



City of Harrisonburg, Virginia

Planning Commission Meeting

July 13, 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 June 8, 2011 regular meeting.**

- 2) **New Business**

Street Closing – Intersection of West Bruce Street & Old South High Street (Adjacent to 25-C-14)

Consider a request from D & B Investors with representative Andrew Forward to close 3,679 square feet of right-of-way at the intersection of West Bruce Street and Old South High Street.

Preliminary Plat – Traber Plat Variance (Garbers Church Road)

Consider a request from John Traber to preliminarily plat nine single family home lots on property zoned R-1, Single Family Residential District. The application also includes Subdivision Ordinance variance requests per Section 10-2-41 (a) and 10-2-42 (d). The property is located at 411 Garbers Church Road and can be found on tax map 123-O-1.

Special Use Permit – 130 University Boulevard (Easy Radio Inc. Verizon Wireless)

Public hearing to consider a request from Easy Radio Inc. with representatives Stephen Waller and Ed Given for Verizon Wireless for a special use permit per Section 10-3-91 (4) to allow co-location on a communications tower of no more than 125-feet within the B-2, General Business District. The property is located at 130 University Boulevard and can be found on tax map 78-C-1.

Special Use Permit – 120 West Wolfe Street (WRockstreet LLC)

Public hearing to consider a request from WRockstreet LLC for a special use permit per Section 10-3-85 (4) to allow repair of vehicles, recreation equipment, or trailers on property zoned B-1C, Central Business District Conditional. The property is located at 120 West Wolfe Street and can be found on tax map 35-O-4.

- 3) **Unfinished Business**

- 4) **Public Input**

- 5) **Report of secretary and committees**

Proactive Zoning

- 6) **Other Matters**

Preliminary Plat Validation Extension Request – Community Street Plat Variances

- 7) **Adjournment**

Staff will be available Monday August 8, 2011 at 4:30 p.m. for those interested in going on a field trip to view the sites for the August 10, 2011 agenda.

MINUTES OF HARRISONBURG PLANNING COMMISSION

June 8, 2011

The Harrisonburg Planning Commission held its regular meeting on Wednesday, June 8, 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, and Henry Way.

Members absent: Bill Jones.

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

Vice Chairman Fitzgerald called the meeting to order and determined there was a quorum with six of seven members in attendance. She then asked if there were any corrections, comments or a motion regarding the minutes from the May 11th Planning Commission meeting.

Mr. Chenault moved to approve the minutes from the May 11, 2011 Planning Commission meeting.

Mr. Finks seconded the motion.

All voted in favor of approving the minutes. (6-0)

New Business

Rezoning/Master Plan Amendment – VMRC Woodland Greenhouses 2011 Amendment

Vice Chairman Fitzgerald read the request and asked staff to review.

Mrs. Banks said the Comprehensive Plan designates this area as Institutional. These lands are 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 which provide for the shelter and care of people.

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

Site: Woodland facility (under demolition) and single-family homes, zoned R-3/I-1

North: Crestwood assisted living facility and Oak Lea nursing facility, zoned R-3/I-1

East: Across Virginia Avenue, undeveloped parcel, non-conforming dwellings and commercial properties, zoned B-2

South: Across Parkwood Drive, VA Mennonite Conference Center and undeveloped parcel, zoned B-2

West: Single-family dwellings, zoned R-3 and Eastern Mennonite University, zoned R-3/I-1

The original master plan for Virginia Mennonite Retirement Community (VMRC) was approved in March 1997 and has been amended on several occasions. The most recent amendment was approved in December 2009, which allowed for the construction of ten Green House Homes in the Woodland area of the VMRC property. As described by VMRC, Green House Homes are residential homes for up to ten occupants requiring skilled nursing care. Each home has ten private rooms and bathrooms, a central kitchen, dining and living area, and around-the-clock nursing care. The December 2009 master plan illustrated the Green House Homes as a micro-community, clustered around gardens and a community park. Both Planning Commission and City Council voted unanimously in favor of the Green House Homes concept, which necessitates the demolition of the original Woodland facility building and the nearby single-family homes.

Following the 2009 approval, the applicants began working on the design and layout of the homes and the associated private street. As the project progressed, it became obvious that the placement of the stormwater detention area would require shifting some of the homes and redesigning the private loop road. This change made the community park smaller and created difficulty for all of the homes to meet building separation and setback requirements. After discussions with staff, it was determined the best option would be to request a master plan amendment with the redesigned Green House Home layout utilizing the relief mechanisms and flexibility allowed within the Institutional Overlay District.

VMRC is requesting a change to their December 2009 approved Institutional Overlay Master Plan. The I-1, Institutional Overlay District is a special overlay district, placed over a base district, and is intended to provide for orderly development of certain nonprofit institutional uses and institutions providing for the shelter and care of persons. It allows for flexibility with setbacks, building height, and parking requirements through the master plan process.

With the current request, VMRC would like to maintain their existing master plan, which includes the skilled nursing care provided in the ten Green House Homes. As mentioned above the major change in the master plan is to allow for flexibility in building separation and setback requirements. Thus, the master plan specifies that building separation between some of the homes could be as close as 20-feet, as opposed to the required 30-feet. In addition, setbacks are shown as 20-feet from both Parkwood Drive and Virginia Avenue, and 10-feet from interior property lines. The applicant has stated that it is not their intention to build each home to these setbacks; but, it would offer the flexibility should buildings need to be shifted. The setbacks as presented deviate from the required 30-feet from public streets and the ten and 25-foot setbacks for the interior lines.

The Public Works Department is requesting right-of-way along Parkwood Drive in order to bring the current right-of-way to a point 30-feet from the existing street centerline on their side of the road. As well, they are asking for an additional four feet of right-of-way along Virginia Avenue. This is indicated on the master plan site drawing. Both would be dedicated during the comprehensive site plan review. The requested relief for the front setbacks from 30-feet to 20-feet would allow the applicant to construct the ten homes after the right-of-way dedication and still have the ability to shift the buildings, should it be necessary.

The Green House Homes would front along an internal private loop road, which enters from Oak Drive, a separate, existing private road within the VMRC community. The existing Parkwood Drive entrance would be phased out, becoming a service entrance and fire lane. Each home would have a driveway to accommodate one vehicle and 22 additional spaces would be provided along the loop road. The applicant has noted that the total number of parking spaces for the VMRC campus is 644. This is a slight increase from the previously approved master plan and is more than sufficient for their needs.

As stated in 2009, this is an innovative and unique approach to nursing home living. The relief and flexibility in building setbacks and separation allows for the clustering of homes and the preservation of open space, concepts supported by the Comprehensive Plan. Staff supports the request to amend this portion of the VMRC Master Plan.

Vice Chairman Fitzgerald asked if there were any questions for staff.

Mr. Da'Mes asked what are the small buildings or structures along the emergency access route.

Mrs. Banks said they are structures for Harrisonburg Electric Commission; backup generators.

Mr. Da'Mes asked about dumpsters on the site.

Mr. Chenault replied that he believes VMRC has trash pick-up.

Mrs. Banks suggested that the applicant could better answer that question.

Mr. Way asked staff to review the changes from the 2009 approved master plan site design as compared to the current proposal.

Staff described how two of the buildings would be shifted south to make more area for the stormwater detention area. Also, the road through the complex would be less winding and more of a straight loop and there is an emergency access road proposed with the new site design.

Mr. Da'Mes asked if the applicants would be required to install sidewalk along Virginia Avenue.

Mrs. Banks replied that sidewalk already exists.

Vice Chairman Fitzgerald asked if there were any further questions. Hearing none, she opened the public hearing and asked if the applicant or applicant's representative would like to speak.

Mr. Richard Johnson of Blackwell Engineering said they are the engineers working on the site design for the VMRC project. I do not have anything more specific to add, but if you have questions regarding the design I would be happy to answer them.

Mr. Marvin Nicely, Vice President at VMRC, said thank you for considering our request. I just wanted to say a few words about this project and the Green House concept. We believe this is a very important concept for the future of VMRC; we want to change how nursing care is provided for people who need this type of assistance as they grow older. In simple terms we want to de-institutionalize nursing care and put our elders into a house that more closely resembles a house that they were more accustomed to living in. Again, thank you for your consideration on this and thank you to the staff for their assistance.

Vice Chairman Fitzgerald asked if there was anyone else wishing to speak in favor of or opposed to the request. Hearing none, she closed the public hearing and asked Planning Commission for discussion or a motion.

Mr. Chenault moved to recommend approval of the amendment to the VMRC Master Plan.

Dr. Dilts seconded the motion.

Vice Chairman Fitzgerald said there is a motion to recommend approval and a second. She then called for a voice vote.

All voted in favor (6-0) of the motion.

Vice Chairman Fitzgerald said the motion to recommend approval carries to City Council on July 12th.

Unfinished Business

None.

Public Input

None.

Report of secretary and committees

Mrs. Banks said proactive zoning targeted the Avalon Woods Sector of the City, where they found 11 violations consisting of inoperable vehicles, discarded materials, and signage. Next month the Zoning inspectors will be inspecting the Waterman Elementary area.

Other Matters

Mr. Fletcher said he has one item he wanted to bring up. Back in 2008 there was discussion and desire to write new landscaping requirements; however, it was decided not to pursue it at the time because we were still working on the Mixed Use zoning classification. Then we went to work on the Comprehensive Plan. Now that both of those are finished, is it still the desire of the Planning Commission to continue to move forward with a new landscaping proposal? We have a working draft, but it needs to be reviewed before it is ready to come before this body for your review.

Mr. Way asked for further explanation of the ordinance.

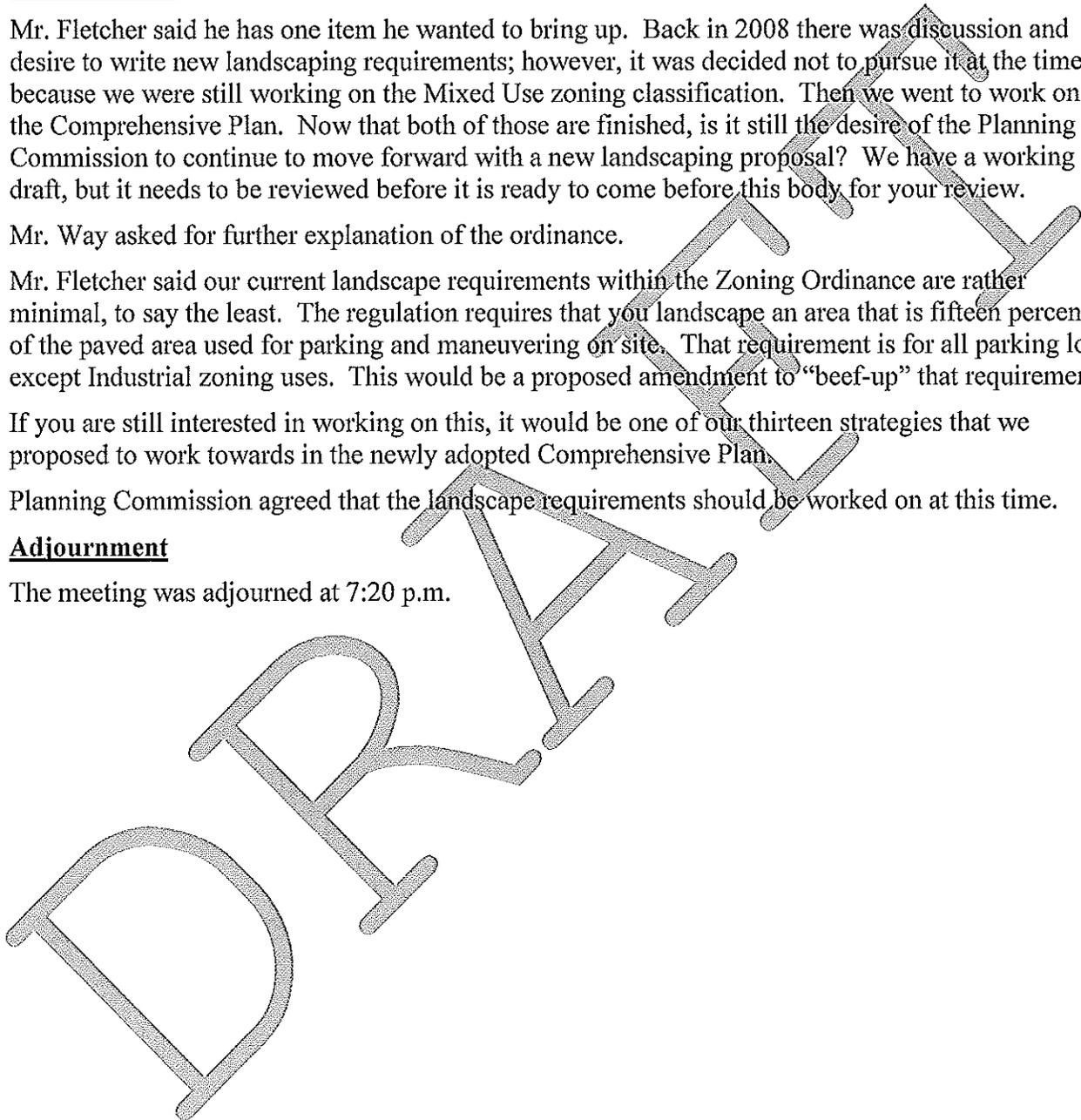
Mr. Fletcher said our current landscape requirements within the Zoning Ordinance are rather minimal, to say the least. The regulation requires that you landscape an area that is fifteen percent of the paved area used for parking and maneuvering on site. That requirement is for all parking lots except Industrial zoning uses. This would be a proposed amendment to “beef-up” that requirement.

If you are still interested in working on this, it would be one of our thirteen strategies that we proposed to work towards in the newly adopted Comprehensive Plan.

Planning Commission agreed that the landscape requirements should be worked on at this time.

Adjournment

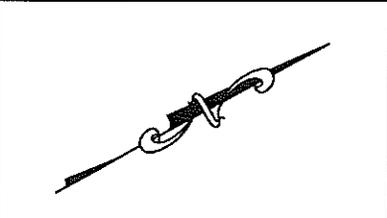
The meeting was adjourned at 7:20 p.m.





CITY OF HARRISONBURG

Street/ROW Closing
 Intersection of West Bruce Street &
 Old South High Street
 Adjacent to 25-C-14
 3,679 +/- sq. ft.
LOCATION MAP



Planning and Community Development
 City of Harrisonburg, Virginia



**Street ROW Closing - Adjacent to 25-C-14
Intersection of W. Bruce St. & Old S. High St.**





City of Harrisonburg, Virginia

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

STAFF REPORT
July 13, 2011

STREET CLOSING – WEST BRUCE STREET R.O.W. (ADJACENT TO 25-C-14)

GENERAL INFORMATION

Applicant: D & B Investors, LLC with representative Andrew Forward
Tax Map: Adjacent to tax parcel 25-C-14
Acreage: 3,630 square feet
Location: Intersection of West Bruce Street and Old South High Street
Request: Consider a request to close 3,630 sq. ft. portion of right-of-way adjacent to tax parcel 25-C-14 and adjoining Old South High Street and West Bruce Street.

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

Site: Parking lot, zoned M-1
North: Undeveloped land, zoned M-1
East: Parking lot and undeveloped land, zoned M-1
South: Across West Bruce Street, property owned by C&W Railroad and warehouse building, zoned M-1
West: Across Old South High Street, professional offices, zoned R-3

EVALUATION

This is a request to close a 3,630 square foot portion of right-of-way located along the northeast corner of West Bruce Street and Old South High Street. The applicants desire to purchase the right-of-way and add it to their adjacent property in order to enlarge an existing parking lot.

