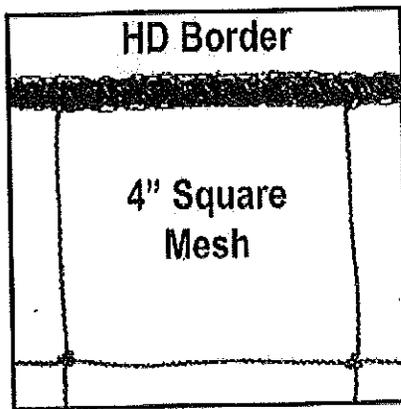
Phone: 800.624.1189 or 309.755.8771
Fax: 800.624.1196 or 309.755.0077
Email: birdcontrol@nixalite.com
Web: www.nixalite.com



Where the World Shops for Humane Bird and Animal Control.



- Made from UV, rot and abrasion resistant high density polyethylene
- Super strong, 380 denier, 36 ply strands with 175 lb breaking strength
- 4" square mesh is nearly invisible
- Full 8 ft high, 100 & 300 ft long pieces
- HD border at all 4 sides means no extra hardware for top support
- Lighter, less expensive and easier to install than metal fencing



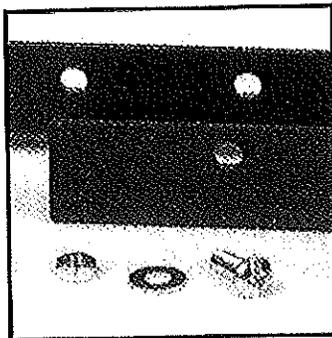
Deer Blocker Deer Fence

- Strong UV resistant polyethylene
- 36 ply strands w/175 lb breaking strength
- Pieces are 8 ft high and 100 & 300 ft long
- 4" square mesh is nearly invisible
- HD border woven into all 4 edges

E-Z Set Fence Posts

Installs quickly & easily. 1-1/4" black coated steel angle posts are strong yet discreet. Drive the **DF AP4** bottom post 2 ft into the ground, bolt the **DF AP8** to it with the supplied hardware.

Premium post removal. No need for 1-5/8" blades.



- | Item # | Description |
|--------------|------------------------------------------|
| DF AP8 | 8 ft Top Post (bolts to AP4) |
| DF AP4 | 4 ft Bottom Post w/hardware |
| | AP4 driven into ground - AP8 bolts to it |



Deer Blocker Deer Fence A

... complete your Deer Blocker Deer Fence installation





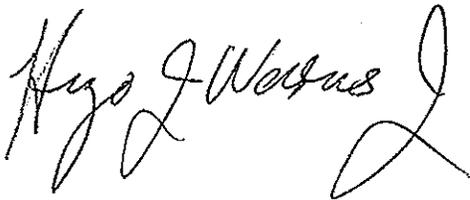




To Whom it may concern:

This is to confirm that my wife and I, living at 760 Grove Street, have no concern with Dr. and Mrs Cale installing a fence over six feet high around her wooded property located on Grove Street

Hugo J Warns Jr
760 Grove Street
Harrisonburg Va 22801

A handwritten signature in cursive script that reads "Hugo J Warns Jr". The signature is written in black ink and is positioned below the typed name and address.

March 2, 2011

City of Harrisonburg, Virginia
Department of Planning & Community Development
409 South Main Street
P.O. Box 20031
Harrisonburg, VA 22801-7531

Dear Harrisonburg Planning Commission:

This letter is to confirm and declare that the owners of 777 New York Ave. Harrisonburg, VA approve the special use permit request of William and Susan Cale. We have no objection to the development of their property to include a fence exceeding the 6-foot regulation.

Thank you for your consideration of and attention to this matter.

Sincerely,

Sandra E. Williams 3/2/11

Sandra E. Williams
777 New York Ave.
Harrisonburg, VA
434-3997

Date Application Received: 2-8-2011

Application for Special Use Permit
City of Harrisonburg, Virginia

Fee: \$325.00 plus \$25.00 per acre

Total Paid: \$ 425⁰⁰ pt B

Property Owner's Name: William and Susan Cale

Street Address: 710 New York Avenue Email: _____

City: Harrisonburg State: VA Zip: 22801

Telephone: Work _____ Fax _____ Mobile _____

Owner's Representative: Lisa Anne Hawkins, Esq.

Street Address: 90 North Main Street, Suite 201 Email: lah@lolawfirm.com

City: Harrisonburg State: VA Zip: 22802

Telephone: Work (540) 437-3118 Fax (540) 437-3101 Mobile _____

Description of Property and Request

Location (Street Address): Grove Street

Tax Map Number Sheet: 23 Block: W Lot: 2 Lot Area: 3.155

Existing Zoning Classification: R-1

Special Use being requested: Fence exceeding height restrictions

Please provide a detailed description of the proposed (use additional pages may be attached): _____

Deer Blocker Deer Fence. See attached.

Names and Addresses of Adjacent Property Owners (Use separate sheet for additional names)

North: See attached

South: _____

East: _____

West: _____

Certification: *I certify that the information contained herein is true and accurate.*

Signature: *Lisa Anne Hawkins*, Authorized Attorney Agent
Property Owner

ITEMS REQUIRED FOR SUBMISSION

- Completed Application
- Site Plan
- Description of Proposed Use
- Adjacent Property Owners

- Fees Paid
- Property Located on Tax Map
- _____
- _____

List of Adjoining Property Owners

- 36-R-1 City of Harrisonburg
Westover Park
- 23-N-27 Bonnie Myers
620 Grove Street
Harrisonburg, VA 22801
- 23-N-1 Applicant
- 23-L-33 David & Sandra Williams
777 New York Avenue
Harrisonburg, VA 22801
- 23-W-3 Elm Street Properties
710 New York Avenue
Harrisonburg, VA 22801
- 23-W-1 W K Monger LC
595 Elmwood Drive
Harrisonburg, VA 22801
- 37-A-10 Harrisonburg Oasis LLC
710 New York Avenue
Harrisonburg, VA 22801

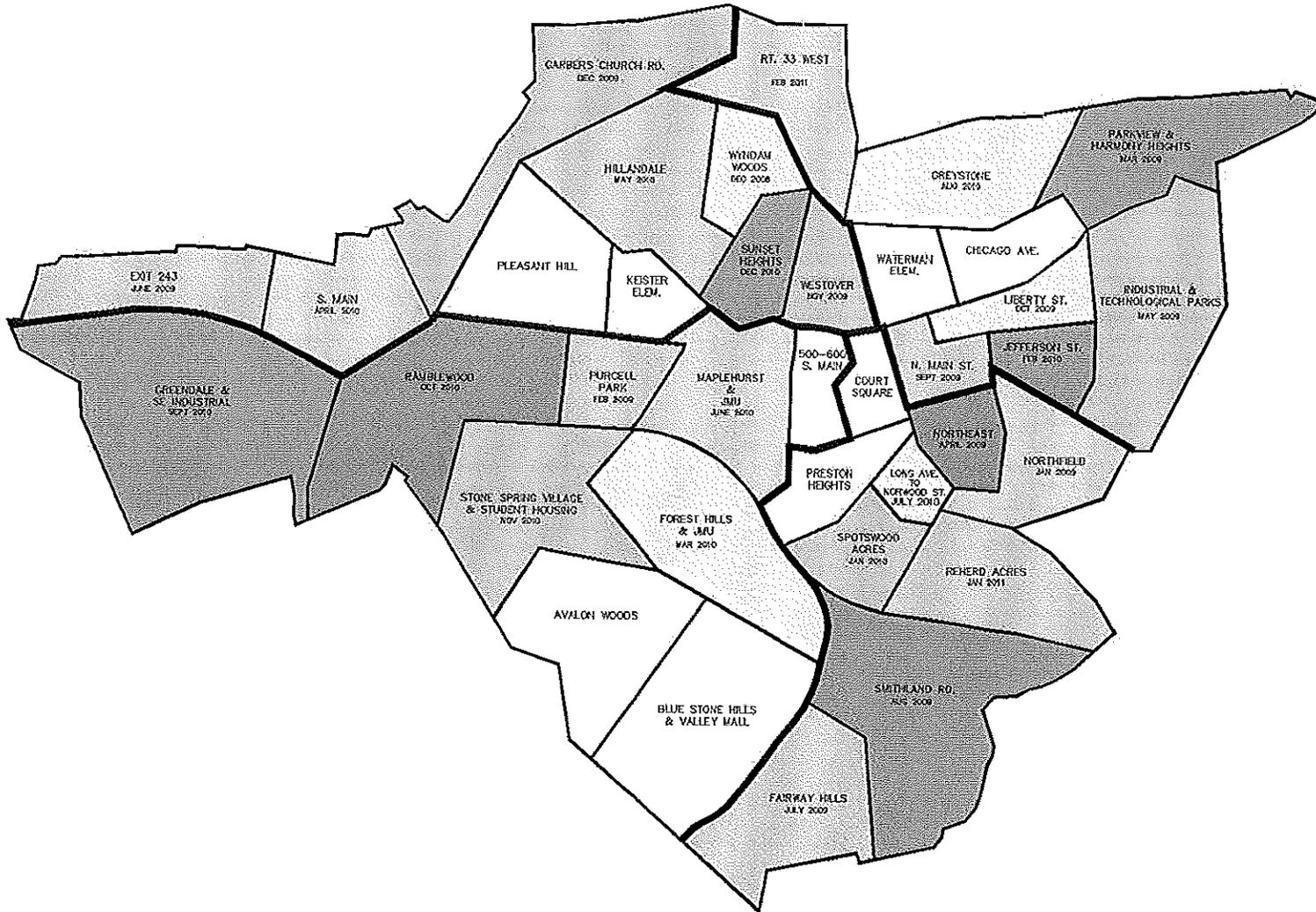
February 2011 Proactive-Zoning Report

For the month of February 2011 the proactive-zoning program targeted the RT 33 West section of the city. During the proactive inspections a total of **six violations** were found. This was an increase in the number of violations from the first 3-year cycle and a decrease from the second 3-year cycles as noted in the chart below. The violations consisted of inoperable vehicles and discarded materials.