The right-of-way along this intersection was originally established when Old South High Street was Route 42 through the City. The wide radii at the intersection were necessary to accommodate the heavier traffic flow when this street was a major thoroughfare. In the late 1960's, South High Street was relocated just west of the existing street, leaving what is now known as Old South High Street with a considerable amount of right-of-way at its intersection with West Bruce Street.

Upon review of this request, the Public Works Department was hesitant to recommend in favor of closing this portion of the right-of-way. Over the years since the relocation of South High Street, this portion of West Bruce Street has not had as much traffic flow; however, with recent developments in the area and the encouragement of mixed uses moving more towards the South High Street corridor, staff believed this right-of-way may be necessary in the future for sidewalk or roadway expansion. Therefore, staff is recommending that a ten foot strip, from the back of sidewalk inwards toward the

parcel remain as right-of-way for future expansion needs. This would leave an area of approximately 2,046 square feet for closure and sale to the applicant.

Staff has no objections to closing the approximate 2,046 square foot portion of the street. There are no public utilities within this section of the right-of-way; however, staff recommends that a ten foot general utility easement be provided along the interior of the new property line. Vacating this portion of the right-of-way does not impact the function of the intersection and staff supports the request.

Details of closure:

3630 *DN*

The lot adjustment would be the purchase of approximately ~~3,278~~ sq. ft. of property currently owned by the City and give up approximately ~~70~~ sq. ft. on the corner of Old South High Street and West Bruce Street as indicated in the attached plan marked "Area1". Our engineer discussed the proposed changes to the property with your Mr. Rublee and the changes where as noted.

49 *DN*

Date application received: _____

Application for Street or Alley Closing City of Harrisonburg, Virginia

Review fee: \$50.00 Board of Viewers appointment (\$50.00 each): \$ _____ Total Paid: \$ _____

Applicant's name: D & B INVESTORS LLC

Street address: 205 A S. LIBERTY ST Email: _____

City: HARRISONBURG State: VA Zip: 22801

Telephone: Work 540 433 2796 Fax _____ Mobile _____

Representative (if any): ANDREW FORNARD

Street address: P.O. Box 266 Email: ANDREWFWD@GMAIL.COM

City: PENN LAIRD State: VA Zip: 22896

Telephone: Work _____ Fax _____ Mobile 540 830 0682

Description of Request

Location: PARCEL ID 025 C 14 164 W. BRUCE STREET

Square footage of area to be closed. 3630 sq ft

Cost per square foot: \$ 3.59/sq ft Total cost: \$12,705

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

Names and addresses of adjacent property owners (Use separate sheet for additional names)

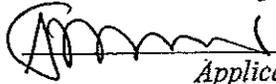
North: See attached

South: _____

East: _____

West: _____

I hereby certify that it is my intention to have the above described Street(s) or Alley(s) closed and that the information contained herein is true and accurate. In addition, I understand that all required advertising and associated costs will be at the expense of the applicant.

Signature: 
Applicant

May 17 2011
Date

ITEMS REQUIRED FOR SUBMISSION

- | | |
|---|--|
| <input type="checkbox"/> Completed application | <input type="checkbox"/> Value per square foot of cost to purchase |
| <input type="checkbox"/> Letter describing proposed use | <input type="checkbox"/> Fees paid |
| <input type="checkbox"/> Adjacent property owners | |
| <input type="checkbox"/> Survey & metes and bounds description (prepared by a surveyor, engineer, or other person duly authorized by the State) | |

Please be advised, adjoining property owners shall be expected to buy that portion of the street/alley which abuts their property before second reading and final closing! The cost shall be at fair market value determined by the Commissioner of Revenue.

Adjacent Property Owners

1. 126 W. Bruce Street –
Tax Map 025 C 6
Valley Hardware Company
2. 179 S. Liberty Street
Tax Map 25 C 15
RosettaStone
3. 139 W. Water Street
Tax Map 25 C 8
S Hess
4. 147 W. Water Street
Tax Map 25 C 9
S Hess
5. 120 S. High Street
Tax Map D25 C 13
T Wilson
6. 159 S. High Street
Tax Map 25 D 2
W Coakley
7. 143 S. High Street
Tax Map 25 D 4
Bispaca LLC
8. 127 S. High Street
Tax Map 25 D 4
Bisapaca LLC
9. 210 Chesapeake Av
Tax Map 25 H 19
C & W Railroad
10. 141 W. Bruce Street
Tax Map 25 H 19 A
J M Apartments

The following are the metes and bounds descriptions of 3 parcels located on the north side of W. Bruce Street and on the east side of Old S. High Street in Harrisonburg, Virginia.

D & B Investors, LLC to City

Beginning at a nail in the east line of Old S. High Street, a corner with T. J. Wilson, IV, thence with 2 new lines through D & B Investors,

S 11° 48' 21" W 36.40'

to a railroad spike set, thence with a curve to the left having a radius of 552.00' and an arc distance of 27.93'

chord S 10° 21' 23" W 27.93'

to a point on the old property line, thence with the old property line with an irregular curve to the right

chord N 12° 47' 30" W 4.99'

to an old corner in the line of Old S. High Street, thence with said Street

N 13° 07' 00" E 59.80'

to the beginning and enclosing an area of 49 Square Feet.

City to D & B Investors

Beginning at a nail in the north line of W. Bruce Street, being N 78° 20' 00" W 115.50' from the corner on the west side of the CW Railway, thence with new lines through the City of Harrisonburg property the following 3 courses

N 76° 51' 26" W 83.79'

to a nail set at the P.C. of a curve to the right having a radius of 35.00', thence with the arc of said curve 47.64'

chord N 37° 51' 38" W 44.05'

to the P.C.C. of a curve to the right having a radius of 552.00', thence with the arc of said curve 74.87'

chord N 05° 01' 19" E 74.81'

to a point in the old line, thence with the old line with an irregular curve

chord S 38° 29' 47" E 164.00'

to the beginning and enclosing an area of 3679 Square Feet.

Parcel after conveyances

Beginning at a nail in the east line of Old S. High Street, a corner with T. J. Wilson, IV, thence with said Wilson

S 78° 59' 01" E 145.73'

to an iron pin on the east side of an alley, thence with said alley

N 12° 35' 00" E 4.30'

to an iron pin, a corner with Christa Spangler, thence partially with said Spangler and partially with Hess and Allen Properties and partially with Stephen J. Hess

S 77° 13' 23" E 134.93'

to an iron pin in the west line of the CW Railroad, thence with said railroad

S 24° 18' 00" W 177.00'

to a nail in the north line of W. Bruce Street, thence with said W. Bruce Street the following 2 courses

N 78° 20' 00" W 115.50'

to a nail, thence

N 76° 51' 26" W 83.79'

to a nail set, the P.C. of a curve to the right having a radius of 35.00', thence with the arc of said curve 47.64'

chord N 37° 51' 38" W 44.05'

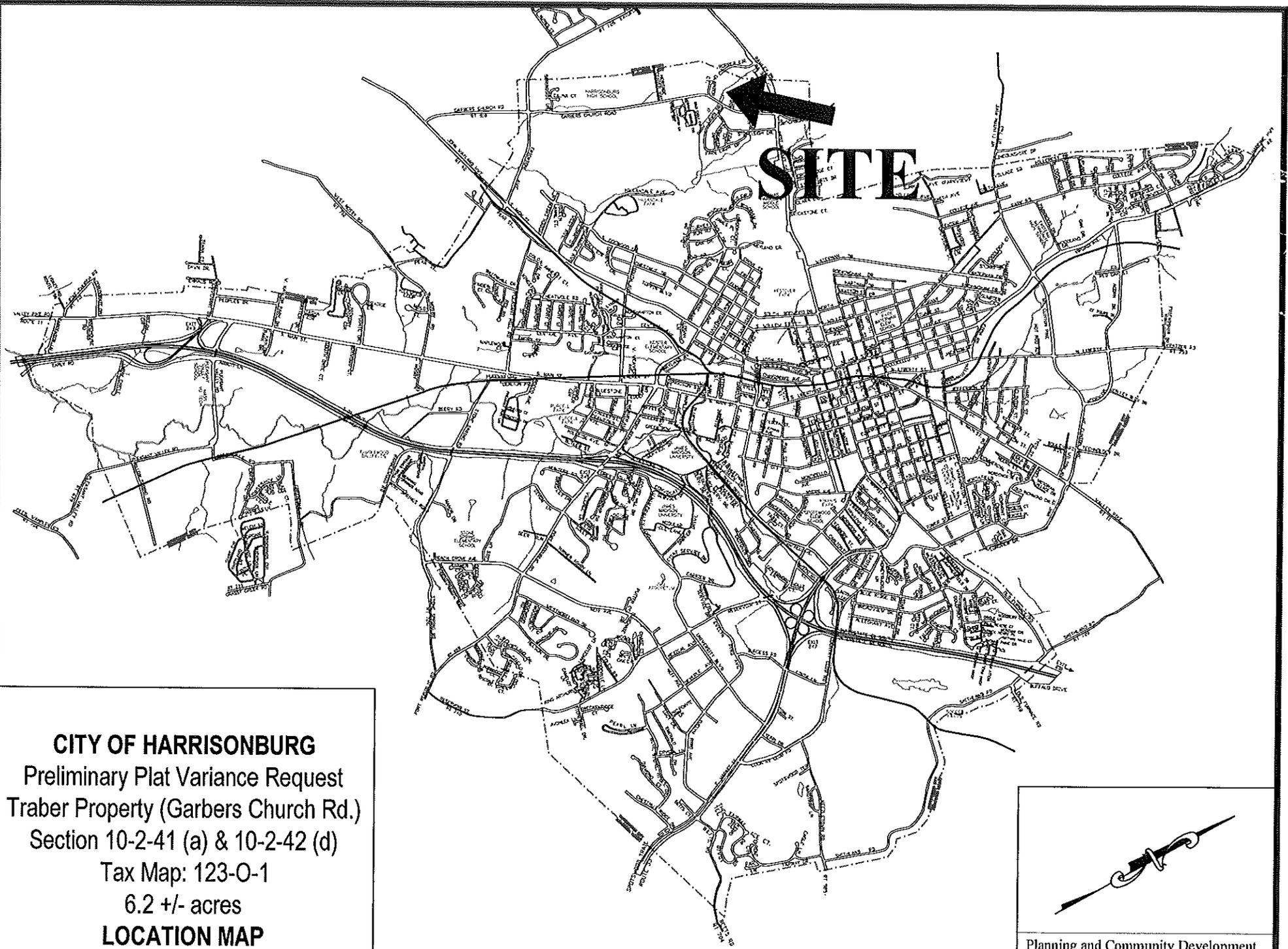
to the P.C.C. of a curve to the right having a radius of 552.00', thence with the arc of said curve 102.80'

chord N 06° 28' 17" E 102.65'

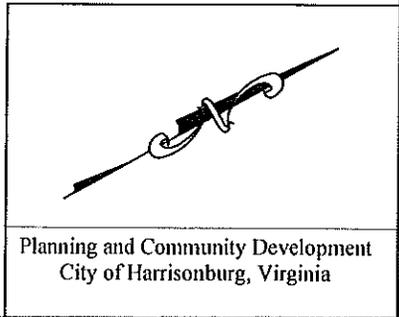
to a railroad spike set, the P.T. of said curve, thence

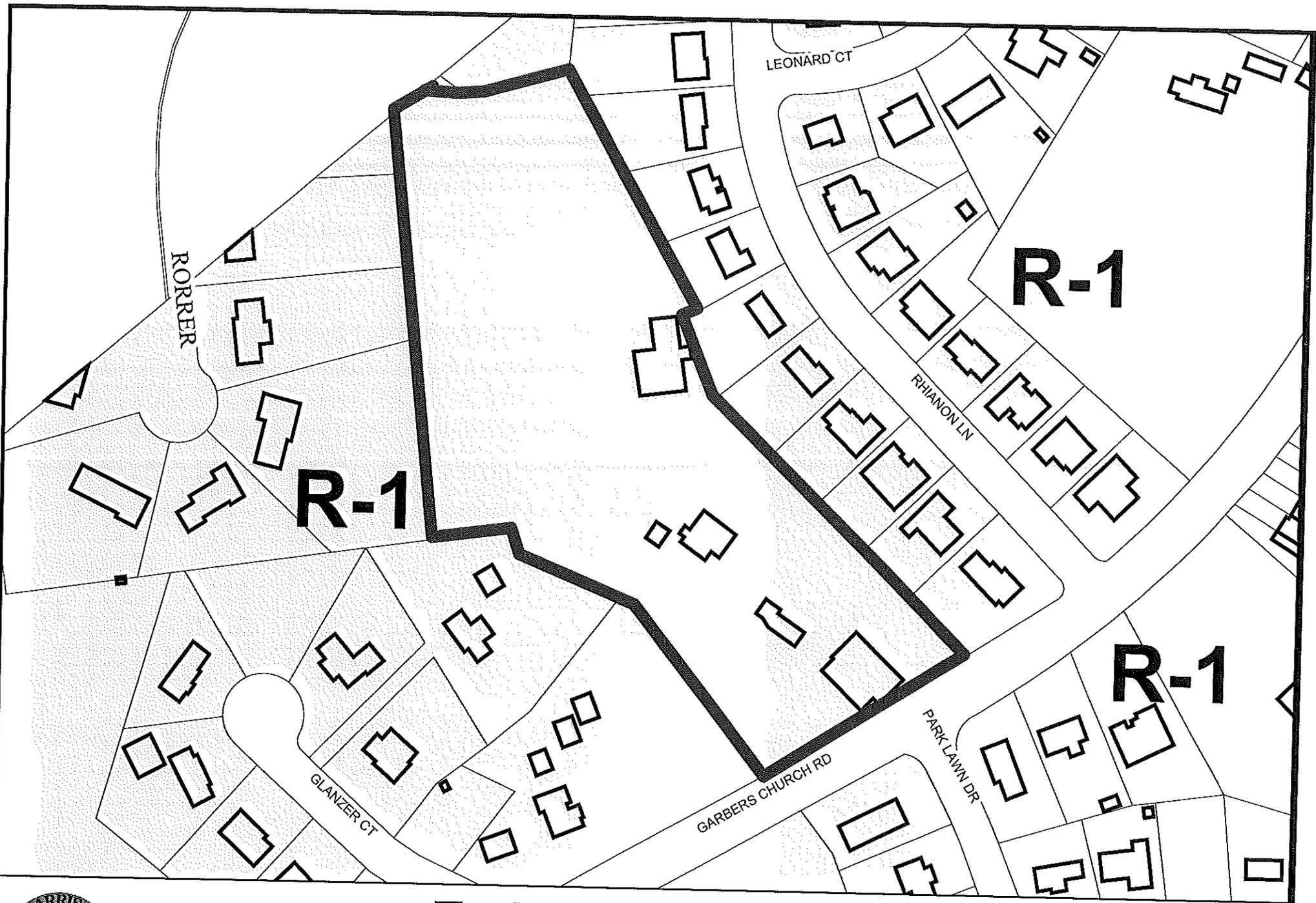
N 11° 48' 21" E 36.40'

to the beginning and enclosing an area of 1.009 Acres.



CITY OF HARRISONBURG
Preliminary Plat Variance Request
Traber Property (Garbers Church Rd.)
Section 10-2-41 (a) & 10-2-42 (d)
Tax Map: 123-O-1
6.2 +/- acres
LOCATION MAP





Traber Plat Variance

401 Garbers Church Road



City of Harrisonburg, Virginia

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

STAFF REPORT
JULY 13, 2011

PRELIMINARY PLAT – TRABER SUBDIVISION – 411 GARBERS CHURCH ROAD

GENERAL INFORMATION

- Applicant:** John Traber
Tax Map: 123-O-1
Acreage: 6.24 +/- acres
Location: 401 Garbers Church Road
Request: Consider a request to preliminarily subdivide nine single family home lots with variances from the Subdivision Ordinance Sections 10-2-41 (a) and 10-2-42 (d) with further deviations from the Design and Construction Standards Manual.

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:** Farm house and outbuildings, zoned R-1
North: Single family home lots, zoned R-1 and Rockingham County property, zoned A-2
East: Single family homes fronting along Rhianon Lane, zoned R-1
South: Across Garbers Church Road, single family homes, zoned R-1
West: Single family homes fronting along Glanzer Court and Rorrer Circle, zoned R-1

EVALUATION

The applicant is requesting to preliminarily subdivide nine single family home lots from a 6.24-acre parcel zoned R-1, Single Family Residential District having frontage along Garbers Church Road. The applicant's planned layout requires a variance from the Subdivision Ordinance Section 10-2-42 (d) to allow lots to not front on a public street and a variance from Section 10-2-41 (a) for further deviations from the Design and Construction Standards Manual (DCSM). (This request was originally scheduled to be heard during the October 2010 regular Planning Commission meeting. The applicant tabled the request in October to be heard in November, but then tabled it once more until further notice was given. Near the end of May 2011, the applicant's engineer contacted staff to proceed with the request.)

Due to the topography and shape of the property the applicant requests permission to allow the lots to front along a private street. The parcel has approximately 280 feet of road frontage along Garbers

Church Road, however, more than 100 feet is practically unusable as the property's pond restricts and controls the location of where the street must intersect with Garbers Church Road. Although not planned as an age restricted community, this neighborhood would function similarly to the nearby Heritage Estates Subdivision, where the lots exceed the R-1 lot area requirements and have a private street mainly encompassed within each lot. All but one lot is more than double the minimum size requirements of the R-1 zoning district; two properties are close to an acre in size. The density of the planned neighborhood is almost 1.5 units per acre; well within the Low Density Residential guideline of one to four dwelling units per acre.

Since the street would be private, the City would not provide street maintenance, snow removal, or trash pick-up, and depending upon the needs of the neighborhood's residents, a school bus would probably not travel down the cul-de-sac. The neighborhood's draft home owner's association (HOA) document specifies the street maintenance responsibilities, and due to the design of the street, the HOA document further restricts building setbacks beyond enforcement of the City Code.

The applicant is also requesting a variance from the Subdivision Ordinance Section 10-2-41 (a), which states that "proposed streets and alleys shall conform to the standards and specifications outlined in the Design and Construction Standards Manual." Recently, the City adopted private street standards, which specifies regulations such as allowable street and travel widths and issues related to on-street parking. The regulations further specify that most of the City's other street design principles such as materials and specific design criteria must meet the same construction standards of the City's public streets. The planned subdivision's private street illustrates three deviations from these construction standards. First, the private street standards require sidewalk along both sides of the private street. The applicant requests to build sidewalk only on the northern side of the street. Secondly, private streets require a 100-foot tangent section between horizontal curves. The applicant's desired street has no horizontal tangent, thus they are requesting this requirement be waived. Finally, private cul-de-sacs are required to provide a 45-foot radius. Since the applicant is utilizing the 24-foot private street width, which does not allow on-street parking, and due to the steep topography near the northwestern end of the property, the applicant would like to deviate from this requirement and provide a 40-foot radius.

Other issues, which will be worked out during the site plan review, include: ensuring that sight distance is appropriately met along Garbers Church Road, acquiring any easements necessary to construct retaining walls near adjoining properties, and dealing with the floodplain and floodway. Although the stream that flows through this property is arguably a small watercourse, the floodplain would extend into each subdivided property. (Lot nine is completely encompassed by the floodplain and almost enveloped by the floodway. This lot might be incorporated into one of the adjoining lots.) Since the private street crosses the stream, the developer could be required to conduct a flood study with submission to FEMA. The developer will also be required to verify water and sewer capacities through a Preliminary Engineering Report prior to their site plan submittal.

The use of the property and the size of the lots are consistent with the surrounding properties and with the Comprehensive Plan's Low Density Residential land use designation. Staff has no major issues with the planned deviations from the DCSM. Staff supports the preliminary plat and the requested variances and offers a favorable recommendation for approval.

October 13, 2010

Adam Fletcher
City Planner
City of Harrisonburg
409 South Main Street
Harrisonburg, Virginia 22801

Re: Traber Subdivision - Table Requests

Dear Mr. Fletcher,

I am requesting the Traber Subdivision, scheduled for consideration by the Planning Commission on October 13, 2010, to be tabled for this month. I need additional time to solidify what will be presented. I apologize for any inconvenience, and look forward to November's Planning Commission Meeting.

Respectfully,

A handwritten signature in black ink, appearing to read 'J. Traber', with a long, sweeping flourish extending to the right.

John Traber
Owner / Developer



BLACKWELL ENGINEERING, PLC

566 E. MARKET STREET • HARRISONBURG, VIRGINIA 22801 • (540) 432-9555 FAX (540) 434-7604

November 10, 2010

Adam Fletcher
City Planner
City of Harrisonburg
409 South Main Street
Harrisonburg, Virginia 22801

Re: Traber Subdivision - Table Requests

Dear Mr. Fletcher,

I am requesting the Traber Subdivision, scheduled for consideration by the Planning Commission on November 10, 2010, to be tabled until further notice. I hope to see this preliminary plat presented to the Planning Commission in the near future. I apologize for any inconvenience.

Respectfully,

Nathan W. Blackwell, P.E.
Civil Engineer
Blackwell Engineering, P.L.C.

Adam Fletcher

From: nathan@blackwellengineering.com
Sent: Friday, May 27, 2011 10:47 AM
To: Adam Fletcher
Cc: Alison Banks; Stacy Turner; Matt Sunderlin
Subject: Traber Subdivision - Planning Commission

Adam,

I am pleased to request that the Traber Subdivision be placed on the earliest Planning Commission Meeting. From our phone conversation that would be July. We will not be changing the drawings, so at this point everything is as it was last fall. Please let me know if you have any questions or need additional information.

Thanks,

Nathan W. Blackwell, P.E.
Civil Engineer

Blackwell Engineering, PLC
566 East Market Street
Harrisonburg, Virginia 22801

W - (540) 432-9555

F - (540) 434-7604
BlackwellEngineering.com



BLACKWELL ENGINEERING, PLC

566 E. MARKET STREET • HARRISONBURG, VIRGINIA 22801 • (540) 432-9555 FAX (540) 434-7604

October 1, 2010

Adam Fletcher
City Planner
City of Harrisonburg
409 South Main Street
Harrisonburg, Virginia 22801

Re: Traber Subdivision - Variance Requests

Dear Mr. Fletcher,

I have assembled a list of the known needed variances from the City of Harrisonburg to develop the Traber Subdivision. They are as follows:

1. The City, section 10-2-42 (d) of the Subdivision Ordinance, requires all lots to front on a public street. Due to the limitations of the shape of the property and the flood plain a private road is needed. The single family lots (2-8) will front on a private street, which will be maintained by an Association. The association will maintain not only the street but the sidewalk, and any common space that may be part of the development. Lots #1, and #9 are adjacent to Garbers Church Road. Lot 9 is planned to be sold to an adjacent land owner, or to be included with lot #3. Due to the flood plain Lot #9 cannot be developed. Lot #1 will access off of the proposed Traber Drive.
2. Section 10-2-41 (a) of the Subdivision Ordinance requires Proposed streets and alleys shall conform to the standards and specifications outlined in the Design and Construction Standards Manual. We are requesting a variance of this ordinance.
3. The City DCSM 2.7 (1) currently requires sidewalks on both sides of the private street. With the low number of lots in the proposed development, pedestrian traffic will be very low. To construct a sidewalk on both sides of the road would be an unnecessary expense. We request a variance to construct sidewalk only on the north side of the road, as shown on the attached drawing.
4. The City DCSM 3.6.2.1 requires a 100' tangent section between horizontal curves on roads. Due to the location of the flood plain, the road will not have a tangent section between the curves. We are requesting the tangent requirement to be waived.
5. The City DCSM 3.1.10.3 requires cul-de-sacs to have a 45' radius. We are requesting a cul-de-sac with a radius of 40'. With a 45' radius, parking is allowed within the cul-de-sac. Removing the space needed for parking (10'), the radius would be reduced to 35'. No parking signs will be posted along the street, and will continue into the cul-de-sac. We are requesting a variance to allow a 40' radius cul-de-sac.

6. We understand that there are a few concerns with the flood plain. These will be worked out during the site plan stage of the development. They do not appear to be unreasonable issues.

Respectfully,

A handwritten signature in black ink, appearing to read "Nathan W. Blackwell". The signature is fluid and cursive, with a large initial "N" and "W".

Nathan W. Blackwell, P.E.
Civil Engineer
Blackwell Engineering, P.L.C.

**DECLARATION OF PROTECTIVE COVENANTS
AND CONDITIONS OF
TRABER SUBDIVISION
CITY OF HARRISONBURG, VIRGINIA**

This Declaration of Protective Covenants ("Declaration"), is made this 4th day of October, 2010, by John J. Traber and Margot H. Traber, hereinafter "Declarant,"

WITNESSETH

WHEREAS, Declarant is the owner of certain property in the City of Harrisonburg, Virginia, which consists of nine (9) lots, with common areas, being developed as Traber Subdivision, and being more particularly described on a plat prepared by Nathan H. Blackwell, Professional Engineer, entitled "***Preliminary Plat**", Traber Subdivision, dated September, 7, 2010, which plat is to recorded immediately prior hereto; and

WHEREAS, Lots 1 through 9, inclusive, as shown on the aforesaid plat, are to be sold subject to this Declaration of Protective Covenants and Conditions of Traber Subdivision, in order to insure purchasers of said Lots a uniform mode of development; and

WHEREAS, Stellar One Bank has a lien on the property that is subject to this Declaration. Stellar One and its Trustee join in the Declaration to evidence their consent; and

NOW, THEREFORE, Declarant covenants and agrees for itself, its successors and assigns that Lots 1 through 9, inclusive, as shown on the aforesaid plat of Traber Subdivision shall be sold and held by the purchasers thereof, their heirs, successors, devisees, and assigns, subject to the Declaration of Protective Covenants and Conditions herein, and also to the easements contained herein and all easements as shown on the aforesaid Plat which is recorded immediately prior hereto.

Invalidation of any of the provisions of this instrument by judgment or Court Order shall in no way affect any of the other provisions and shall remain in full force and effect.

**ARTICLE I
DEFINITIONS**

Section 1. "Association" shall mean and refer to Traber Subdivision Owners Association Inc., its successors and assigns.

Section 2. "Board of Directors" shall mean and refer to the governing body of the Association.

Section 3. "Declarant" shall mean and refer to John J. Traber and Margot H. Traber, their successors and assigns. The rights and obligations set forth herein of the Declarant, as Declarant, shall cease no later than when the last lot is sold.

Section 4. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Property, with the exception of the Common Area.

Section 5. "Member" shall mean and refer to every person or entity who holds membership in the Association as follows:

- (1) **Class A.** Class A members shall be comprised of those persons or entities which own a fee simple interest (or an undivided fee simple interest) in, and are the record owners of title to, any lot in the Association's Development; provided, however, that Class A members shall not include (i) persons or entities holding such an interest solely as security for the performance of an obligation, or (ii) the Developer, John J. Traber and Margot H. Traber, their successor or assignee.
- (2) **Class B.** The sole Class B member shall be John J. Traber, the developer of Traber Subdivision, or his successor or assignee.

Section 6. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the Property, including the Declarant and contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 7. "Properties" shall mean and refer to that subdivision of land containing 6.245 acres, more or less, being more specifically described on a plat prepared by Nathan H. Blackwell, Professional Engineer, entitled "***Preliminary Plat**", Traber Subdivision, dated September, 7, 2010, that is recorded immediately prior hereto.

Section 8. "Voting Power" shall mean and refer to the total vote authorized under Article IV herein.

ARTICLE II PROPERTY SUBJECT TO THIS DECLARATION

Section 1. **The "Properties."** The Properties are and shall be held, transferred, sold, conveyed and occupied subject to this Declaration.

ARTICLE III MEMBERSHIP

Every Owner, including the Declarant, shall be a Member of the Association. Where there is more than one Owner of a Lot, each Owner shall be a Member. Membership shall be appurtenant to, and may not be separated from, ownership of any Lot, except to person occupying a Lot as herein provided. Ownership of lot shall be the sole qualification for membership. The benefits of membership may be assigned in writing with a copy to the Board of Directors by the Owner to any person who occupies Owner's Lot.

ARTICLE IV VOTING RIGHTS

Each Owner shall be a Class A Member and shall be entitled to one vote for each Lot as to which he qualifies as an Owner. However, in no event shall more than one vote be cast with respect to any Lot, except the Declarant as a Class B Member. The Class B member shall be entitled to three (3) votes for each lot in which it holds the interest required for membership by Article Three.

Where there is more than one person or entity constituting the Owner of a Lot, the vote for such Lot shall be exercised as they among themselves determine.

ARTICLE V EASEMENTS

Section 1. Encroachments and Support. If any improvement constituting part of any Lot now or hereafter encroaches on any (other) Lot by reason of:

- (1) the original construction thereof;
- (2) deviation within normal construction tolerances in the maintenance or repair of any improvement;
- (3) the settling or shifting of any land or improvement, an easement is hereby granted to the extent of any such encroachment for the period of time the encroachment exists. To the extent that any land or improvement constituting part of any Lot now or hereafter supports or contributes to the support of any land or improvement constituting part of any (other) Lot, the former is hereby burdened with an easement for the support of the latter.

Section. 2 Easement Reserved to Declarant. The Declarant hereby reserves an exclusive easement over the Properties for the purpose of:

- (1) Completing the construction of all improvement on the Property;
- (2) Placing communications, Cable television, or satellite infrastructure upon the Property; and
- (3) Any other lawful purpose.

This easement shall be perpetual and exclusive to the Declarant.

Section 3. Utilities. The Property as a whole is hereby made subject to an easement for the provision to any portion or portions of the Property of utilities, including water, sewer, electricity, gas, and telephone service. Any pipes, conduits, lines, wires, transformers and any other apparatus necessary for the provision or metering of any utility may be installed, maintained or relocated where initially installed with the recorded permission of the Declarant, where contemplated on any site plan approved by the Declarant. The right is hereby reserved to the Declarant to grant to any public utility companies easements over and through any portion or portions of the Properties, including (without limitation) any Lots of which the Declarant is not the Owner at the time such easements are granted. The right is further reserved to the Declarant to grant any easements required by any government or governmental agency over any portion or portions of the Properties, including (without limitation) any Lots of which the Declarant is not the Owner at the time such easements are granted.

The Property is subject to a ten-foot (10') Utility Easement inside all exterior property lines and centered on all interior lot lines.

Section 4. Easement for Ingress and Egress for the Benefit of the Owners of Lots in Traber Subdivision. Declarant hereby conveys to the Owners of Traber Subdivision, their heirs, successors, and assigns, and the Association, its successors and assigns, an easement for ingress and egress across all Lots over which passes the Private Access Easement, as shown on the plat prepared by Nathan H. Blackwell, Professional Engineer, entitled "***Preliminary Plat**", Traber Subdivision, dated September, 7, 2010, that is recorded immediately prior hereto.