MONTH	SECTOR	VIOLATIONS	CORRECTED	1 st CYCLE	2 nd CYCLE
December 2008	Wyndham Woods	4	4	2	0
January 2009	Northfield	19	19	21	6
February 2009	Purcell Park	5	5	7	6
March 2009	Parkview	16	16	19	7
April 2009	Northeast	63	63	80	45
May 2009	Ind./Tech Park	0	0	0	1
June 2009	Exit 243	1	1	10	0
July 2009	Fairway Hills	0	0	1	0
August 2009	Smithland Rd.	0	0	0	4
September 2009	N. Main St.	4	4	13	4
October 2009	Liberty St.	18	18	6	4
November 2009	Westover	17	17	18	8
December 2009	Garber's Church	1	1	1	2
January 2010	Spotswood Acres	1	1	6	4
February 2010	Jefferson St.	35	35	26	22
March 2010	Forest Hills/JMU	1	1	6	1
April 2010	S. Main St.	2	2	1	0
May 2010	Hillandale	17	17	7	5
June 2010	Maplehurst/JMU	2	2	6	5
July 2010	Long Ave/Norwood	17	17	12	28
August 2010	Greystone	13	13	13	10
September 2010	Greendale/SE	5	5	3	2
October 2010	Ramblewood	1	1	4	8
November 2010	Stone Spring Village/JMU	0	0	2	10
December 2010	Sunset Heights	10	10	7	29
January 2011	Reherd Acres	9	7	10	12
February 2011	RT 33 West	6	n/a	0	16
March 2011	Chicago Ave			16	22
April 2011	Pleasant Hill			4	13
May 2011	Avalon Woods			7	26
June 2011	Waterman Elementary			6	61
July 2011	Bluestone Hills & Valley Mall			3	33
August 2011	Keister Elementary			6	5
September 2011	500-600 S. Main			7	30
October 2011	Court Square			0	3
November 2011	Preston Heights			8	3

The proactive-zoning program for March 2011 will be directed towards the enforcement of the Zoning Ordinance in the **Chicago Avenue** section of the City.

Proactive Zoning Map





City of Harrisonburg, Virginia

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

STAFF REPORT

March 9, 2011

UDA Recommendation

During the 2007 Acts of the General Assembly, Section 15.2-2223.1 was added to the Code of Virginia requiring one or more urban development areas (UDAs) to be designated in local comprehensive plans. Specifically, every county, city, or town that has adopted zoning and that has a population of at least 20,000 and population growth of at least 5 percent, or has population growth of 15 percent or more, are required to designate UDAs.

The Code defines a UDA as an area designated by a locality that is 1) appropriate for higher density development due to its proximity to transportation facilities, the availability of a public or community water and sewer system, or a developed area and 2) to the extent feasible, to be used for redevelopment or infill development.

The Code further specifies that comprehensive plans of a locality having a population of less than 130,000 persons shall provide for UDAs that are appropriate for development at a density on the developable acreage of at least four single-family residences, six townhouses, or 12 apartments, condominium units, or cooperative units per acre, and an authorized floor area ratio of at least 0.4 per acre for commercial development, or any proportional combination thereof.

Taking into consideration these UDA requirement thresholds and provisions, the City would be required to designate a UDA. Many of the City's zoning regulations already meet or exceed the densities of a UDA, thus an option to meet the requirements of this legislation could have been to simply explain how the City's developable acreage could sustain the projected growth. Nonetheless, staff wanted to further assess the City and more specifically call attention to recommended areas that could sustain the projected residential and commercial growth for the next 10 to 20 years.

Staff applied for, and received, a VDOT grant for the UDA Local Government Assistance Program. The consultants hired through this grant process evaluated the City and worked along with staff to recommend specific areas of the City that should be designated as a UDA. This grant also provided the City the opportunity to utilize the consultants' expertise in evaluating and recommending amendments to the Zoning Ordinance, Subdivision Ordinance, and/or the Design and Construction Standards Manual to improve development regulations in meeting the goals of UDAs. The Commission could be reviewing such amendments in the near future.

Included within this packet of information is a technical memorandum from the consultants providing a summary of the growth forecasts and land area requirements for UDAs in the City, and also where the amendments to the Plan should occur. To more simply demonstrate the amendments, we have also included the updated Chapter 5 showing where the proposed text should be amended (the amendments are underlined on pages 5-6, 5-7, 5-9, and 5-10) and the updated Land Use Guide map with the UDAs illustrated. A copy of the State Code Section 15.2-2223.1 is also provided.



RENAISSANCE PLANNING GROUP



SUMMARY OF TECHNICAL MEMORANDUM
on Urban Development Area (UDA) Boundaries
and Comprehensive Plan Amendments
(Tasks 2.2 and 2.3 of the VDOT UDA Grant Work Plan)

for the City of Harrisonburg, Virginia

Prepared By:

Renaissance Planning Group and Herd Planning & Design

March 1, 2011

The following information summarizes the findings contained in the full Technical Memorandum for Tasks 2.2 and 2.3 of the VDOT UDA Grant Work Plan. This summary includes the following elements:

1. Summary of the growth forecasts and land area requirements for UDAs
2. Recommendations for Comprehensive Plan land use map to show UDAs
3. Recommendations for Comprehensive Plan text amendments
4. Text of the UDA Legislation (§ 15.2-2223.1 of the Virginia Code)

1. Summary of the Growth Forecasts and Land Area Requirements for UDAs

The initial analysis and discussions with City staff determined that the most suitable approach is to use the *actual development capacity* of key priority land use designations in the comprehensive plan as the basis for designating UDAs. This would allow the UDAs to fit logically into the framework of the City's future land use guide map. Below is a summary of the data and assumptions used for defining the UDA, based on the "capacity" approach (number of dwelling units and commercial square feet).

Population Estimates and Forecasts (based on 2010 US Census)

1990	2000	2010	2020	2030
30,707	40,468	48,914	54,704	60,911

Development Forecasts

New Population		Housing Units		Housing Acreage (@ 4 du/ac)	
10 Years	20 Years	10 Years	20 Years	10 Years	20 Years
5,421	11,232	2,168	4,493	542	1,123

Underlying Assumptions for Calculations

Commercial SF per capita	60	(Regional Avg.)
Equivalent to a	2.5	(National Avg.)
Dwelling Unit / acre	(Range)	Range from 4 to 50 du/ac
Floor Area Ratio (FAR)	0.4	Minimum - equivalent to at least 17,424 sq. ft. per acre

Development Capacity Needed to Meet UDA Legislative Requirements:

Residential: 10 years - 2,316 houses (*minimum*) 20 years - 4,799 houses (*maximum*)
Commercial*: 10 years - 347,420 non-res sq ft (*minimum*) 20 years - 719,835 non-residential sq ft (*maximum*)

*assumes non-residential square footage will be built at minimum 0.4 FAR

The consultants examined a range of alternatives for which land use designations would be suitable for UDAs. The following table shows an analysis of the development potential for each category in the City's Land Use Guide. This provides a framework or "envelope" of potential development from which the UDA areas can be selected.