ARTICLE VI COVENANTS FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligations of Assessments. The Declarant, for each improved lot owned within the Property, hereby covenants, and each Owner, of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Association; (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be fixed, established, and collected from time to time as hereinafter provided. Such annual and special assessments, together with any interest thereon and costs of collection thereof, including reasonable attorney's fees, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made in the manner as hereinafter provided and subject to prior liens upon the property as hereinafter provided. Each such assess-

ment, together with such interest costs, and reasonable attorney's fees shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the health, safety and welfare of the residents of the Property and for the administrative costs of the Association.

The Association shall use such assessments and levies for the general purposes stated above, and in addition thereto shall be required to maintain and operate the following:

- (1) The Association shall maintain the stormwater system and pavement and structure of Traber Drive and provide snow removal and grass cutting along the Private Access Easement.
- (2) The Association shall further be in charge of the general policing and control of the entire subdivision.

Section 3. Annual Assessments. Within thirty (30) days prior to the annual meeting of the Association, the Board of Directors shall estimate the net charges to be paid during the following year (including a reasonable provision for contingencies and replacements and less any expected income and any surplus from the prior year's operation). Said "Common Expense Fund" shall be assessed the Owner as provided in Section 5 of this Article. There shall be no assessment on unimproved lots owned by the Declarant. If said sum estimated proves inadequate for any reason, including nonpayment of any Owner's assessment, the Board of Directors may at any time levy a further assessment, which shall be assessed to the Owner in like proportion unless otherwise provided herein. Each Owner shall be obligated to pay assessments made pursuant to this paragraph to the Board of Directors annually or in such other reasonable manner as the Board of Directors shall designate.

- (1) The Common Expense Fund may also include such amounts as the Board of Directors may deem proper for general working capital, for a general operating reserve, for a reserve fund for major maintenance and to make up for any deficit in the common expenses for the prior year.
- (2) The omission by the Board of Directors before the expiration of any year to fix the assessments hereunder, for that or the next year, shall not be deemed a waiver or a modification in any respect of the provisions hereof or a release of the Owner from the obligation to pay the assessments, or any installment thereof for that or any subsequent year, but

the assessment for the preceding year shall continue until a new assessment is fixed.

- (3) The Board of Directors or its designee shall keep detailed, accurate records in chronological order, for the receipts and expenditures of the Association. Records and vouchers authorizing the payments involved shall be available for examination by the Owner upon written request at reasonably convenient hours.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy in any assessment year, a special assessment applicable to that year only, for the purpose of defraying in whole or in part, the cost of any construction, or reconstruction, or Unexpected repair or replacement related to the maintenance of Traber Drive and the Private Access Easement, including the necessary fixtures and personal property related thereto, provided that any such assessment must be approved by two-thirds of the voting power. Voting for special assessments shall be in person or by proxy at a meeting duly called for this purpose, pursuant to the normal notice required for meeting as provided under the By-laws of the Association. If none is so provided, then as provided under Virginia state law.

Section 5. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all improved Lots, and may be collected on an annual, semi-annual, quarterly, or monthly basis as determined by the Board of Directors. There shall be no assessment for unimproved Lots owned by the Declarant.

Section 6. Effect of Nonpayment of Assessments. Any assessments, which are not paid when due, shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency, up to the maximum interest rate provided by law, The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Lot(s) involved, and interest, costs, and reasonable attorney's fees of any such action shall be added to the amount of such assessment. An action at law to recover a money judgment for delinquent assessments shall be maintainable without foreclosing or waiving the lien securing same. No Owner may waive or otherwise escape liability for the assessments provided for herein by abandonment of his Lot.

Section 7. Lien for Payment of Assessments and Subordination of Lien to First Mortgage. There shall be a continuing lien upon each of the individual lots herein, in order to secure the payment of any of the assessments provided under this Declaration. Such lien shall include interest costs and reasonable attorney's

fees incident to collection of the assessment. Such lien shall be at all times subject and subordinate to any first mortgage or deed of trust, securing an institutional lender, placed on the property at anytime. However, at such time as the Association places on record a notice of delinquency as to any particular Lot on a form prescribed by the Board of Directors, then, from the time of recordation of said notice the lien of such delinquency assessments in the amount stated in such notice shall become a lien prior to any mortgages or deeds of trust placed of record subsequent to the date of said notice, in the same manner as the lien of a docketed judgment in the Commonwealth of Virginia.

A certificate executed and acknowledged by a majority of the Board of Directors stating the indebtedness secured by the lien upon any Lot created hereunder, shall be conclusive upon the Board of Directors, as to the amount of such indebtedness on the date of the certificate, in favor of all persons who rely thereon in good faith, and such certificate shall be furnished to any Owner or any encumbrances or prospective encumbrances of a Lot upon request at a reasonable fee. Unless the request for a certificate of indebtedness shall have been complied with within fifteen (15) days, all unpaid assessments that become due prior to the date of making such request shall be subordinate to the lien held by the person making the request. Any encumbrancer holding a lien on a Lot may pay any unpaid assessments payable with respect to such Lot and upon such payment such encumbrancer shall have a lien on such Lot for the amounts paid of the same rank as the lien of his encumbrance.

Upon payment of a delinquent assessment concerning which such a certificate has been recorded, or other satisfaction thereof, the Board of Directors shall cause to be recorded in the same manner as the certificate of indebtedness a further certificate stating the satisfaction and the release of the lien thereof.

The lien of the assessments provided for herein, whether or not notice has been placed of record as above provided, may be foreclosed by suit in the Circuit Court of Rockingham County in the same manner as provided for the foreclosure of mortgages, vendor's liens, and liens of similar nature.

ARTICLE VII ARCHITECTURAL CONTROL

The Architectural Review Board.

Section 1. Composition. Until the Developer's rights cease, the Architectural Review Board shall be composed of the Developer and its designees.

When the Developer's rights cease, the Architectural Review Board shall consist of three or more persons who shall be appointed by the Board of the Association.

Section 2. Powers and Duties. The Architectural Review Board shall regulate the external design, appearance, and location of improvements located on the properties in such a manner so as to preserve and enhance values and to maintain a harmonious relationship among structures and the natural vegetation and topography. In furtherance thereof, the Architectural Review Board shall:

- (1) Review and approve, modify, or disapprove written applications of Owners and of the Association for improvements or additions to Lots or the Private Access Easement. Notice of any disapprovals of Applications shall be by Registered Mail. Notice of approvals shall be sent by regular mail.
- (2) Monitor Lots for compliance with architectural standards and approved plans for alteration in accordance with the Bylaws and all Resolutions of the Board of Directors of the Association.
- (3) Adopt architectural standards subject to the confirmation of the Board of Directors of the Association.
- (4) Adopt procedures for the exercise of its duties.

Section 3 Failure to Act. In the event the Architectural Review Board fails to approve, modify, or disapprove, in writing, a correctly filed application within forty-five (45) days, approval will be deemed granted. Notification of total or partial disapproval shall include the reasons for such disapproval. Failure of the Architectural Review Board or the Board of the Association to enforce the architectural Standards or to notify an Owner of noncompliance with architectural standards or approved plans for any period of time shall not constitute a waiver by the Architectural Review Board or the Board of the Association of the enforcement of this Declaration at any later date.

ARTICLE VIII EXTERIOR MAINTENANCE

Owners shall be responsible for the maintenance of their Lots, including but not limited to lawn care and maintenance. However, in the event an Owner of any Lot shall fail to maintain the premises and the improvements situated thereon in a manner satisfactory to the Board of Directors of the Association, after approval by two-thirds (2/3) decision of the Board of Directors, the Association shall have the right, through its agents to enter upon said parcel and repair, maintain, and restore the Lot and the exterior of the buildings and any other improvements

erected thereon. The cost of such exterior maintenance shall be added to and become part of the annual assessment to which such Lot is subject, and the expense of such exterior maintenance shall become a lien upon the subject property. It is a condition of these covenants that the Association, is and shall be, deemed general contractor for the purpose of qualifying to file a mechanic's lien, and every lot owner so in default, by the acceptance of his deed, and those claiming lien, and every lot owner so in default, by the acceptance of his deed, and claiming under him, hereby agrees to pay such expense, and grants permission to the Association, to enter upon such Lot and make such exterior maintenance without being guilty of trespass, and said Association, and its agents, shall not be liable in damages to any lot owner except for willful and tortious acts committed beyond the scope hereof. Any assessments under this paragraph and the preceding paragraph hereof, shall constitute liens and shall be subject to the provisions of Section 55-516 of the Code of Virginia, as amended.

During the period of Declarant Control, Declarant reserves the right to enter upon Lots whose appearance is unacceptable to Declarant, and mow the lawn of said Lot. The cost of this mowing shall be the responsibility of the Lot Owner.

ARTICLE IX USE RESTRICTION

Section 1. Limitation on Use of Lots and Common Area. The Lots and Common Area shall be occupied and used as follows:

- (1) All Lots shall be used for single-family residential purposes only. No more than two unrelated people can inhabit a Unit.
- (2) All Lots shall be subject to a twenty-foot (20') setback from the Private Access Easement. Any Lot fronting on Garber's Church Road is subject to a thirty-foot (30') setback from said Garber's Church Road.
- (3) No Owner shall occupy or use his Lot, or permit the same or any part thereof to be occupied or used, for any purpose other than as a residence for the Owner and the Owner's family or the Owner's lessees or guests.
- (4) No sign of any kind shall be displayed to the public view on or from any Lot, without the prior written consent of the Association.
- (5) No animals, livestock or poultry of any kind shall be raised, bred, or kept in or on any Lot; except that dogs, cats, or other commonly accepted household pets may be kept on a Lot, for non-commercial purposes, subject to rules and regulations adopted by the Board of Directors.

- (6) No noxious or offensive activity shall be carried on in any Lot, nor shall anything be done therein which may be or become an annoyance or nuisance to the other Owners. No use shall be permitted or maintained on any Lot which produces or contributes to noise, that because of excessive or unusual volume, duration, intermittence, time of day, beat, frequency, or pitch is objectionable to Owners of other Lots in Traber Subdivision. The Association Board of Directors shall pass appropriate resolutions for the enforcement of this use restriction, which may include, but is not limited to an additional assessment to be levied against the Owner responsible for the violation. Such assessments, together with any interest thereon and costs of collection thereof, including reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made and subject to prior liens upon the property. Each such assessment, together with such interest costs, and reasonable attorney's fees shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due.
- (7) Nothing in this Declaration shall be construed to deny the right hereby reserved to the Declarant for a period of one year following the recording of this Declaration to maintain sales offices on any Lot of which the Declarant is the Owner.
- (8) No motorized vehicles of any kind shall be permitted upon any areas within said subdivision except for the street constructed by Declarant, or any driveway improving a Lot, which shall have been previously approved by the Architectural Review Board pursuant to Article VII herein. No right of vehicular access shall exist across any Lot in said subdivision except for those areas upon said street or driveway.
- (9) There shall be no fencing in the front of any residence, and all fencing to the rear of the residences shall be attached to the residence and be of one-inch by six-inch pressure-treated lumber on both sides of a board-on-board fence not higher than six feet and mounted to the property wall. No fence shall be constructed until the Architectural Review Board and Board of Directors of the Association shall have approved the same.
- (10) Each Owner shall keep all Lots owned by him and all improvements therein or thereon in good order and repair and free of debris, including, but not limited to the seeding, watering and mowing of all lawns, the pruning and cutting of all trees and shrubbery, and the painting (or other appropriate external care) of all buildings and other improve-

ments, all in a manner and with such frequency as is consistent with good property management. In the event an Owner of any Lot shall fail to maintain the premises and the improvements situated thereon as provided herein, the Association, after notice to the Owner as provided in the Bylaws and approval by two-thirds (2/3) vote of the Board of Directors, shall have the right to enter upon said Lot to correct drainage and to repair, maintain and restore the Lot and the exterior of the building erected thereon. All costs related to such correction, repair or restoration shall become a special assessment upon such Lot.

- (11) No building, structure, addition or exterior alteration (including basketball backboards, rims and nets) or improvements of any character shall be constructed upon any Lot or dwelling located thereon, except as exterior painting is permitted by the prior paragraph, unless the plan of construction, including quality of workmanship, design, colors and materials, shall have been approved in writing by the Owners Association as being in harmony with the whole subdivision.

Section 2. Entry for Repairs. The Association or Declarant or their agents may enter any Lot or residence thereon when necessary in connection with any maintenance, landscaping or construction for which the Association or Declarant is responsible. Such entry shall be made at reasonable hours and with, as little inconvenience to the Owner as practicable, and the Association or Declarant out of the Common Expense Fund shall repair any damage caused thereby.

ARTICLE X GENERAL PROVISIONS

Section 1. Enforcement. The Association or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration or the By-laws or rules and regulations of the Association. Failure by the Association or by an Owner to enforce any covenant or restriction therein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions, which shall remain in full force and effect.

Section 3. Duration. The covenants, conditions, reservations and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of, and be enforceable by, the Association, the Declarant, or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, de-

visees, successors, and assigns, for a term of twenty (20) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods.

Section 4. Amendment. For a period of three (3) years after the recording of this Declaration, the Developer may make any amendment unilaterally which is required by the Federal Mortgage Agencies or the City of Harrisonburg or Rockingham County, Virginia, as a condition of approval of the documents by the execution and recordation of such amendment following registered notice to all Owners. After such three (3) year period, or to make any amendment which is not one required by such agencies, any amendment shall be accompanied by a document signed by such agencies, any amendment shall be accompanied by a document signed by not less than sixty-seven percent (67%) of the Class A Members and the Declarant. Any amendment must be recorded in the land records of Rockingham County, Virginia in order to become effective.

Section 5. Interpretation. All the terms and words used in the Declaration, regardless of the number and gender in which they were used, shall be deemed and construed to include any other number (singular or plural), and any other gender (masculine, feminine or neuter), as the context or sense of this Declaration or any paragraph or clause hereof may require, the same as if such words had been fully and properly written in the number and gender.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has caused this instrument to be signed this ____th day of _____, 20__.

John J. Traber, Declarant

Margot H. Traber, Declarant

STELLAR ONE BANK,
Noteholder

By: _____ (Seal)
***, Vice-President

(Seal)

***, Trustee



PRE-SCOPE OF WORK MEETING FORM

Information on the Project

Traffic Impact Analysis Base Assumptions

Staunton

The locality will need to send this form to the project applicant at least two (2) weeks prior to the scheduled scope of work meeting on the proposed project. The applicant is responsible for having this form completed and returned to VDOT and the locality no less than three (3) business days prior to the Meeting. If a completed form is not received by this deadline, the scope of work meeting may be postponed.