Summary of Development Potential by Land Use Guide Category Being Considered for UDA District (updated 3-1-11)

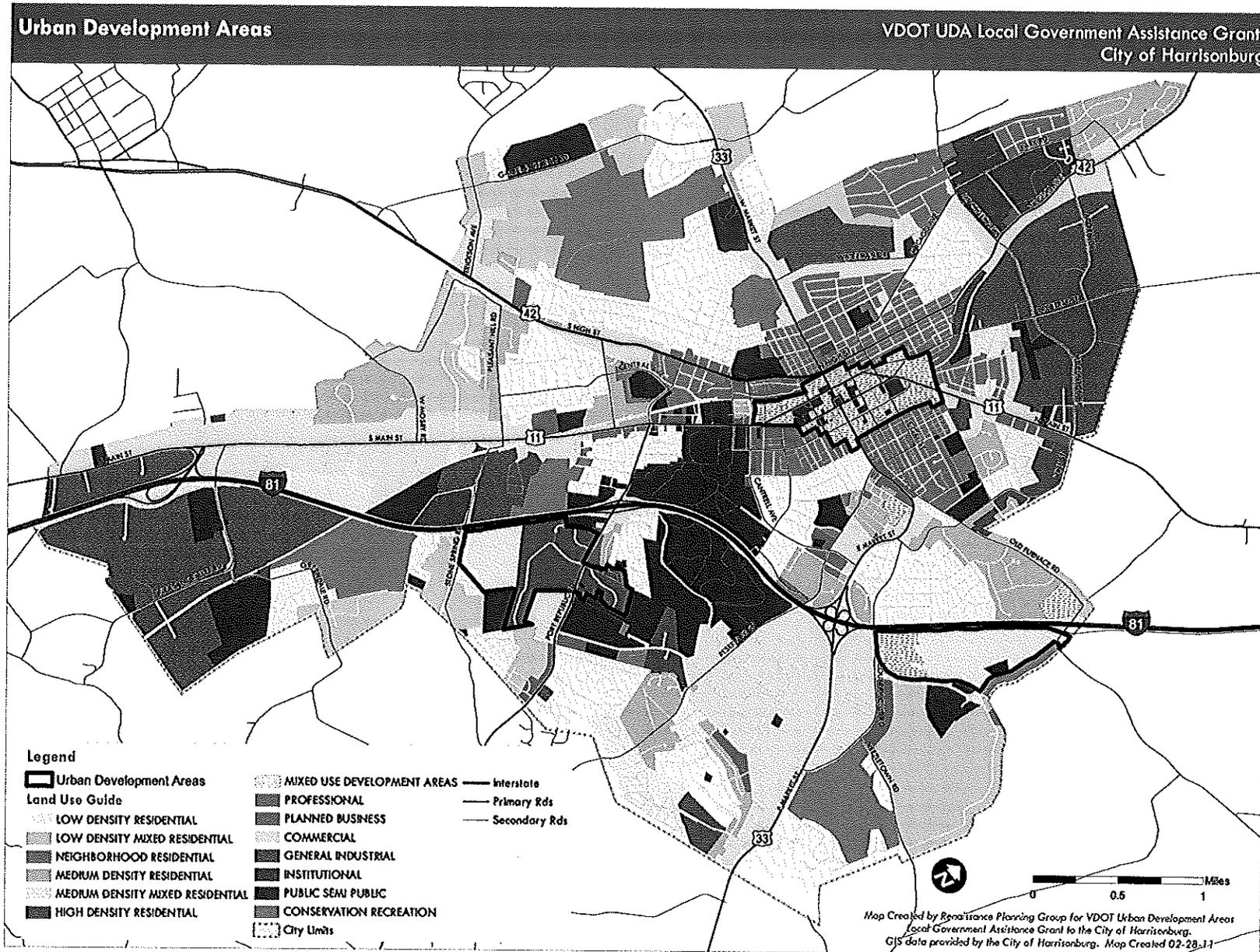
Mixed Use Areas	Acres	Units/Ac	Sq Ft / Ac	% Residential	% Commercial	Dwelling Units	Commerc'l S. F.
Development	92.6	-	-	-	-	-	-
Park	0.6	-	-	-	-	-	-
Public, Govt, School	15.0	-	-	-	-	-	-
Underutilized	25.3	-	-	-	-	-	-
Vacant	47.8	37	17,424	80%	20%	1,414	166,438
Medium Density Mixed Residential							
Development	1.8	-	-	-	-	-	-
Public, Govt, School	0.5	-	-	-	-	-	-
Underutilized	5.1	-	-	-	-	-	-
Vacant	193.6	8	17,424	90%	10%	1,394	337,282
High Density Residential							
Development	139.8	-	-	-	-	-	-
Public, Govt, School	0.0	-	-	-	-	-	-
Underutilized	0.9	-	-	-	-	-	-
Vacant	2.6	18	17,424	100%	0%	48	0
TOTALS						2,855	503,720
UDA Requirements						Dwelling Units	Non-Res. Sq Ft
2,316	- Housing Units - 10 Year (needs to be greater than)						
4,799	- Housing Units - 20 Year (needs to be less than)						
347,420	- Non-Residential Square Feet - 10 Year (needs to be greater than)						
719,835	- Non-Residential Square Feet - 20 Year (needs to be less than)						

NOTES

- * "Developable acreage," solely for the purposes of calculating density within the urban development area, means land that is not included in (i) existing parks, rights-of-way of arterial and collector streets, railways, & public utilities and (ii) other existing public lands & facilities (definition per, § 15.2-2223.1).
- * The statutory definition of "developable acreage" does not require exclusion of existing development; however, development potential analysis can be helpful to give a perspective on existing development in an area identified as a potential UDA, thus indicating where redevelopment could potentially occur.
- * A locality may elect that only vacant lands be used in the calculations that show compliance with the UDA legislation. This is permitted by the statute – existing development need not be assumed to have redevelopment potential for the strict calculation of UDA area purposes.

2. Recommendations for Comprehensive Plan land use map to show UDAs

The map below shows proposed UDAs in the context of the City's land use policy areas, shown as bounded by a heavy black line.



3. Recommendations for Comprehensive Plan text amendments

Code Requirements (§15.2-2223.1) for Comprehensive Plan:	Proposed Resolution for Harrisonburg:
<p>1. Provide for densities of at least four single-family residences, six townhouses, or 12 apartments, condominium units, or cooperative units per gross acre, and an authorized floor area ratio of at least 0.4 per acre for commercial development, or any proportional combination thereof.</p>	<p>Action: Note explanation/policy standard on the land use guide map; include language in Land Use Chapter.</p> <p><i>[Draft language shown on following pages]</i></p>
<p>2. UDAs shall be sufficient to meet projected residential and commercial growth for at least 10 but not more than 20 years.</p>	<p>Action: Show summary calculations in Land Use Chapter.</p> <p><i>[Draft language shown on following pages]</i></p>
<p>3. The boundaries of each urban development area shall be identified in the locality's comprehensive plan and shall be shown on future land use maps contained in such comprehensive plan.</p>	<p>Action: Note areas on the land use guide map. The areas may be shown as a separate map layer similar to the map products in this memo, or could be shown as a notation on the land use guide map. Language will be drafted in accord with the final decision on draft boundary.</p>
<p>4. The comprehensive plan shall incorporate principles of traditional neighborhood design in the urban development area.</p>	<p>Action: Add descriptive language, tracking the legislative language, to Land Use Chapter.</p> <p><i>[Draft language shown on following pages]</i></p>
<p>5. The comprehensive plan shall describe any financial and other incentives for development in the urban development areas.</p>	<p>Action: Add descriptive language, tracking the legislative language, to Land Use Chapter.</p> <p><i>[Draft language shown on following pages]</i></p>
<p>6. Localities shall consult with adjacent localities, as well as the relevant planning district commission and metropolitan planning organization, in establishing the appropriate size and location of urban development areas.</p>	<p>Action: City staff will contact the County, the PDC and the MPO to seek comments on the draft UDA boundaries, at the appropriate time.</p>

Other relevant non-UDA requirements:

- VDOT review of comp plan prior to adoption
- Also, draft plan must be posted on the web for PC and TC review processes.

Draft Language for Comprehensive Plan (updated 3-1-11):

- 1. Provide for densities of at least four single-family residences, six townhouses, or 12 apartments, condominium units, or cooperative units per gross acre, and an authorized floor area ratio of at least 0.4 per acre for commercial development, or any proportional combination thereof.**

Draft Language – to be inserted on page 5-9 of Chapter 5, Land Use & Development Quality, following Table 5-5 and before the section on Goals, Objectives, and Policies:

Urban Development Areas

§15.2-2223.1 of the Virginia Code requires the City to designate urban development areas (UDAs) that are appropriate for residential development densities equivalent to at least four single-family residences per acre, six townhouses per acre, or 12 apartment-style units per acre, and commercial development densities equivalent to at least a floor area ratio of 0.4. These designated UDAs are shown on the Land Use Guide Map (figure) [or on a separate UDA map] and the plan text indicates the general density ranges that are provided within them, which reflect the City's preferred land use intensities for these areas, and are consistent with the state code requirements.

Draft Language – to be inserted on page 5-6 of Chapter 5, Land Use & Development Quality, under Mixed Density Mixed Residential:

"...The gross density of development in these areas should be in the range of 4 to 12 dwelling units per acre, and commercial uses would be expected to have an intensity equivalent to a Floor Area Ratio of at least 0.4, although the City does not measure commercial intensity in that way...."

Draft Language – to be inserted on page 5-7 of Chapter 5, Land Use & Development Quality, under Mixed Use Development Areas:

"...Residential densities in downtown may be higher than an average of 15 units per acre, and commercial uses would be expected to have an intensity equivalent to a Floor Area Ratio of at least 0.4, although the City does not measure commercial intensity in that way...."

- 2. UDAs shall be sufficient to meet projected residential and commercial growth for at least 10 but not more than 20 years.**

Draft Language – to be inserted on page 5-9 of Chapter 5, Land Use & Development Quality, following the above passage on UDAs:

The state code requires that the UDAs be able to accommodate the projected residential and commercial growth for the next 10 to 20 years. The City is expected to add 5,790 people during the next 10 years, and 11,997 people during the next 20 years. This growth will require an estimated 2,316 to 4,799 housing units and 347,420 to 719,835 square feet of commercial space (retail and office), as shown in table 5-__. The areas designated as UDAs are able to accommodate this capacity of development, based upon the policies set forth in the land use guide and this chapter.