Contact Information	
Consultant Name: Tele: E-mail:	Blackwell Engineering, PLC 540-432-9555 DickJ@blackwellengineering.com
Developer/Owner Name: Tele: E-mail:	David Traber <i>JOHN</i>

Project Information			
Project Name:	Traber Subdivision		
Project Location: (Attach regional and site specific location map)	See attached map.		
Project Description: Including type of application (rezoning, subdivision, site plan), acreage, business square ft, number of dwelling units, access location, etc. Attach additional sheet if necessary)	This is a proposed subdivision of 5.17 acres at 411 Garbers Church Road to eight single family detached home lots. Current zoning is R-1. Access will be from a proposed roadway connecting to Garbers Church Road.		
Locality/County:	City of Harrisonburg		
Proposed Use: (Check all that apply; attach additional pages as necessary)	Residential <input checked="" type="checkbox"/>	Commercial <input type="checkbox"/>	Mixed Use <input type="checkbox"/> Other <input type="checkbox"/>
	Residential # of Units: <u>8</u> Commercial Use: _____ ITE LU Code(s): <u>210</u> _____ _____	Mixed Use: # Res. Units: _____ Commercial Use: _____ ITE LU Code(s): _____ _____ _____ Other: _____	

Traffic Impact Analysis Assumptions					
Study Period	Existing Year: <u>2010</u>	Build-out Year: <u>2011</u>	Design Year: <u>2017</u>		
Study Area Boundaries (Attach map)	North: 1000' north of site on Garbers Church Road	South: 1000' south of site on Garbers Church Road			
	East:	West:			
External Factors That Could Affect Project (Planned road improvements, other nearby developments)	None				
Consistency With Comprehensive Plan	Yes				
Available Traffic Data (Historical, forecasts)	VDOT 2009 Traffic Data				
Trip Distribution (Attach sketch)	Road Name: <u>Garbers Church Road</u>	N <u>65</u> %	S <u>35</u> %	E ___ %	W ___ %
	Road Name: _____	N ___ %	S ___ %	E ___ %	W ___ %
	Road Name: _____	N ___ %	S ___ %	E ___ %	W ___ %
	Road Name: _____	N ___ %	S ___ %	E ___ %	W ___ %
Annual Vehicle Trip Growth Rate:	3%	Peak Period for (check all that apply)		AM	PM
				SAT	
Study Intersections and/or Road Segments (Attach additional sheets as necessary)	1.		6.		
	2.		7.		
	3.		8.		
	4.		9.		
	5.		10.		
Trip Adjustment Factors	Internal Capture: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Reduction: _____ % trips		Pass-by Rate: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Reduction: _____ % trips		
	Software Methodology <input type="checkbox"/> Synchro <input type="checkbox"/> HCS (v.2000/+) <input type="checkbox"/> aaSIDRA <input type="checkbox"/> CORSIM <input type="checkbox"/> Other				
Traffic Signal Proposed or Affected (Analysis software to be used, progression speed, cycle length)					

Improvement(s) Assumed or to be Considered	None
Background Traffic Studies Considered	None
Plan Submission	<input type="checkbox"/> Master Development Plan (MDP) <input type="checkbox"/> Generalized Development Plan (GDP) <input checked="" type="checkbox"/> Preliminary/Sketch Plan <input type="checkbox"/> Other Plan type (Final Site, Subd. Plan)
Additional Issues to be addressed	<input type="checkbox"/> Queuing analysis <input type="checkbox"/> Actuation/Coordination <input type="checkbox"/> Weaving analysis <input type="checkbox"/> Merge analysis <input type="checkbox"/> Bike/Ped Accommodations <input type="checkbox"/> Intersection(s) <input type="checkbox"/> TDM Measures <input type="checkbox"/> Other _____

NOTES on ASSUMPTIONS:

Attached sheet shows that based on ITE Trip Generation 7th Edition, the proposed subdivision is expected to generate peak daily traffic on Saturday of 81 VPD and a peak hour traffic on weekdays (PM) or Saturdays of 8 PHV.

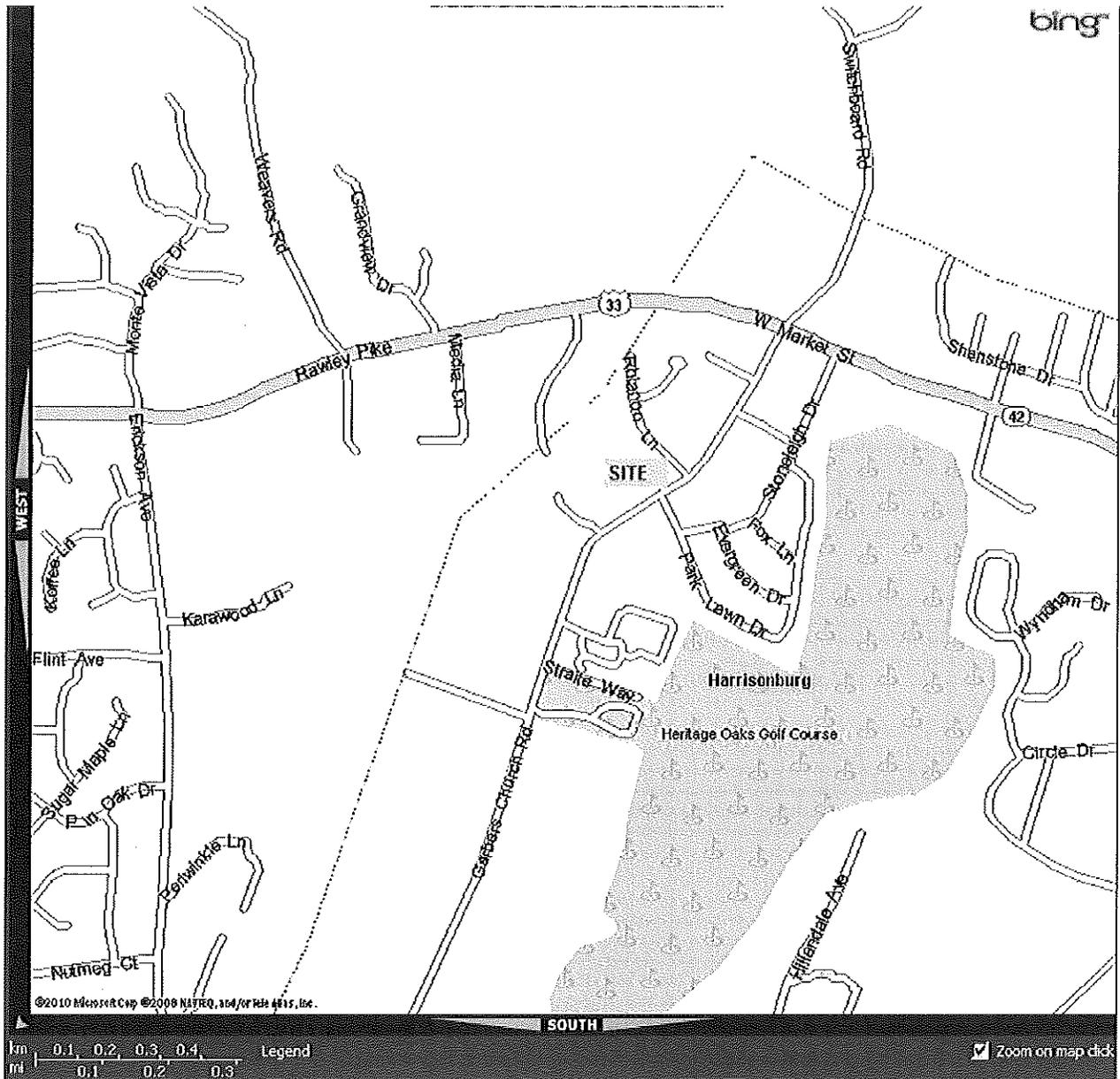
Both of these values fall well below Harrisonburg City's limit of 100 PHV increase due to residential development that could require a full TIA.

It is therefore suggested that no Traffic Impact Analysis is required for construction of the proposed subdivision.

SIGNED: 
 Applicant or Consultant

DATE: 9/7/10

PRINT NAME: Nathan W. Blackwell, P.E.
 Applicant or Consultant



Vicinity Map

Trip Generation Table

LUC	Description	Size	Units		Weekday	Traber Subdivision										
						Daily	AM Peak Hour			PM Peak Hour			Saturday	Saturday Peak Hour		
							In	Out	Total	In	Out	Total		Daily	In	Out
(210)	Single Family Detached Housing	8	DU	Total trips	77	2	5	6	5	3	8	81	4	3	8	
				- Capture	0	0	0	0	0	0	0	0	0	0	0	
				Net Trips	77	2	5	6	5	3	8	81	4	3	8	
				Total trips	77	2	5	6	5	3	8	81	4	3	8	
				Total Capture												
				Total Trips - Capture	77	2	5	6	5	3	8	81	4	3	8	
				Total Pass-by Trips												
				Total Net Trips	77	2	5	6	5	3	8	81	4	3	8	

Color Legend

-  Equations for adjacent street
-  Average rates for adjacent street
-  Formula for generator - no adjacent street data available
-  Average rates for generator - no adjacent street data available
-  Substituted Weekday Daily and PM volumes for Saturday.

Extracted from
VDOT Traffic Data
2009

Route Alias	City of Harrisonburg	Link Length	Start Label	End Label	AADT	AADT Quality	K Factor	K Factor Quality	Direction Factor	AAWDT	AAWDT Quality	Data Date
Garbers Church Rd	City of Harrisonburg	1.48	Erickson Ave	US 33 Market St	4000	F	0.1271	F	0.6587	4200	F	2009

Date Application Received: 09-07-10

Total Paid: \$265.00 AF

Application for Preliminary Subdivision Plat Approval City of Harrisonburg, Virginia

Fee: w/o Variance Request \$150.00 plus \$10.00 per lot Plus fees for TIA reviews where applicable (see back for details)
Variance Request \$175.00 plus \$10.00 per lot

I, John Traber, hereby apply for preliminary subdivision plat approval for the following property located within the City of Harrisonburg:

Description of Property

Title of Subdivision: Traber Subdivision
Location (Street Address): 401 Garbers Church Rd Sheet: 123 Block: 0 Lot: 1
Total Acreage: 6.245 Number of Lots Proposed: 9 Zoning Classification: R-1

Proposed Use of Property: Single Family Residential Subdivision

Property Owner's Name: John Traber
Street Address: 981 Confederacy Dr. Email: _____
City: Penn Laird State: VA Zip: 22846
Telephone: Work 540-433-0369 Fax _____ Mobile _____

Owner's Representative (if applicable): Blackwell Engineering (Nathan & Dick Blackwell)
Street Address: 566 East Market St. Email: Nathan@blackwellengineering.com
City: Harrisonburg State: VA Zip: 22801
Telephone: Work 540-432-9555 Fax 540-434-7604 Mobile _____

Developer: John Traber
Telephone: 540-433-0369 Email: _____

Surveyor/Engineer: Blackwell Engineering
Telephone: 540-432-9555 Email: Nathan@blackwellengineering.com

VARIANCES

NOTE: If a variance is requested, please provide the following information:

I (we) hereby apply for a variance from Section _____ of the City of Harrisonburg Subdivision Ordinance and/or Section _____ of the City of Harrisonburg Design and Construction Standards Manual, which require(s):
See attached additional requests.

I (we) believe a variance should be granted based on the following "unnecessary hardship" which is peculiar to the property in question (See Section 10-2-2 of the Subdivision Ordinance):
Due to the unique nature of the site, the site terrain and the stream, the development of a public road with lots is not feasible.

The City of Harrisonburg's preliminary plat and subdivision requirements are in the code of the City of Harrisonburg, Subdivision Ordinance, Sections 10-2-1 through 10-2-86. Please read these requirements carefully.

Certification: *I have read the ordinance requirements. I also certify that the information contained herein is true and accurate.*

Signature: _____ Property Owner
Signature: [Handwritten Signature] Applicant, if different from owner

See Back for Additional Application Fees Regarding TIA Reviews

TIA Review Fees

- (a). Would the development from this preliminary plat require a Traffic Impact Analysis by VDOT?
Yes _____ No x

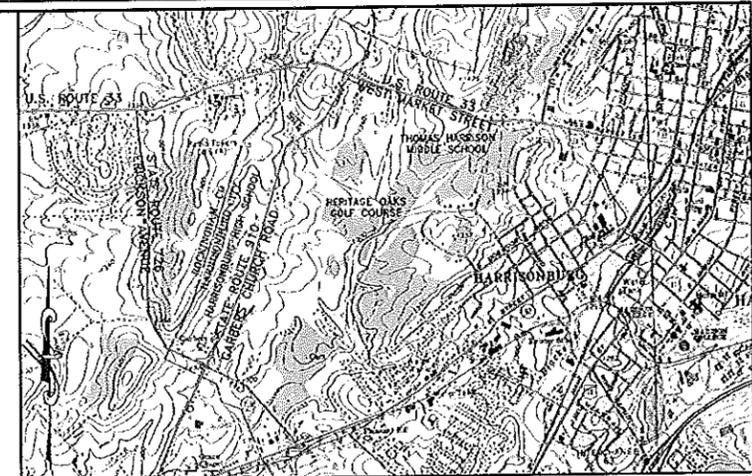
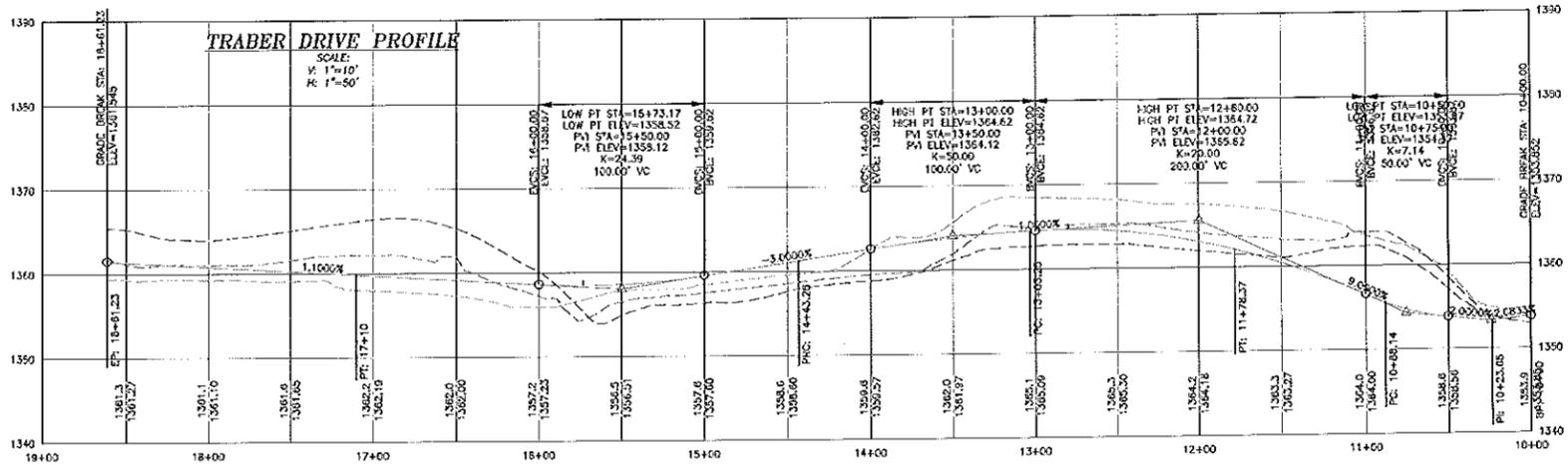
If yes, then fees must be made payable to VDOT to cover costs associated with the TIA review.

PLEASE NOTE – If a TIA is required, this application shall not be considered accepted until the TIA has been reviewed.

- (b). Would the development from this preliminary plat require a Traffic Impact Analysis review by the City?
Yes _____ No x

If yes, then an additional \$1,000.00 must be made payable to the City to cover costs associated with the TIA review.

PLEASE NOTE – If a TIA is required, this application shall not be considered accepted until the TIA has been reviewed.

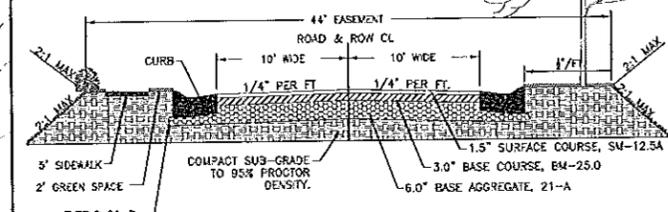


VICINITY MAP
SCALE: 1" = 2000'

SITE DESIGN:
BLACKWELL ENGINEERING, PLC
ATTN: NATHAN W. BLACKWELL
566 EAST MARKET STREET
HARRISONBURG, VA 22801
(540) 432-9555

OWNER:
JOHN TRABER
981 CONFEDERACY DRIVE
PENN LAIRD, VA 22846
(540) 433-0369

PROPERTY INFO:
TM# 123-0-1
401 GARRERS CHURCH ROAD
6.245± ac.
ZONED R-1
USE: RESIDENTIAL

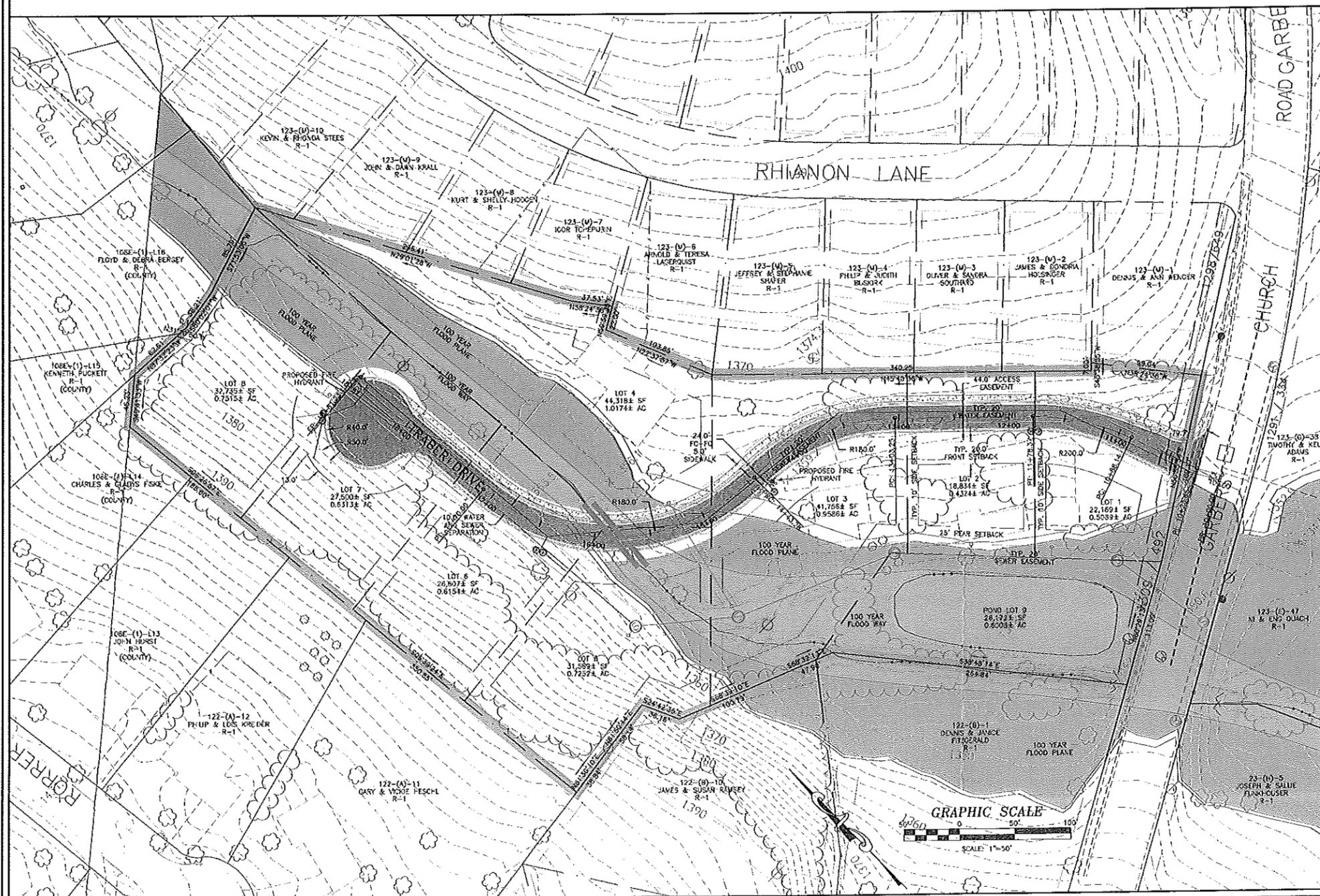


TYPICAL ROAD SECTION
(24' FC-FC, 5' SIDEWALK)
NTS

- NOTES:**
- Statistics for Traber Subdivision are as follows:
Total Area = 6.245 Acres
Total Developed Area = 5.645 Acres
Total # of Lots = 9
Constructable Lots = 8
Density = 1.44 Lots per Acre (9/6.245)
 - Access and Utility easement to be 44' centered on road or as shown on easement sheet.
 - All proposed water mains to be 8" D.I.
 - All proposed sewer mains to be 8" PVC or D.I.
 - No proposed trees are to be placed within or overhanging the water and sewer easements, or driveway access easements. The architect rendering of development is conceptual only.
 - All interior streets are private. Trash collection to be provided by private firm.
 - The site will utilize the existing channel for stormwater management, details to be worked out during site plan.
 - All driveways are to be a minimum of 20' wide with a 12.5' on the incoming side and 5' on opposite side.
 - A minimum general utility easement of 10' adjacent to roadways and 5' along property lines.
 - Requested variances: Tangent section between horizontal curves to be waved, cu-to-soc to be 40' radius, and length as shown, private streets with subdivision.

LEGEND

—●— CENTER LINE	—●— CURBING: ROLL-TOP OR CO-8
—○— ELECTRIC/TELEPHONE	—○— PROPOSED ROAD/EDP
—○— UTILITY POLE	—○— PROPOSED FIRE HYDRANT
—○— WATER LINES	—○— EXISTING FIRE HYDRANT
—○— SANITARY LINES	—○— WATER METER
—○— SANITARY SEWER CLEANOUT	—○— AIR RELEASE VALVE
—○— STORM SYSTEM	—○— BLOW OFF VALVE
—○— GAS LINES	—○— WATER VALVE
—○— EXISTING PROPERTY LINE	—○— PROPOSED FENCE
—○— PROPOSED PROPERTY LINE	—○— ROADWAY PAVEMENT AREA
—○— SETBACK LINE	—○— ACCESS EASEMENT
—○— EASEMENT LINE	—○— FLOOD WAY
—○— EXISTING ROAD	—○— 100 YEAR FLOOD PLANE
	—○— BOUNDARY OF SUBDIVISION



Date: 10/1/10
Scale: 1"=50'
Designed by: HWD
Drawn by: EAB
Checked by: NWB

BLACKWELL ENGINEERING, PLC
566 East Market Street
Harrisonburg, Virginia 22801
Phone: (540) 432-9555 Fax: (540) 433-7604
E-Mail: BE@blackwellengineering.com

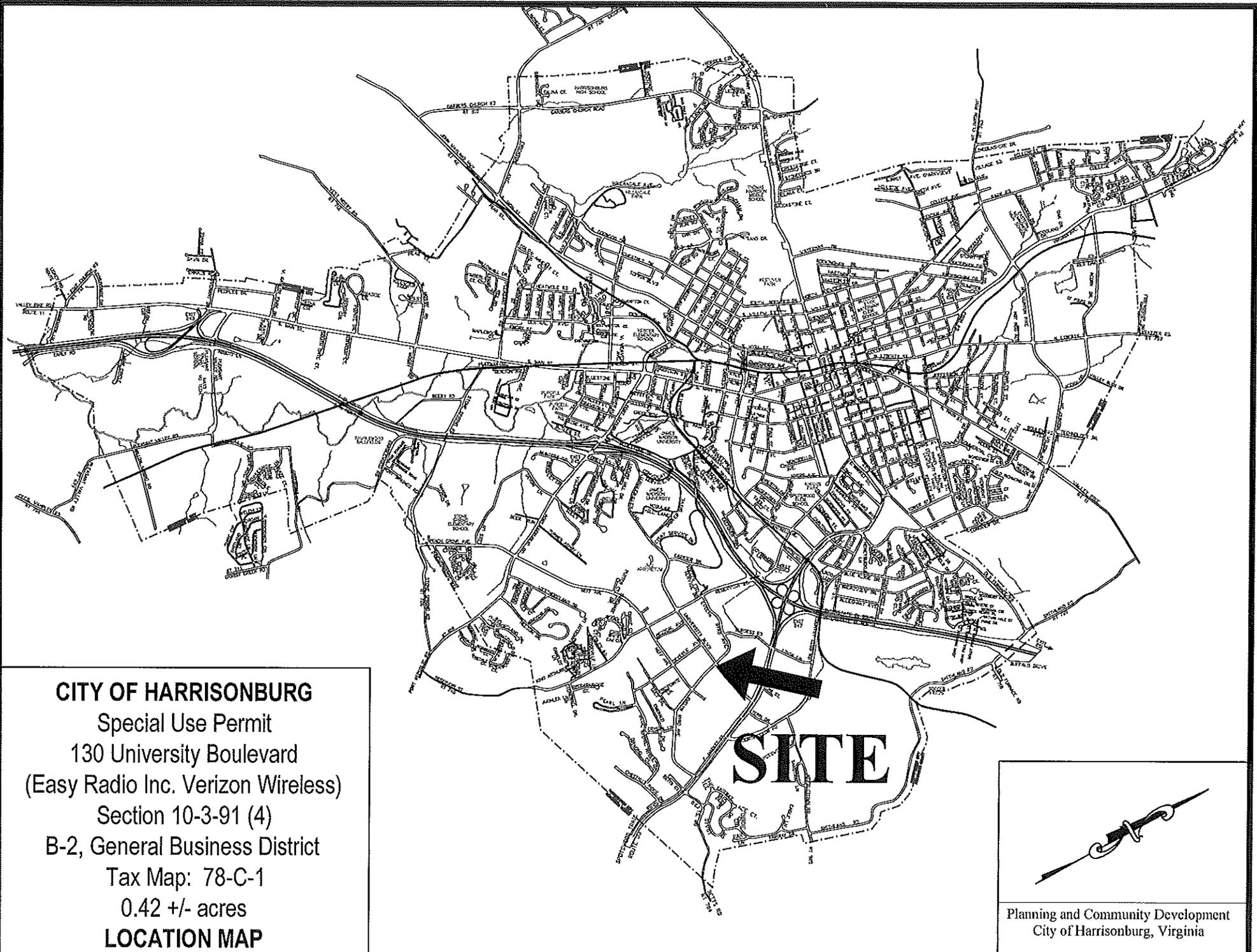


Revision Dates

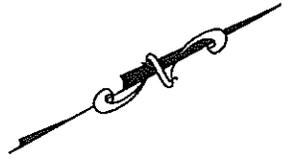
PRELIMINARY PLAT
TRABER SUBDIVISION
JOHN TRABER
981 CONFEDERACY DR
PENN LAIRD, VA 22846

Drawing No.
PP
of PP Sheets

Job No. 2170



CITY OF HARRISONBURG
 Special Use Permit
 130 University Boulevard
 (Easy Radio Inc. Verizon Wireless)
 Section 10-3-91 (4)
 B-2, General Business District
 Tax Map: 78-C-1
 0.42 +/- acres
LOCATION MAP



Planning and Community Development
 City of Harrisonburg, Virginia



Special Use Permit 10-3-91 (4)
130 University Blvd. (Easy Radio Inc. Verizon Wireless)



City of Harrisonburg, Virginia

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

STAFF REPORT

July 13, 2011

SPECIAL USE PERMIT – 130 UNIVERSITY BOULEVARD (EASY RADIO INC. WITH VERIZON WIRELESS)

GENERAL INFORMATION

Applicant: Easy Radio Inc. with representatives Stephen Waller and Ed Given for Verizon Wireless
Tax Map: 78-C-1
Acreage: 0.42 +/- acres
Location: 130 University Blvd.
Request: Public hearing to consider a request to allow co-location on a communications tower of no more than 125-feet, per Section 10-3-91 (4) of the Zoning Ordinance.

LAND USE, ZONING, AND SITE CHARACTERISTICS

The Comprehensive Plan designates this area as Commercial. This designation states that these areas include uses for retail, office, wholesale, or service functions. These areas are generally found along the City's major travel corridors and in the Central Business District of the City.

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

Site: Office building containing Easy Radio, Inc. (WMXH-FM) and Donovan's Framery, zoned B-2
North: Professional office complex, zoned B-2
East: Empty building being demolished for new construction, zoned B-2
South: Undeveloped parcel, zoned B-2
West: Professional office, zoned B-2

HISTORY

In August 2000, a special use permit was granted to the subject property to allow for the co-location of telecommunications equipment on a 75-foot pole existing on the site. The pole was permitted by-right as an accessory use, per Section 10-3-90 (15) of the Zoning Ordinance, to Easy Radio, Inc., a radio station located within the building at 130 University Boulevard. At the time of the request, three telecommunication companies, Shenandoah Personal Communications, CellularONE, and RICA.net, were proposing to co-locate on the pole.

The special use permit was ultimately approved with multiple conditions attached. Those conditions were as follows:

- a) No companies' equipment, except equipment used by the radio station, shall be placed on the pole until the radio station is operating from the office building, at 130 University Boulevard and all radio station equipment is on the pole. In addition, if the radio station ceases to operate from the building, the co-located equipment shall be removed.

- b) If Shenandoah Personal Communications, CellularONE, and/or RICA.net go off the air or their equipment no longer operates for more than twelve (12) months, then all equipment associated with that company shall be removed from the pole.
- c) Only the equipment shown on the submitted drawing shall be approved under the issuance of this special use permit. Any other equipment placed on the pole not shown on this drawing will constitute a violation of the special use permit and make the permit null and void. Therefore, all equipment for Shenandoah Personal Communications, CellularONE, and RICA.net will have to be removed from the pole. This shall not include equipment approved under another special use permit.
- d) The equipment attached to the pole shall be painted a uniform color to match the pole that decreases the visual impact on the surrounding environment.
- e) The fence shall be maintained so as not to appear dilapidated or in poor condition, and to provide security against entrance by unauthorized persons.
- f) Landscaping surrounding the fence line shall consist of evergreen materials and shall be maintained to improve the appearance of the surrounding area.
- g) Placement of advertising of any kind is prohibited on the fence and/or antennas, except for an 11" X 17" sign, placed on the fence, displaying telephone numbers in case of an emergency.
- h) City staff shall review the special use permit annually, on the date of permit issuance, for compliance to the above conditions. If any of the above conditions are found to be in neglect, then a certified letter will be sent to the property owner, at which time the condition shall become compliant. If the condition is not brought into compliance then the special use permit will be held null and void and all equipment approved under the issuance of this permit shall be removed from the pole.

It should be noted that Alltel Communications later acquired CellularONE and in due course acquired the antennas CellularONE had located on the pole. Because there was no break in service and no change in equipment, a new special use permit was not required.

EVALUATION

The applicant is requesting a special use permit (SUP) to co-locate twelve wireless communication antennas to the top of an existing radio tower, per Section 10-3-91 (4) of the Zoning Ordinance. At this time, the tower has satellite dishes and antennas that serve the on-site radio station, along with the co-location of Shentel (Shenandoah Personal Communications) and Alltel Communications antennas, approved as part of the August 2000 special use permit. Verizon Wireless, which recently merged with Alltel Communications, desires to remove the three existing Alltel antennas and replace them with twelve new antennas attached to the top of the pole. The tower, which is currently at a height of 75-feet, would be increased by four feet to a height of 79-feet.