[also insert selected tabular data (to be determined) from the analysis in this memo to explain the logic of the numbers shown above]

3. The boundaries of each urban development area shall be identified in the locality's comprehensive plan and shall be shown on future land use maps contained in such comprehensive plan.

[Provide reference to the Urban Development Areas map which could be incorporated into the Land Use Guide Map, or could follow it as a separate map.]

4. The comprehensive plan shall incorporate principles of traditional neighborhood design in the urban development area.

This requirement is met by several Strategies in the current draft Chapter 5, including the citations below. These strategies could be cited in the UDA section following table 5-5, described above:

- 1.4.4 on page 5-11 regarding traditional neighborhood development*
- 2.1.1 on page 5-12 regarding mixed use development*
- 2.2.1 regarding incentives for mixed residential neighborhoods*
- 2.2.2 regarding incentives for live-work neighborhoods*
- 2.2.3 regarding incentives for traditional neighborhood development*

5. The comprehensive plan shall describe any financial and other incentives for development in the urban development areas.

This requirement is met by several Strategies in the current draft Chapter 5, including the citations below. These strategies could be cited in the UDA section following table 5-5, described above:

- 2.2.1 regarding incentives for mixed residential neighborhoods*
- 2.2.2 regarding incentives for live-work neighborhoods*
- 2.2.3 regarding incentives for traditional neighborhood development*

6. Localities shall consult with adjacent localities, as well as the relevant planning district commission and metropolitan planning organization, in establishing the appropriate size and location of urban development areas.

[City staff will contact the County, the PDC and the MPO for comments at the appropriate time.]

4. Text of UDA Legislation (§ 15.2-2223.1 of Virginia Code)

§ 15.2-2223.1. Comprehensive plan to include urban development areas.

A. For purposes of this section:

"Commercial" means property devoted to usual and customary business purposes for the sale of goods and services and includes, but is not limited to, retail operations, hotels, motels and offices. "Commercial" does not include residential dwelling units, including apartments and condominiums, or agricultural or forestal production, or manufacturing, processing, assembling, storing, warehousing, or distributing.

"Commission" means the Commission on Local Government.

"Developable acreage," solely for the purposes of calculating density within the urban development area, means land that is not included in (i) existing parks, rights-of-way of arterial and collector streets, railways, and public utilities and (ii) other existing public lands and facilities.

"Population growth" means the difference in population from the next-to-latest to the latest decennial census year, based on population reported by the United States Bureau of the Census. In computing its population growth, a locality may exclude the inmate population of any new or expanded correctional facility that opened within the time period between the two censuses.

"Urban development area" means an area designated by a locality that is (i) appropriate for higher density development due to its proximity to transportation facilities, the availability of a public or community water and sewer system, or a developed area and (ii) to the extent feasible, to be used for redevelopment or infill development.

B. Every locality that has adopted zoning pursuant to Article 7 (§ 15.2-2280 et seq.) of this chapter and that (i) has a population of at least 20,000 and population growth of at least five percent or (ii) has population growth of 15 percent or more, shall, and any locality may, amend its comprehensive plan to incorporate one or more urban development areas.

1. The comprehensive plan of a locality having a population of less than 130,000 persons shall provide for urban development areas that are appropriate for development at a density on the developable acreage of at least four single-family residences, six townhouses, or 12 apartments, condominium units, or cooperative units per acre, and an authorized floor area ratio of at least 0.4 per acre for commercial development, or any proportional combination thereof.
2. The comprehensive plan of a locality having a population of 130,000 or more persons shall provide for urban development areas that are appropriate for development at a density on the developable acreage of at least eight single-family residences, 12 townhouses, or 24 apartments, condominium units, or cooperative units per acre, and an authorized floor area ratio of at least 0.8 per acre for commercial development, or any proportional combination thereof.
3. The urban development areas designated by a locality shall be sufficient to meet projected residential and commercial growth in the locality for an ensuing period of at least 10 but not more than 20 years, which may include phasing of development within the urban development areas. Where an urban development area in a county with the urban county executive form of government includes planned or existing rail transit, the planning horizon may be for an ensuing period of at least 10 but not more than 40 years. Future residential and commercial growth

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shall be based on official estimates of the Weldon Cooper Center for Public Service of the University of Virginia or official projections of the Virginia Employment Commission or the United States Bureau of the Census.

4. The boundaries and size of each urban development area shall be reexamined and, if necessary, revised every five years in conjunction with the review of the comprehensive plan and in accordance with the most recent available population growth estimates and projections.
 5. The boundaries of each urban development area shall be identified in the locality's comprehensive plan and shall be shown on future land use maps contained in such comprehensive plan.
 6. The comprehensive plan shall incorporate principles of traditional neighborhood design in the urban development area, which may include but need not be limited to (i) pedestrian-friendly road design, (ii) interconnection of new local streets with existing local streets and roads, (iii) connectivity of road and pedestrian networks, (iv) preservation of natural areas, (v) mixed-use neighborhoods, including mixed housing types, with affordable housing to meet the projected family income distributions of future residential growth, (vi) reduction of front and side yard building setbacks, and (vii) reduction of subdivision street widths and turning radii at subdivision street intersections.
 7. The comprehensive plan shall describe any financial and other incentives for development in the urban development areas.
 8. A portion of one or more urban development areas shall be designated as a receiving area for any transfer of development rights program established by the locality.
- C. No locality that has amended its comprehensive plan in accordance with this section shall limit or prohibit development pursuant to existing zoning or shall refuse to consider any application for rezoning based solely on the fact that the property is located outside the urban development area.
- D. Any locality that would be required to amend its plan pursuant to subsection B that determines that its plan accommodates growth in a manner consistent with subsection B, upon adoption of a resolution describing such accommodation and describing any financial and other incentives for development in the areas that accommodate such growth, shall not be required to further amend its plan pursuant to subsection B. Any locality that has adopted a resolution certifying compliance with subsection B prior to February 1, 2010, shall not be required to comply with this subsection until review of the locality's comprehensive plan as provided for in provision 4 of subsection B.
- E. Localities shall consult with adjacent localities, as well as the relevant planning district commission and metropolitan planning organization, in establishing the appropriate size and location of urban development areas to promote orderly and efficient development of their region.
- F. Any county that amends its comprehensive plan pursuant to subsection B may designate one or more urban development areas in any incorporated town within such county, if the council of the town has also amended its comprehensive plan to designate the same areas as urban development areas with at least the same density designated by the county. However, if a town has established an urban development area within its corporate boundaries, the county within which the town is located shall not include the town's projected population and commercial growth when initially determining or reexamining the size and boundary of any other urban development area within the county.
- G. To the extent possible, federal, state and local transportation, housing, water and sewer facility, economic development, and other

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public infrastructure funding for new and expanded facilities shall be directed to the urban development area, or in the case of a locality that adopts a resolution pursuant to subsection D, to the area that accommodates growth in a manner consistent with this section.

H. Documents describing all urban development area designations, as well as any resolution adopted pursuant to subsection D, together with associated written policies, zoning provisions and other ordinances, and the capital improvement program shall be forwarded, electronically or by other means, to the Commission within 90 days of the adoption or amendment of comprehensive plans and other written policies, zoning provisions and other ordinances. The Commission shall annually report to the Governor and General Assembly the overall compliance with this section including densities achieved within each urban development area. Before preparing the initial report, the Commission shall develop an appropriate format in concert with the relevant planning district commission. Other than the documents, policies, zoning provisions and other ordinances, resolutions, and the capital improvement program forwarded by the locality, the Commission shall not impose an additional administrative burden on localities in preparing the annual report required by this subsection.

I. Any locality that becomes subject to provision 2 of subsection B shall have until July 1, 2012, to amend its comprehensive plan in accordance with this section.

J. Any locality that becomes subject to this section due to population growth shall have two years following the report of the United States Bureau of the Census made pursuant to P.L. 94-171 to amend its comprehensive plan in accordance with this section.

(2007, c. 896; 2009, c. 327; 2010, cc. 465, 528.)

Chapter 5 Land Use & Development Quality

Introduction

One of the primary functions of a comprehensive plan is to set forth the community's policies regarding the future use of land and the desired quality of development. This chapter addresses these very important land use and development quality issues. While the Plan Framework element, Chapter 4, discusses where changes in land use and development character are encouraged or anticipated, this chapter makes recommendations for land use and development character throughout the City. It provides a recommended map of future land uses, the Land Use Guide, as well as detailed goals, objectives and strategies to implement the map and encourage quality development.

Background

Existing Land Use

A map of existing land use was prepared by linking the City's real estate assessment files to the Department of Planning and Community Development's GIS files. The City's assessors maintain data on each property in the City, including how it is currently used. This data was accessed, recategorized as necessary, and then mapped and checked. From this map, the Department of Planning and Community Development compiled statistics on the acreage in each land use category, which are depicted in the following table and pie chart.

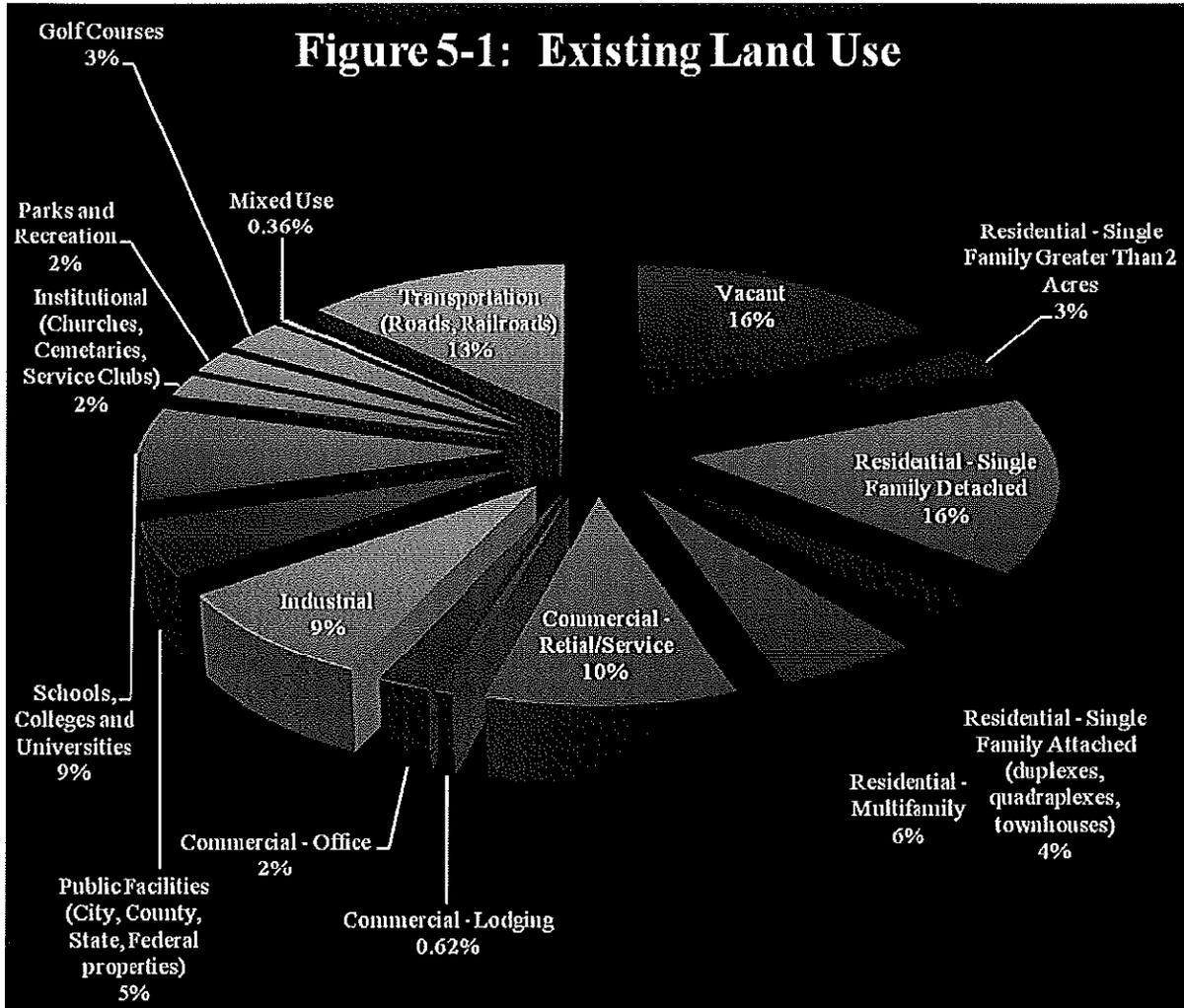
**Table 5-1
Existing Land Use in the City of Harrisonburg**

Land Use	Area in Acres	Percentage of City Land Area not in Roads / RR	Percentage of Total City Land Area
Vacant	1802.95	18.70%	16.20%
Residential - Single Family Greater than 2 acres	343.09	3.56%	3.08%
Residential - Single Family Detached	1803.11	18.71%	16.20%
Residential - Single Family Attached (duplexes, quadraplexes, townhouses)	404.02	4.19%	3.63%
Residential - Multifamily	618.08	6.41%	5.55%
Commercial - Retail / Service	1066.58	11.06%	9.58%
Commercial - Lodging	68.87	0.71%	0.62%
Commercial - Office	222.38	2.31%	2.00%
Industrial	946.98	9.82%	8.51%
Public Facilities (city, county, state, federal properties)	563.13	5.84%	5.06%
Schools, Colleges and Universities	956.02	9.92%	8.59%
Institutional (churches, cemeteries, service clubs)	230.13	2.39%	2.07%
Parks and Recreation	235.67	2.44%	2.12%
Golf Courses	339.07	3.52%	3.05%
Mixed Use	39.57	0.41%	0.36%
SUBTOTAL (Land in Parcels)			
	9639.65	100.00 %	
Transportation (Roads, Railroads)	1488.86		13.38 %
TOTAL (Total City Area)			
	11128.51		100.00 %

Source: Department of Planning and Community Development

*Some parcels at the edge of the city have portions that extend into the county.
The county acreage is not included here.

The categories of land use shown in the pie chart are self-explanatory except for the single family detached residential greater than 2 acres category. These large parcels are categorized as single-family detached residential land because they have a house on property. A number of them are large properties, farms in many cases. However, it would not be accurate to categorize these properties as entirely residential, since significant portions of the properties are not developed. These “minimally developed” properties can easily be developed more densely and are more similar to vacant land than to single family residential subdivisions. The total of vacant land and single-family land greater than 2 acres (2,146 acres) represents the remaining “developable” land in the City (22 % of the City area in parcels).



*Some parcels at the edge of the City have portions that extend into the County. The County acreage is not included here.

Zoning

The City’s Official Zoning Map determines where different types of uses are currently permitted in the City. Zoning districts are applied to both developed and vacant lands and thus determine to a great extent not only the types and locations of existing land uses, but also of future land uses. Table 5-2 provides a breakdown of the City’s land area by zoning district.

The Zoning Ordinance includes several overlay districts. The Institutional Overlay District has been applied to 38.51 acres of B-2 zoned land, 1.23 acres of R-2 zoned land, and 162.33 acres of R-3 zoned land. This overlay district provides supplemental regulations for Rockingham Memorial Hospital facilities, Eastern Mennonite University, Eastern Mennonite High School, and the Virginia Mennonite Retirement Community. The Residential Professional Overlay District applies to 12.53 acres of land zoned Urban Residential. This overlay permits professional offices and mixed residential/office buildings.

**Table 5-2
City Land Area by Zoning District**

Zoning District	Area in Acres	Percentage of City Land Area Not in Roads / Railroads
R-1 Single Family Residential	3115.12	32.32%
R-2 Residential	942.76	9.78%
R-3 Multiple Dwelling Residential	1661.55	17.24%
R-4 Planned Unit Residential	169.39	1.76%
R-5, High Density Residential District	140.42	1.46%
R-6, Low Density Mixed Residential Planned Community District	7.61	0.08%
R-7, Medium Density Mixed Residential Planned Community District	124.57	1.29%
U-R Urban Residential	47.47	0.49%
B-1 Central Business District	92.38	0.96%
B-2 General Business District	1451.28	15.06%
M-1 General Industrial	1887.10	19.58%
TOTAL	9639.65	100.00 %

Source: Department of Planning and Community Development

* Some parcels at the edge of the City have portions that extend into the County.
The County acreage is not included here.

Many cities are interested to know the zoning of remaining vacant and minimally developed land. Such figures are useful for determining future growth areas and the land uses that will occur in these growth areas. Table 5-3 summarizes the zoning classification of Harrisonburg’s remaining vacant and minimally developed land as of Summer 2009.

Table 5-3
Zoning Classification of Vacant and Minimally Developed Land

Zoning District	Vacant and Minimally Developed Acres
R-1 Single Family Residential	953.30
R-2 Residential	255.56
R-3 Multiple Dwelling Residential	292.01
R-4 Planned Unit Residential	13.30
R-5, High Density Residential District	129.80
R-6, Low Density Mixed Residential Planned Community District	7.61
R-7, Medium Density Mixed Residential Planned Community District	121.56
U-R Urban Residential	4.26
B-1 Central Business District	12.40
B-2 General Business District	427.34
M-1 General Industrial	475.48
TOTAL	2692.62

Source: Department of Planning and Community Development

* Some parcels at the edge of the City have portions that extend into the County. The County acreage is not included here.

Approximately 35 percent of the remaining vacant land is zoned for single-family residential development (953 acres zoned R-1). For economic development, the City has roughly 915 acres available; almost 18 percent available for industrial development (within the M-1 district) and about 16 percent and less than 1 percent available for general business uses (within the B-2 and B-1 classifications respectively).