At present, Verizon Wireless has a set of mounted antennas that are co-located on the rooftop of the Hampton Inn, across University Boulevard from this request. However, due to recent changes in Hampton Inn Corporate policies, all leases for rooftop space will be terminated at the end of their current terms. Therefore, Verizon began evaluating new co-location sites and because they already had the Alltel co-location at 130 University Boulevard, they inquired with City staff as to what they would need to do to utilize the tower. As this is a complete change in equipment and location on the pole, staff informed Verizon that a new special use permit would be required; this determination is based on condition "c" from the 2000 permit.

Currently, Alltel Communications has mounted on the tower three, eight foot, flush mounted antennas, which provide cellular service. Verizon would continue to provide this service. In addition, they are licensed to provide personal communications service and long term evolution 4G network services for expanded data technologies; each of these services is licensed at a different frequency. Verizon would

need to provide three separate antenna configurations to ensure that there is no interference. Therefore, the T-mounted brackets are needed in order to allow adequate separation between the antennas.

Since the inception of the special use permits to regulate telecommunication facilities, staff has pushed to co-locate antennas on existing sites, rather than constructing new towers for each licensee. The requested special use permit is not a new one, as previously discussed in the history section. This tower had been approved to allow other wireless co-locations, with the thought that there could be more requests in the future. As wireless technology changes and advances, so too must the equipment that serves it. Staff recommends approval of the request and, in keeping consistent with the previous approved SUP, suggests the following conditions be attached:

1. If the radio station ceases to operate from the building, the co-located equipment shall be removed.
2. If the cell provider goes off the air or their equipment no longer operates for more than twelve (12) months, then all equipment associated with that company shall be removed from the pole.
3. Only the equipment shown on the submitted drawing shall be approved under the issuance of this special use permit. Any other equipment placed on the pole not shown on this drawing will constitute a violation of the special use permit and make the permit null and void. Therefore, all equipment will have to be removed from the pole. This shall not include equipment approved under another special use permit.
4. The equipment attached to the pole shall be painted a uniform color to match the pole that decreases the visual impact on the surrounding environment.
5. The fence shall be maintained so as not to appear dilapidated or in poor condition, and to provide security against entrance by unauthorized persons.
6. Landscaping surrounding the fence line shall consist of evergreen materials and shall be maintained to improve the appearance of the surrounding area.
7. Placement of advertising of any kind is prohibited on the fence and/or antennas, except for an 11" X 17" sign, placed on the fence, displaying telephone numbers in case of an emergency.
8. If in the opinion of Planning Commission or City Council, the equipment 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.

**Verizon Wireless University Boulevard /
Easy Radio Inc.**

Special Use Permit Application

For a

Collocation of Panel Antenna

Located at

**130 University Boulevard
Harrisonburg, VA 22801**

Submitted by



**1831 Rady Court
Richmond, VA 23222**

Contents

Introduction / Project Description

Tower Photos

Tax Map and Aerial Map

Site Plan and Tower Elevation

**INTRODUCTION / PROJECT
DESCRIPTION**

**VERIZON WIRELESS - TELECOMMUNICATION ANTENNA COLLOCATION
EASY RADIO INC. COLLOCATION - ("UNIVERSITY BOULEVARD" SITE)**

Project Description:

Cellco Partnership, trading as Verizon Wireless ("Verizon"), respectfully requests approval to allow the collocation of twelve (12) new antennas, using the proposed of T-Mount brackets, on an existing concrete Telecommunications Tower in the City of Harrisonburg. The proposed antenna installation will also include the transmitting equipment that will be housed within the existing building at this site. This facility is located on property identified as Parcel ID Number 078-C-1 in the Commercial District 4.

The proposed antennas would be attached at the top of the tower with a 75-foot radiation centerline mounting level and the antennas will extend to a top height of 79 feet. Antennas will be mounted on the monopole tower, using three (3) sectored T-frame mounting brackets that would allow Verizon Wireless to install all of the antennas that are needed to deploy the different technologies that the company is licensed to provide in Harrisonburg. The antennas and mounting brackets will all be painted to match the dark-color and finish of the existing tower. This collocation proposed in this application will assist providing, in-building to nearby residences and businesses, as well as in-car coverage along University Boulevard and other local roads.

Character of the Area:

The subject property is zoned B-2, General Business District, and it is located in the southeast quadrant at the intersection of University Boulevard and Evelyn Byrd Avenue (State route 671). Access to the tower is provided by way of an existing parking lot entrance off of Evelyn Byrd Avenue and supporting equipment will be access through the building. All of the properties that are adjacent this site are zoned B-2 as well. There are several antennas and dishes that are currently attached to the tower.

The tower is visible from various points along the nearby roads and there is another radio station office with a rooftop tower located diagonally across the intersection from the subject property. There are also several antennas on the roof of a Hampton Inn located approximately 730 feet northeast of this particular tower.

Network Objectives:

Verizon Wireless is licensed by the Federal Communications Commission (FCC) to provide state-of-the-art wireless communications services within the City of Harrisonburg. Recently, Verizon Wireless merged with Alltel Communications and the company is in the process of evaluating its newly acquired 850 MHz Cellular Service resources. In addition to services provided by the sites previously held by Alltel, Verizon Wireless is also licensed to provide service in the form of its PCS (Personal Communication Service / 1900 MHz) and Long Term Evolution 4G Network (LTE / 700 MHz) for expanded data technologies that will be launched late in 2011 or early 2012.

Verizon Wireless' goals are to provide seamless in-building, in-car and on-street coverage and the full range of voice and data services to existing and future customers. In order to serve this particular area, the company currently has a set of "sled-mounted" antennas that are collocated on the rooftop of the Hampton Inn, at 85 University Boulevard. However, due to a recent change in the Hampton Inn's parent company's nationwide corporate policies, all leases for rooftop space will be terminated at the end of their current terms. This means that the antennas maintained by Verizon Wireless' and all other carriers will have to be removed from the hotel's rooftop within the next year or so. Therefore, the proposed antennas will be required in order ensure that Verizon Wireless' current levels of PCS and Cellular service and coverage, as well as the future 4G upgrades, are not compromised in this important area of the City.

Collocation Policy:

When searching for suitable candidates for wireless facilities, it is Verizon Wireless' policy first to identify all existing collocation opportunities before considering the construction of any new structures. Verizon Wireless does this to abide by jurisdictional policies that are meant to mitigate any adverse visual effects, and to minimize costs associated with the construction of new sites when unnecessary. In this particular case, Verizon Wireless will be able to replace one collocation opportunity that had been available at the hotel with another on the existing radio tower, which was coincidentally structure that had been used by Alltel prior to the merging of both companies.

Compliance with Article V, Section 10-3-125(b) Special Use Permits from the City of Harrisonburg Zoning Ordinance, which states:

All applications for special use permit shall be reviewed using the following criteria:

- (1) The proposed use shall be consistent with good zoning practice and will have no more adverse effect on the health, safety or comfort of persons living or working in the area and will be no more injurious, economically or otherwise, to property or improvements in the surrounding area than would any use generally permitted in the district.

Although the proposed antennas will not be flush-mounted, as were those in the original Alltel installation, there are no manufacturers of equipment that would allow the combining of all three licensed frequencies within a single antenna. Therefore, the T-mount brackets are needed in order to allow adequate separation between the antennas that are available for the three technologies to be deployed, so that there is no interference, especially between the Cellular and LTE bandwidths, which are close together on the FCC's spectrum.

- (2) The proposed use shall be adequately served by essential public services such as streets, drainage facilities, fire protection, and public water and sewer facilities.

After installation Verizon Wireless' facility will be unmanned and it will only require a maximum of one visit per month for maintenance, except in times when power or telephone and fiber backhaul services have been interrupted. Therefore, there will be no impacts to existing public services.

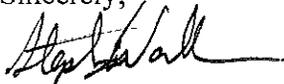
- (3) The proposed use all be designated, sited, and landscaped so that the use will not hinder or discourage the appropriate development or use of adjacent properties and surrounding neighborhoods.

The fact that an existing structure has been identified to can support the relocation of Verizon Wireless' current antenna site at the Hampton Inn means that there should be no additional concerns for the over proliferation of tower sites in this area. Additionally, the existing building has adequate space to facilitate the installation of Verizon Wireless' ground-based equipment without the need for any expansion outside of the current footprint of building and tower compound. Nor will there be any encroachment upon any of the surrounding properties or necessity to remove existing vegetation.

Conclusion:

Verizon Wireless is confident that the proposed collocation and equipment installation will meet the City of Harrisonburg's criteria for approval of a special use permit. This application is requested to allow the relocation of an existing wireless telecommunication facility array of antennas on an existing tower. Although the proposed antennas will require a change from the previously installed flush-mount design, the proposed T-mounts will allow the minimum number of antennas necessary to provide all of Verizon Wireless' licensed frequencies without disruption of services. This will ensure that current levels of network coverage and capacity is maintained current levels for current and future customers working and living, or travelling in this area.

Sincerely,



Stephen Waller, AICP
GDNsites

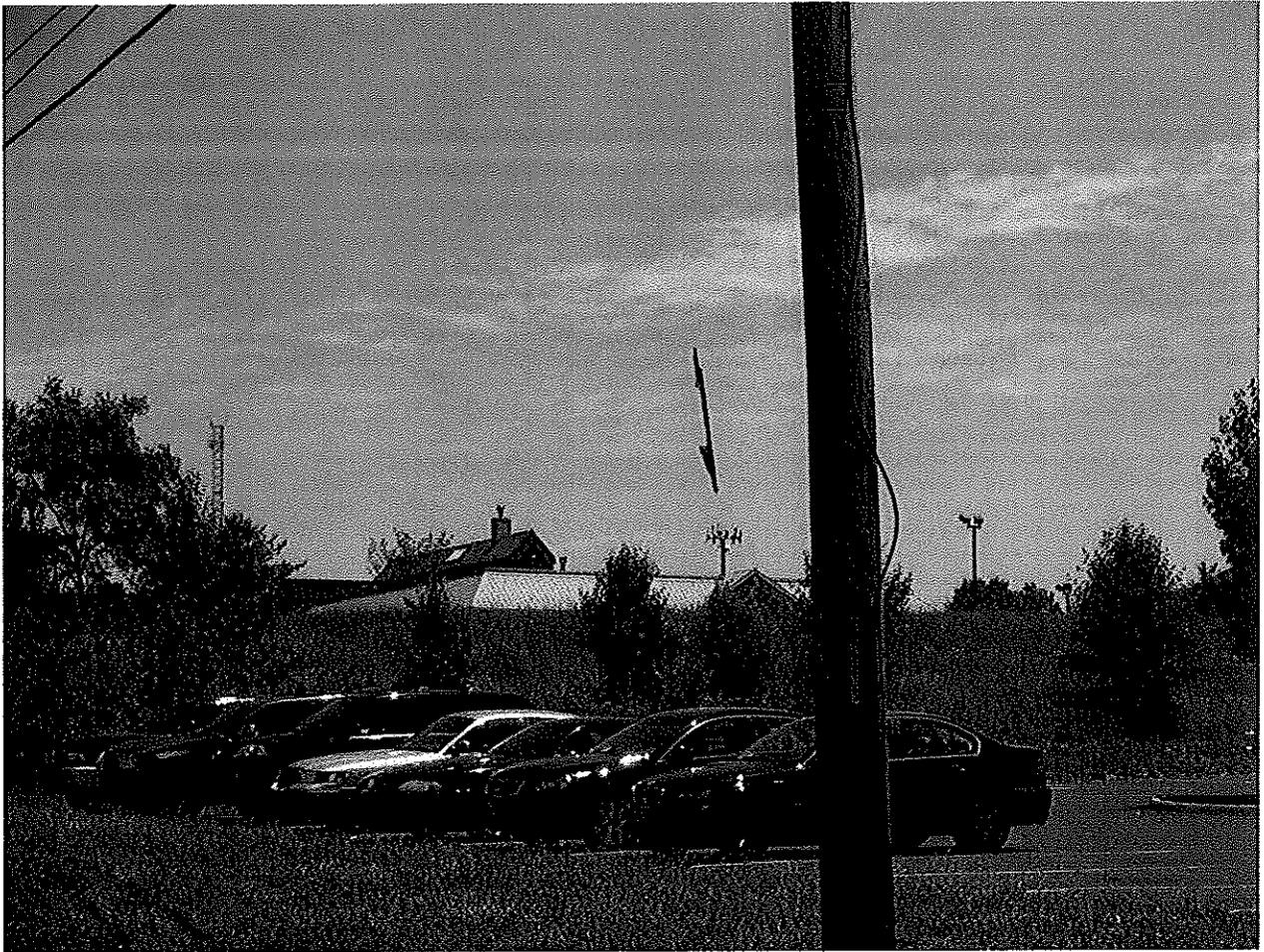
Site Development Consultants to Verizon Wireless

TOWER PHOTOS









TAX MAP AND AERIAL MAP

Map



- cityaddresses
- BASE FLOOD ELEVATIONS
- FLOODWAY
- railroad
- Parks
- REAL ESTATE
- 100 YEAR FLOOD BOUNDARY
- Storm Drains
- REAL ESTATE
- streams
- BOUNDARY
- Storm Pipes
- New and Proposed Development
- 500 YEAR FLOOD BOUNDARY

130 university (3)

cityaddresses (2)

Address	ROADTYPE	MSAG_COMM	POINT_X	POINT_Y	PPID	CAD_corn	CAD_ESA	Shape
130 UNIVERSITY BLVD STE B	null	HARRISONBURG	0	0	741	HAR	256	Point
130 UNIVERSITY BLVD	null	HARRISONBURG	0	0	741	HAR	256	Point

REAL ESTATE (1)

Tax Map Number	Zoning	Physical Address	ZIP_CODE	DEEDBOOK	Voting Precinct	School District	Annexation Date	Fire Inspection District	Private Street	Subdivision Name	Common Area	Account Number	Current Owner	Additional owner	Mailing Address	City of Residence	zipcode	tye
78 C 1	B-2	130 UNIVERSITY BLVD	22801	922/656	STONESPRING ELEMENTARY SCHOOL	STONE SPRING ELEMENTARY	1983	4	null	null	null	078 C 1	EASY RADIO INC	null	1057 US HWY 211 WEST	LURAY VA	22835	201

Copyright

Map Data by the Harrisonburg Department of Planning and Community Development
 Aerial Imagery © 2006 Commonwealth of Virginia



130 University Blvd, Harrisonburg, VA 22801

**SITE PLAN AND TOWER
ELEVATION**

Date Application Received: 06-06-11

Application for Special Use Permit City of Harrisonburg, Virginia

Fee: \$325.00 plus \$25.00 per acre

Total Paid: \$ 350.00

Property Owner's Name: EASY RADIO INC.

Street Address: 1057 US HWY 211 W Email: JASON_CAVE@YAHOO.COM

City: LURAY State: VA Zip: 22835

Telephone: Work _____ Fax _____ Mobile 540-860-1099

Owner's Representative: STEPHEN WALLER - ED. GIVEN FOR VERIZON WIRELESS

Street Address: 536 PANTOPS CENTER PMB#405 Email: stephen.walker@gdn/sites.com

City: CHARLOTTESVILLE State: VA Zip: 22911

Telephone: Work _____ Fax 757 282 5811 Mobile 434 825 0617

Description of Property and Request

Location (Street Address): 130 UNIVERSITY BLVD

Tax Map Number Sheet: 7B Block: C Lot: 1 Lot Area: 0.41735

Existing Zoning Classification: B-2

Special Use being requested: CHANGE EXISTING ANTENNAS ON EXISTING MONOPOLE FROM FLUSH MOUNTS TO FULL SECTOR ARRAY.