Planned Land Use

The Land Use Guide represents the City’s policy for what it would like to be—its “land use vision.” The 2004 Comprehensive Plan included a Land Use Guide (amended in 2006), which recommended future land uses. In some cases, the Land Use Guide recommended land uses different than what current zoning would allow. The 2004 Land Use Guide was similar to the 1998 Land Use Guide, however major differences were found in their recommendations for the larger undeveloped areas of the City at that time. Table 5-4 categorizes land according to the planned land uses of the 2004 (amended 2006) Land Use Guide.

Table 5-4
City Land Use As Recommended by the 2006[^] Land Use Guide

Planned Land Use	Area in Acres	Percentage of City Land Area Not in Roads / Railroads
Low Density Residential	1646.14	17.08%
Low Density Mixed Residential	698.34	7.24%
Neighborhood Residential	612.62	6.36%
Medium Density Residential	695.63	7.22%
Medium Density Mixed Residential	457.07	4.74%
High Density Residential	286.19	2.97%
Mixed Use Development	302.02	3.13%
Commercial	1431.31	14.85%
Planned Business	72.53	0.75%
Professional	83.61	0.87%
Industrial	1369.12	14.20%
Institutional	208.00	2.16%
Public / Semi-Public	983.93	10.21%
Conservation, Recreation and Open Space	793.14	8.23%
TOTAL	9639.65	100%

Source: Department of Planning and Community Development

* Some parcels at the edge of the city have portions that extend into the county. The county acreage is included here.

[^]The Land Use Guide was amended in 2006 after the adoption of the 2004 Comprehensive Plan

The 2011 Land Use Guide

The 2011 Land Use Guide, provided at the end of this chapter, recommends future land uses in the City. It is the official land use policy map of the Comprehensive Plan and is to be used as a guide in decisions on such matters as rezoning and special use permit proposals and the location of public facilities. Since the last Comprehensive Plan update, new zoning districts and other ordinance amendments have been established, which has allowed the land use guide and current zoning regulations to complement one another better than they have in years past. This should provide better guidance and regulations to allow developers to strive for desired land uses. The categories of land use on the map are described below.

The innovation in building types, creativity in subdivision design, variety of housing types and mixture of uses described in the residential designations and the Mixed Use Development Area are intended to offer assistance in the construction, rehabilitation and maintenance of housing for all income levels, including affordable housing. The City will work with property owners, developers and others who seek to implement appropriate measures to sufficiently meet the needs of residents of all levels of income while also considering the current and future needs of the local planning district.

Low Density Residential

These areas consist of single family detached dwellings with a maximum density of 1 to 4 units per acre. Low density sections are found mainly in and around well established neighborhoods. The low density residential areas are designed to maintain the existing character of neighborhoods and to provide traditional areas for home ownership.

Low Density Mixed Residential

These large undeveloped areas located at the edge of the City are planned for residential development containing a mix of large and small-lot single family detached dwellings and attractive green spaces. Planned “open space” (also known as “cluster”) developments are encouraged. The intent is to allow innovative residential building types and permit creative subdivision design solutions that promote neighborhood cohesiveness, walkability, connected street grids, community green spaces, and protection of environmental resources. Such innovative residential building types as zero lot-line development and patio homes will be considered as well as other new single family residential forms. The gross density of development in these areas should be in the range of 1 to 6 dwelling units per acre.

Neighborhood Residential

These are older neighborhoods, which can be characterized by large housing units on small lots. This type of land use highlights those neighborhoods in which existing conditions dictate the need for careful consideration of the types and densities of future residential development. Infill development and redevelopment must be designed so as to be compatible with the existing character of the neighborhood.

Medium Density Residential

The medium density residential areas are designated in areas near major thoroughfares or commercial areas. Most of these areas have been developed or are approved for development of a variety of housing types such as single-family, duplex, and in special circumstances, apartments. Depending on the specific site characteristics, densities in these areas may range from 1 to 15 units per acre.

Medium Density Mixed Residential

These largely undeveloped areas continue the existing medium density character of adjacent areas, but in a different form. They are planned for small-lot single family detached and single family attached neighborhoods where green spaces are integral design features. Apartments could also be permitted under special circumstances. They should be planned communities that exhibit the same innovative features as described for the low density version of mixed residential development described above. The gross density of development in these areas should be in the range of 4 to 12 dwelling units per acre and commercial uses would be expected to have an intensity equivalent to a Floor Area Ratio of at least 0.4, although the City does not measure commercial intensity in that way.

High Density Residential

A number of areas in the City have been developed in high density residential use, mostly apartment buildings at densities ranging from 12 to 24 dwelling units per acre. Many of these

existing clusters of multifamily development and adjacent areas approved or planned for such development are identified as high density residential on the Land Use Guide.

Mixed Use Development Areas

The Mixed Use Development category includes both existing and proposed new mixed use areas. Downtown is an existing area that exhibits and is planned to continue to contain a mix of land uses. The quality and character of the mix of uses in downtown should be governed by a downtown revitalization plan, as recommended in Chapter 14, Revitalization. New mixed use areas shown on the Land Use Guide map are intended to combine residential and non-residential uses in planned neighborhoods where the different uses are finely mixed instead of separated. Quality architectural design features and strategic placement of green spaces will ensure development compatibility. These areas are prime candidates for “live-work” and traditional neighborhood developments. Live-work developments combine residential and office/service uses allowing people to both live and work in the same area. Live-work spaces may be combined in the same building or on the same street. All buildings have a similar residential scale. Traditional neighborhood development permits integrated mixing of residential, retail, office and employment uses to create a neighborhood with the following characteristics:

- The design of the neighborhood allows residents to work, shop, and carry out many of life’s other activities within the neighborhood.
- A mix of land uses is provided. The proximity of uses allows residents to walk, ride a bicycle, or take transit for many trips between home, work, shopping, and school.
- A variety of housing types is provided at a range of densities, types (multifamily, townhouse, and single family), and costs. Neighborhoods are heterogeneous mixes of residences in close proximity to commercial and employment uses.
- The neighborhood includes a retail, office, employment, and/or entertainment core to provide economic and social vitality, as well as a major focus and meeting place in the community.
- The circulation system serves many modes of transportation and provides choices for alternative transportation routes. Streets, alleys, and pedestrian and bike paths connect to the surrounding area. Streets and alleys generally follow a grid pattern to provide these route choices and connections. Traffic calming techniques may be used to reduce vehicle speed and increase pedestrian and bicycle safety.
- The overall intensity of development is designed to be high enough to support transit service.
- A system of parks; open spaces; and civic, public, and institutional uses is included to create a high quality of life and civic identity for the community.
- The cluster concept is embraced so as to concentrate development in environmentally suitable areas and to preserve and protect important environmental and cultural resources.

The gross residential density in areas outside downtown should not exceed an average of 15 units per acre, though all types of residential units are permitted: single family detached, single family attached and apartments. Apartments are permitted only if single family detached and/or attached units are also provided and together cover a greater percentage of the project site. Residential densities in downtown may be higher than an average of 15 units per acre, and commercial uses would be expected to have an intensity equivalent to a Floor Area Ratio of at least 0.4, although the City does not measure commercial intensity in that way

Commercial

Commercial uses include retail, office, wholesale, or service functions. Restaurant and lodging uses are also included. These areas are generally found along the City’s major travel corridors. The largest concentration of commercial land use is located between E. Market Street and Reservoir Street and includes the Valley Mall, a number of shopping centers, and significant office development.

Planned Business

These areas are suitable for commercial development but need careful controls to ensure compatibility with adjacent land uses. The maintenance of functional and aesthetic integrity should be emphasized in review of applications for development and redevelopment and should address such matters as: control of access; use of service roads or reverse frontage development; landscaping and buffering; parking; setback; signage; building mass and height; and orientation in regard to aesthetic concerns.

Professional

These areas are designated for professional service oriented uses with consideration to the character of the area. These uses are found in the residential areas along major thoroughfares and adjacent to the Central Business District. Conversion of houses in these areas to office and professional service uses is permitted with appropriate attention to maintaining compatibility with adjacent residential areas in the same manner as described for Planned Business areas.

Industrial

These areas are composed of land and structures used for light and general manufacturing, wholesaling, warehousing, high-technology, research and development and related activities. They include the major existing and future employment areas of the City.

Public / Semi-Public

These lands are designated for public and semi-public use. They include lands owned or leased by the Commonwealth of Virginia (except for institutions of higher learning), the federal government, the City of Harrisonburg, and other governmental organizations. Examples of uses included in this category are public schools, libraries, City Hall and City administrative and support facilities. City parks are included in the Conservation, Recreation and Open Space category

Institutional

Lands designated for development by certain nonprofit and public institutional uses such as colleges and universities, hospitals, offices of nonprofit organizations, community assembly uses and institutions that provide for the shelter and care of people.

Conservation, Recreation and Open Space

The City’s parks and golf course are included in this category, as well as private open space recreation uses, such as country clubs.

Table 5-5 presents the amounts and percentages of the various land uses recommended by the 2010 Land Use Guide.

**Table 5-5
City Land Use As Recommended by the 2011 Land Use Guide**

Planned Land Use	Area in Acres	Percentage of City Land Area Not in Roads / Railroads
Low Density Residential		
Low Density Mixed Residential		
Neighborhood Residential		
Medium Density Residential		
Medium Density Mixed Residential		
High Density Residential		
Mixed Use Development		
Commercial		
Planned Business		
Professional		
Industrial		
Institutional		
Public / Semi-Public		
Conservation, Recreation and Open Space		
TOTAL	9639.65	100%

Source: Department of Planning and Community Development
 * Some parcels at the edge of the city have portions that extend into the county.
 The county acreage is included here.

Urban Development Areas

§15.2-2223.1 of the Virginia Code requires the City to designate urban development areas (UDAs) that are appropriate for residential development densities equivalent to at least four single-family residences per acre, six townhouses per acre, or 12 apartment-style units per acre, and commercial development densities equivalent to at least a floor area ratio of 0.4.

These designated UDAs are shown on the Land Use Guide Map. The land use designation descriptions indicate the general density ranges that are provided within them, which reflect the City’s preferred land use intensities for these areas, and are consistent with the state code requirements.

The state code requires that the UDAs be able to accommodate the projected residential and commercial growth for the next 10 to 20 years. The City is expected to add 5,790 people during the next 10 years, and 11,997 people during the next 20 years. This growth will require an estimated 2,316 to 4,799 housing units and 347,420 to 719,835 square feet of commercial space (retail and office). The areas designated as UDAs are able to accommodate this capacity of development, based upon the policies set forth in the land use guide and this chapter.

§15.2-2223.1 of the Code also requires that the Comprehensive Plan incorporate principles of traditional neighborhood design in the UDA, including pedestrian-friendly road design, interconnection of new local streets with existing local streets and roads, connectivity of road and pedestrian networks, preservation of natural areas, mixed-use neighborhoods, including mixed housing types, with affordable housing to meet the projected family income distributions of future residential growth, reduction of front and side yard building setbacks, and reduction of subdivision street widths and turning radii at subdivision street intersections. It also requires that the Plan describe any financial or other incentives for development in the UDAs. The City intends that these principles be part of the strategies set forth in this section, particularly the following:

- 1.4.4 regarding traditional neighborhood development,
- 2.1.1 regarding mixed use development,
- 2.2.1 regarding incentives for mixed residential neighborhoods,
- 2.2.2 regarding incentives for live-work neighborhoods, and
- 2.2.3 regarding incentives for traditional neighborhood development.

The following goals, objectives and strategies address the major land use changes recommended by the Plan Framework Map and 2011 Land Use Guide as well as recommended policies to improve the design and character of new development and redevelopment.

Land Use & Development Quality Goals, Objectives & Strategies

Goal 1. To improve the quality and compatibility of land use and development.

Objective 1.1 To promote development and redevelopment that reinforces the City's unique character and sense of place.

Strategy 1.1.1 To work with citizens to identify design elements that define the City's unique character and sense of place or that would improve design quality. Administration of a community character or visual preference survey would help in this effort.

Strategy 1.1.2 To develop a set of design guidelines for new development and redevelopment based on these design elements. Such design guidelines might address such matters as:

- Landscaping
- Preservation of green space
- Preservation of historic resources
- Placement of buildings and parking lots
- Building bulk and height
- How buildings address the street
- Signage
- Lighting

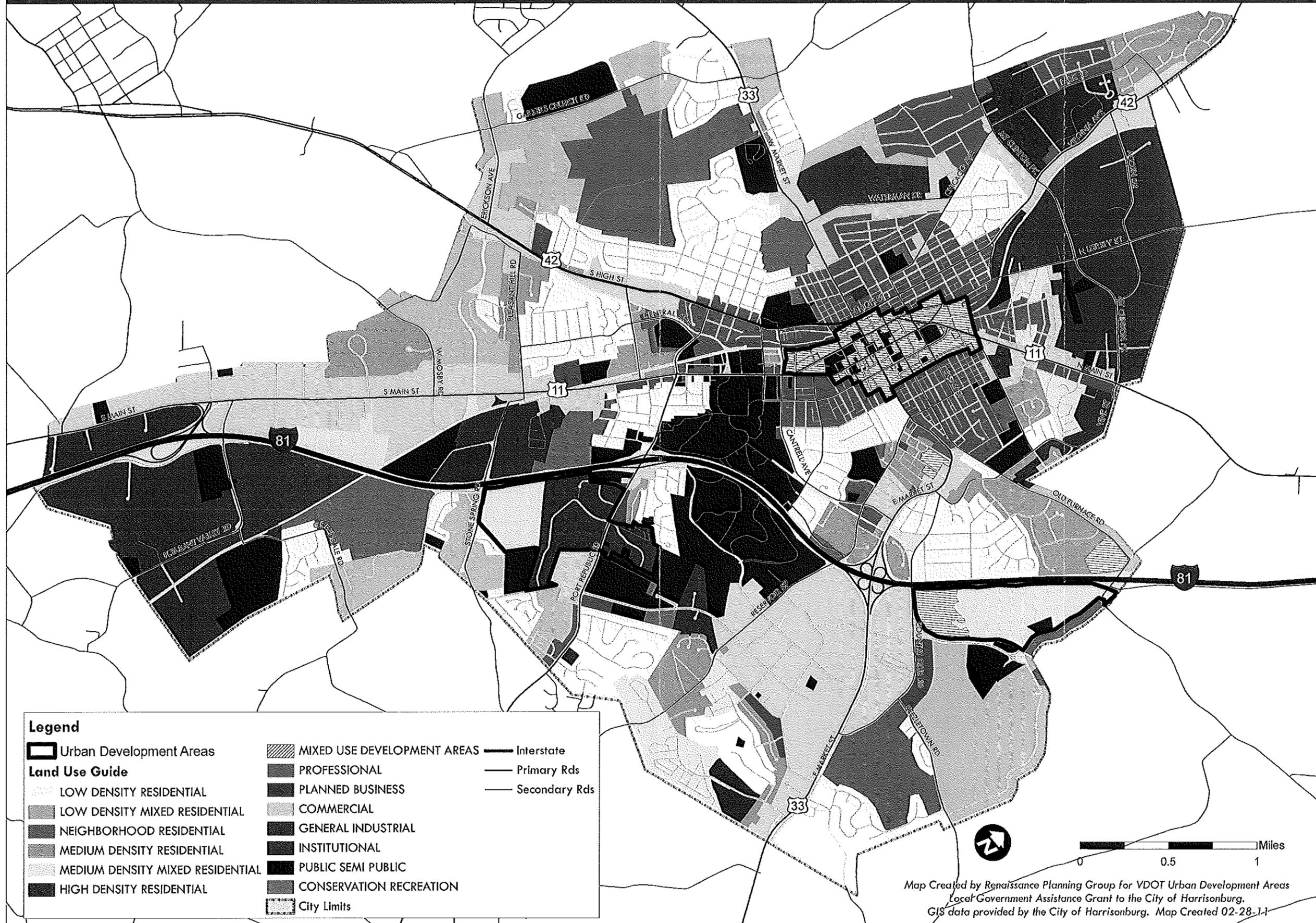
Strategy 1.1.3 To incorporate appropriate elements of the design guidelines into the City's land use codes, while leaving other elements discretionary.

- Objective 1.2 To ensure that the design of streets, public facilities, and other public investments reinforces the City’s unique character and sense of place.
- Strategy 1.2.1 To use the same process as outlined under Objective 1.1 to develop design guidelines for public development projects.
- Strategy 1.2.2 To review and revise the City’s street standards so as not to jeopardize VDOT funding, yet at the same time to seek to reduce street widths, incorporate traffic calming measures and/or permit low impact development design features.
- Objective 1.3 To create positive images of the City through landscaping and design improvements at the City’s gateways and along major travel corridors.
- Strategy 1.3.1 To prepare an evaluation of the visual quality and entry experience at each gateway shown on the Plan Framework Map and plan for appropriate improvements. Such improvements could include updated entry signage, landscape plantings, screening of unsightly views, and new development and redevelopment recommendations. Improved signage from gateways to major destinations should be considered as part of gateway plans.
- Strategy 1.3.2 To conduct a special study of each of the corridor enhancement areas shown on the Plan Framework Map to address such issues as:
- Land use and design quality
 - Streetscape improvements
 - Vehicle, pedestrian and bicycle circulation
 - Access management
 - Development, redevelopment and reuse opportunities
 - Conservation of special features
 - Improvements to utilities and public facilities
 - Signage
- Objective 1.4 To encourage mixed use development where different types of properties enhance and complement one another.
- Strategy 1.4.1 To promote the development of mixed residential and mixed use areas as recommended on the Plan Framework Map, Land Use Guide and in the text of this plan.
- Strategy 1.4.2 To develop a zoning approach to require, permit and/or provide incentives for the development of low density and medium density mixed residential neighborhoods as identified on the Plan Framework Map and Land Use Guide. Ordinance provisions would allow innovative residential building types and permit creative subdivision design solutions that promote neighborhood cohesiveness, walkability, connected street grids, community green spaces, and protection of historic and environmental resources.

- Strategy 1.4.3 To develop a zoning approach to require, permit and/or provide incentives for the development of live-work neighborhoods with characteristics similar to the mixed residential neighborhoods but with compatible residential-scale office uses permitted as well.
- Strategy 1.4.4 To develop a zoning approach to require, permit and/or provide incentives for traditional neighborhood development as described in the plan text.
- Objective 1.5 To ensure that new development of residential, commercial and industrial properties will be compatible with surrounding properties.
- Strategy 1.5.1 To revise the zoning ordinance to require landscape buffers, screening, or alternative architectural solutions to provide transitions between potentially incompatible land uses.
- Objective 1.6 To rezone properties into conformity with the new comprehensive plan, in order to reduce incompatibility.
- Strategy 1.6.1 To remove the potential for development or redevelopment of uses incompatible with their surroundings by initiating appropriate rezonings or text amendments as indicated by the Land Use Guide.
- Objective 1.7 To encourage and promote aesthetically pleasing high-end residential communities.
- Strategy 1.7.1 To include in the City’s land use codes and manuals design provisions and performance standards to improve the design quality of all residential development. Such provisions and standards may address:
- Building setback and orientation standards that enhance social interaction.
 - Street system design that promotes connectivity and addresses traffic calming measures to reduce speeding.
 - Requirements for sidewalks and trails that facilitate and encourage walking and bicycle use.
 - Streetscape planting requirements.
 - Standards for the placement of parking areas and garages so as to avoid streetscapes dominated by parking lots and garage doors.
 - Size, quality, design, character, and facilities in preserved open spaces.
- Strategy 1.7.2 To require, permit and/or provide incentives for “open space” or “cluster” development so as to preserve green space within new subdivisions.
- Goal 2. To promote novel patterns of development like those developed early in the City’s history – vital, well planned and well integrated mixed-housing and mixed-use urban areas of distinct character.

- Objective 2.1 To designate recommended mixed housing and mixed use areas.
 - Strategy 2.1.1 To promote the development of mixed residential and mixed use areas as recommended on the Plan Framework Map, Land Use Guide and in the text of this plan.

- Objective 2.2 To adopt zoning, subdivision and other measures to promote the development of mixed-housing and mixed-use urban areas of distinct character.
 - Strategy 2.2.1 To develop a zoning approach to require, permit and/or provide incentives for the development of low density and medium density mixed residential neighborhoods as identified on the Plan Framework Map and Land Use Guide. Ordinance provisions would allow innovative residential building types and permit creative subdivision design solutions that promote neighborhood cohesiveness, walkability, connected street grids, community green spaces, and protection of historic and environmental resources.
 - Strategy 2.2.2 To develop a zoning approach to require, permit and/or provide incentives for the development of live-work neighborhoods with characteristics similar to the mixed residential neighborhoods but with compatible residential-scale office uses permitted as well.
 - Strategy 2.2.3 To develop a zoning approach to require, permit and/or provide incentives for traditional neighborhood development as described in the plan text.



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§ 15.2-2223.1. Comprehensive plan to include urban development areas.

A. For purposes of this section:

"Commercial" means property devoted to usual and customary business purposes for the sale of goods and services and includes, but is not limited to, retail operations, hotels, motels and offices. "Commercial" does not include residential dwelling units, including apartments and condominiums, or agricultural or forestal production, or manufacturing, processing, assembling, storing, warehousing, or distributing.

"Commission" means the Commission on Local Government.

"Developable acreage," solely for the purposes of calculating density within the urban development area, means land that is not included in (i) existing parks, rights-of-way of arterial and collector streets, railways, and public utilities and (ii) other existing public lands and facilities.

"Population growth" means the difference in population from the next-to-latest to the latest decennial census year, based on population reported by the United States Bureau of the Census. In computing its population growth, a locality may exclude the inmate population of any new or expanded correctional facility that opened within the time period between the two censuses.

"Urban development area" means an area designated by a locality that is (i) appropriate for higher density development due to its proximity to transportation facilities, the availability of a public or community water and sewer system, or a developed area and (ii) to the extent feasible, to be used for redevelopment or infill development.

B. Every locality that has adopted zoning pursuant to Article 7 (§ 15.2-2280 et seq.) of this chapter and that (i) has a population of at least 20,000 and population growth of at least five percent or (ii) has population growth of 15 percent or more, shall, and any locality may, amend its comprehensive plan to incorporate one or more urban development areas.

1. The comprehensive plan of a locality having a population of less than 130,000 persons shall provide for urban development areas that are appropriate for development at a density on the developable acreage of at least four single-family residences, six townhouses, or 12 apartments, condominium units, or cooperative units per acre, and an authorized floor area ratio of at least 0.4 per acre for commercial development, or any proportional combination thereof.

2. The comprehensive plan of a locality having a population of 130,000 or more persons shall provide for urban development areas that are appropriate for development at a density on the developable acreage of at least eight single-family residences, 12 townhouses, or 24 apartments, condominium units, or cooperative units per acre, and an authorized floor area ratio of at least 0.8 per acre for commercial development, or any proportional combination thereof.

3. The urban development areas designated by a locality shall be sufficient to meet projected residential and commercial growth in the locality for an ensuing period of at least 10 but not more than 20 years, which may include phasing of development within the urban development areas. Where an urban development area in a county with the urban county executive form of government includes planned or existing rail transit, the planning horizon may be for an ensuing period of at least 10 but not more than 40 years. Future residential and commercial growth shall be based on official estimates of the Weldon Cooper Center for Public Service of the University of Virginia or official projections of the Virginia Employment Commission or the United States Bureau of the Census.

4. The boundaries and size of each urban development area shall be reexamined and, if necessary, revised every five years in conjunction with the review of the comprehensive plan and in accordance with the most recent available population growth estimates and projections.

5. The boundaries of each urban development area shall be identified in the locality's comprehensive plan and shall

be shown on future land use maps contained in such comprehensive plan.

6. The comprehensive plan shall incorporate principles of traditional neighborhood design in the urban development area, which may include but need not be limited to (i) pedestrian-friendly road design, (ii) interconnection of new local streets with existing local streets and roads, (iii) connectivity of road and pedestrian networks, (iv) preservation of natural areas, (v) mixed-use neighborhoods, including mixed housing types, with affordable housing to meet the projected family income distributions of future residential growth, (vi) reduction of front and side yard building setbacks, and (vii) reduction of subdivision street widths and turning radii at subdivision street intersections.

7. The comprehensive plan shall describe any financial and other incentives for development in the urban development areas.

8. A portion of one or more urban development areas shall be designated as a receiving area for any transfer of development rights program established by the locality.

C. No locality that has amended its comprehensive plan in accordance with this section shall limit or prohibit development pursuant to existing zoning or shall refuse to consider any application for rezoning based solely on the fact that the property is located outside the urban development area.

D. Any locality that would be required to amend its plan pursuant to subsection B that determines that its plan accommodates growth in a manner consistent with subsection B, upon adoption of a resolution describing such accommodation and describing any financial and other incentives for development in the areas that accommodate such growth, shall not be required to further amend its plan pursuant to subsection B. Any locality that has adopted a resolution certifying compliance with subsection B prior to February 1, 2010, shall not be required to comply with this subsection until review of the locality's comprehensive plan as provided for in provision 4 of subsection B.

E. Localities shall consult with adjacent localities, as well as the relevant planning district commission and metropolitan planning organization, in establishing the appropriate size and location of urban development areas to promote orderly and efficient development of their region.

F. Any county that amends its comprehensive plan pursuant to subsection B may designate one or more urban development areas in any incorporated town within such county, if the council of the town has also amended its comprehensive plan to designate the same areas as urban development areas with at least the same density designated by the county. However, if a town has established an urban development area within its corporate boundaries, the county within which the town is located shall not include the town's projected population and commercial growth when initially determining or reexamining the size and boundary of any other urban development area within the county.

G. To the extent possible, federal, state and local transportation, housing, water and sewer facility, economic development, and other public infrastructure funding for new and expanded facilities shall be directed to the urban development area, or in the case of a locality that adopts a resolution pursuant to subsection D, to the area that accommodates growth in a manner consistent with this section.

H. Documents describing all urban development area designations, as well as any resolution adopted pursuant to subsection D, together with associated written policies, zoning provisions and other ordinances, and the capital improvement program shall be forwarded, electronically or by other means, to the Commission within 90 days of the adoption or amendment of comprehensive plans and other written policies, zoning provisions and other ordinances. The Commission shall annually report to the Governor and General Assembly the overall compliance with this section including densities achieved within each urban development area. Before preparing the initial report, the Commission shall develop an appropriate format in concert with the relevant planning district commission. Other than the documents, policies, zoning provisions and other ordinances, resolutions, and the capital improvement program forwarded by the locality, the Commission shall not impose an additional administrative burden on localities in preparing the annual report required by this subsection.

I. Any locality that becomes subject to provision 2 of subsection B shall have until July 1, 2012, to amend its comprehensive plan in accordance with this section.

J. Any locality that becomes subject to this section due to population growth shall have two years following the report of the United States Bureau of the Census made pursuant to P.L. 94-171 to amend its comprehensive plan in accordance with this section.

(2007, c. [896](#); 2009, c. [327](#); 2010, cc. [465](#), [528](#).)

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