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

PLEASE SEE ATTACHED SHEETS

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

North: SOUDER SUB SEC 1, 129 UNIVERSITY BLVD (078 E 1)

South: UNIVERSITY BOULEVARD LLC, 1141 DECCA DR, HARRISONBURG VA (078 C 11)

East: UNIVERSITY BOULEVARD LLC, 1141 DECCA DR, HARRISONBURG, VA (078 C 11)

West: WC ENTERPRISES, P.O. BOX 672, HARRISONBURG, VA (079 D 24)

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

Signature: [Signature]
Property Owner

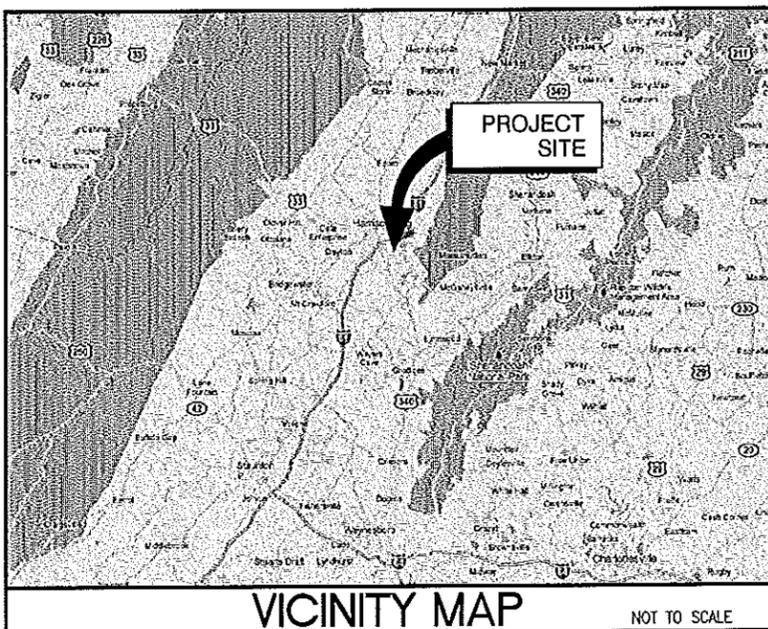
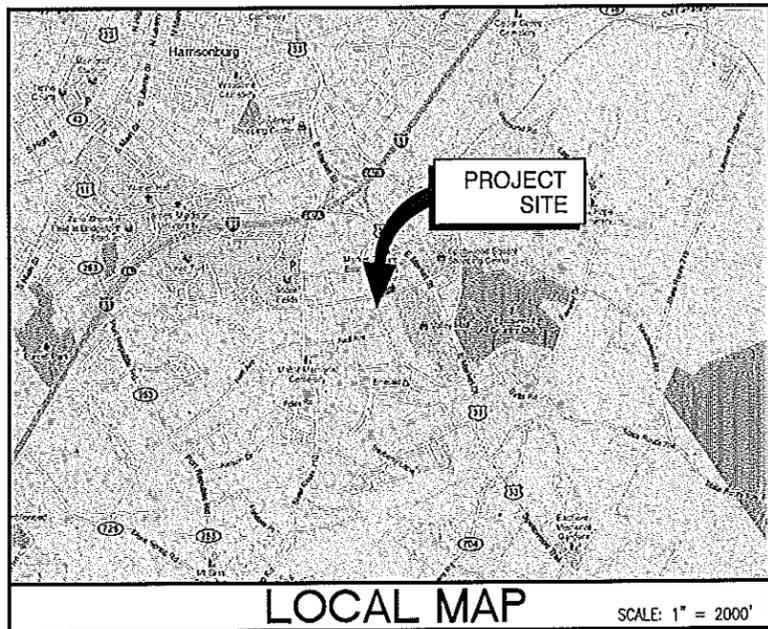
ITEMS REQUIRED FOR SUBMISSION

- | | |
|--|--|
| <input type="checkbox"/> Completed Application | <input type="checkbox"/> Fees Paid |
| <input type="checkbox"/> Site Plan | <input type="checkbox"/> Property Located on Tax Map |
| <input type="checkbox"/> Description of Proposed Use | _____ |
| <input type="checkbox"/> Adjacent Property Owners | _____ |



DIRECTIONS TO SITE:

FROM RICHMOND:
 START OUT GOING SOUTHEAST ON MONUMENT AVE. TOWARD N ALLEN AVE. TURN SLIGHT RIGHT TO STAY ON MONUMENT AVE. TURN SLIGHT LEFT ONTO W FRANKLIN ST. TURN LEFT ONTO N BELVIDERE ST/US-1 N/US-301 N. N BELVIDERE ST IS JUST PAST N PINE ST. MERGE ONTO I-95 S/RICHMOND-PETERSBURG TURNPIKE/I-64 E TOWARD PETERSBURG/NORFOLK. MERGE ONTO I-64 E VIA EXIT 75 TOWARD RICHMOND INT'L AIRPORT/WILLIAMSBURG/NORFOLK. MERGE ONTO MECHANICVILLE TURNPIKE/US-360 E VIA EXIT 192. (GO 0.77 MILES). TURN LEFT ONTO MAGNOLIA ST. TURN RIGHT ONTO RADY ST. TAKE THE 1ST RIGHT ONTO RADY CT. 1831 RADY CT IS ON THE RIGHT.

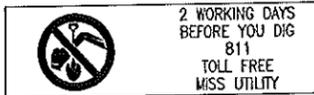


UNIVERSITY BOULEVARD

I 30 UNIVERSITY BLVD

HARRISONBURG, VA 22801

COLLOCATION
 INSTALLATION OF ANTENNAS ON AN EXISTING TOWER &
 RADIO EQUIPMENT WITHIN AN EXISTING BUILDING



EMERGENCY INFORMATION:
 LOCAL FIRE AND EMERGENCY SERVICES
 (540) 432-7703
 LOCAL EMERGENCY POLICE DISPATCH
 (540) 434-4436

APPROVAL				REV. NO.				DESCRIPTION				BY				DATE			
ACQUISITION MANAGER:	SIGNATURE	PHONE NUMBER	DATE	0	ZONING SUBMITTAL	SPP	5/06/11												
CONSTRUCTION MANAGER:	SIGNATURE	PHONE NUMBER	DATE	1	ISSUED FOR REVIEW	SPP	5/24/11												
RF ENGINEERING:	SIGNATURE	PHONE NUMBER	DATE	2	REVISED ZONING SUBMITTAL	SPP	5/31/11												
NETWORK OPS MANAGER:	SIGNATURE	PHONE NUMBER	DATE																

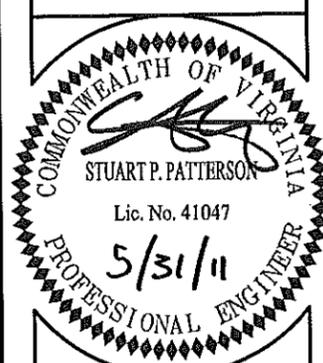


CONSULTING TEAM	
ARCHITECTURE AND ENGINEERING: CLARK NEXSEN 1331 L STREET NW, SUITE 600 WASHINGTON, DC 20005 PROJECT MANAGER: TELEPHONE: FAX NUMBER:	STUART PATTERSON, PE (202) 461-3287 (202) 461-3266
SURVEY: NONE	
SOIL ENGINEER: NONE	
UTILITIES: POWER COMPANY: DOMINION VIRGINIA POWER CONTACT: TELEPHONE:	CUSTOMER SERVICE 1-888-667-3000
TELEPHONE COMPANY: VERIZON CONTACT: CONTACT: TELEPHONE:	CUSTOMER SERVICE 1-800-375-7117

PROJECT SUMMARY	
SITE INFORMATION: UNIVERSITY BOULEVARD 130 UNIVERSITY BLVD. HARRISONBURG, VA 22801	PROPERTY/TOWER OWNER: EAST RADIO INC. CONTACT: JASON CAVE 540-860-1099
APPLICANT INFORMATION: VERIZON WIRELESS 1831 RADY COURT RICHMOND, VA 23222 CONTACT: TELEPHONE: FAX NUMBER:	MERLE DAIGER (804) 514-0116 (804) 321-0398
PROJECT DATA: TAX MAP# JURISDICTION SITE TYPE TOWER TYPE TOWER HEIGHT AREA OF LAND DISTURBANCE	078 C1 HARRISONBURG COLLOCATION MONOPOLE 75' 0 SF
ADA COMPLIANCE: VERIZON WIRELESS INSTALLATION IS UNMANNED AND NOT FOR HUMAN HABITATION. SITE WILL NOT BE SERVED BY CITY SEWER OR WATER.	

INDEX OF DRAWINGS	
GENERAL	
G-1	COVER SHEET
CIVIL	
C-1	SITE PLAN
C-2	ELEVATION VIEW
SHEET TOTAL: 3	

CLARK NEXSEN
 Architecture & Engineering
 1331 L STREET, NW
 SUITE 600
 WASHINGTON, DC 20005
 202-461-3260 FAX 202-461-3266
 WWW.CLARKNEXSEN.COM

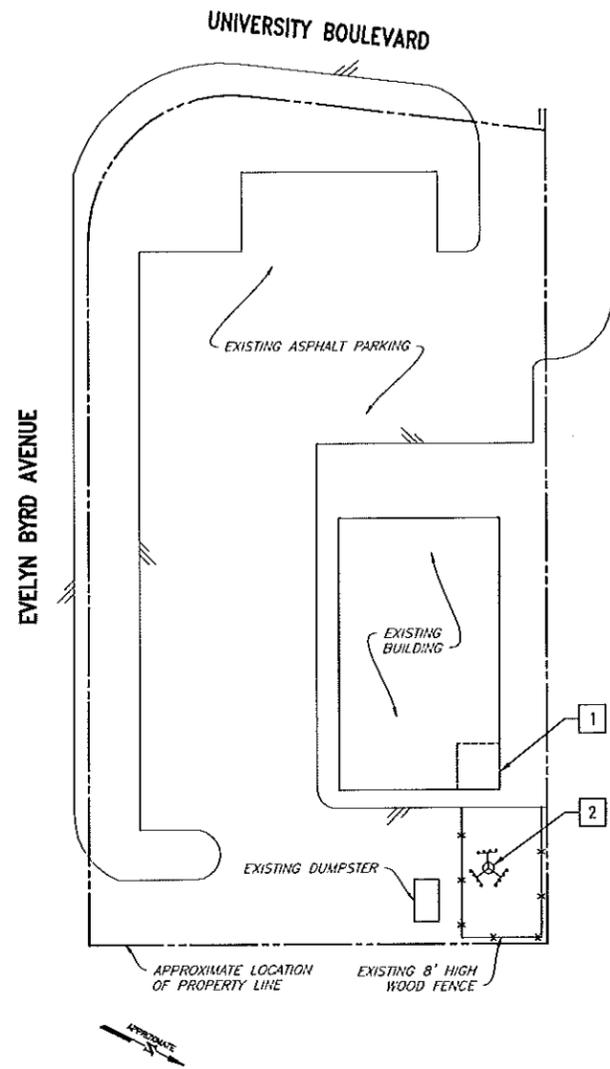


SITE INFO:
 UNIVERSITY BOULEVARD COLLOCATION
 130 UNIVERSITY BLVD
 HARRISONBURG, VA 22801

DESIGN:	SPP
DRAWN:	KAW
REVIEW:	OCC
TTV DATE:	XXXX
COMP. NO.	3036CCC

SUBMITTALS		
SYM	DESCRIPTION	DATE
△	ZONING SUBMITTAL	5/06/11
△	SITE PLAN	5/25/11
△	REVISED ZONING SUBMITTAL	5/31/11
△		
△		
△		

SHEET NAME:
 COVER SHEET
SHEET NO.:
 G-1



1 SITE PLAN
C-1

LEGEND

EXISTING	NEW
---	---
BLDG	PROPERTY LINE
X	BUILDING (FOOTPRINT)
---	FENCE
---	EDGE OF PAVEMENT

ABBREVIATIONS

@	AT
Ø	DIAMETER
#	NUMBER
AFG	ABOVE FINISHED GRADE
AGL	ABOVE GROUND LEVEL
C, C/L	CENTERLINE
COMM	COMMISSION
CONC	CONCRETE
DIA	DIAMETER
DWG(S)	DRAWINGS
ELEV	ELEVATION
GIS	GEOGRAPHIC INFORMATION SYSTEM
GPIN	GRID PARCEL IDENTIFICATION NUMBER
GPS	GLOBAL POSITIONING SYSTEM
INFO	INFORMATION
MAX	MAXIMUM
MIN	MINIMUM
NO	NUMBER
OPS	OPERATION
OSHA	OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION
PE	PROFESSIONAL ENGINEER
PROJ.	PROJECT
PSF	POUNDS PER SQUARE FOOT
PSI	POUNDS PER SQUARE INCH
PVC	POLYVINYLCHLORIDE
R/W	RIGHT OF WAY
RAD	RADIATING
REQ'D	REQUIRED
RF	RADIO FREQUENCY
SCH	SCHEDULE
SF	SQUARE FOOT/FEET
TTV	TECHNICAL TEAM VISIT
TYP	TYPICAL
W	WEST

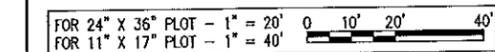
NOTES

1. SURVEY INFORMATION OBTAINED FROM EXISTING SITE PLAN.
2. PRIOR TO CONSTRUCTION THE CONTRACTOR SHALL ASSUME THE RESPONSIBILITY OF LOCATING ANY UNDERGROUND UTILITIES (PUBLIC OR PRIVATE) THAT MAY EXIST AND CROSS THROUGH THE AREA OF CONSTRUCTION THAT ARE NOT SHOWN ON THESE PLANS. BEFORE YOU DIG, CALL "MISS UTILITY" AT 811. THE CONTRACTOR SHALL BE RESPONSIBLE FOR REPAIRING, AT HIS EXPENSE, ANY EXISTING UTILITIES DAMAGED DURING CONSTRUCTION.
3. THE STOCKPILING OF EXCESS MATERIAL ON SITE WILL NOT BE ALLOWED.
4. THE CONTRACTOR IS RESPONSIBLE FOR MEANS AND METHODS OF CONSTRUCTION. SAFETY IS THE RESPONSIBILITY OF THE CONTRACTOR. ALL WORK SHALL BE PERFORMED IN ACCORDANCE WITH OSHA REQUIREMENTS.
5. THE CONTRACTOR IS RESPONSIBLE FOR SITE LAYOUT AND CONSTRUCTION STAKING. LOCATION OF EXISTING STRUCTURES AND UTILITIES MUST BE CONFIRMED BY THE CONTRACTOR.
6. ALL WORK SHALL BE ACCOMPLISHED IN ACCORDANCE WITH ALL LOCAL, STATE, AND FEDERAL CODES OR ORDINANCES.
7. THE INDICATED DIRECTION OF NORTH WILL HAVE TO BE VERIFIED IN THE FIELD.
8. ALL VERIZON WIRELESS TRANSMITTING EQUIPMENT IS TO BE HOUSED WITHIN THE EXISTING BUILDING.

CONSTRUCTION NOTES

1. ALL VERIZON WIRELESS RADIO EQUIPMENT TO BE INSTALLED WITHIN EXISTING BUILDING.
2. NEW ANTENNA ARRAY ON EXISTING MONOPOLE. SEE SHEET C-2.

GRAPHIC SCALE(S)



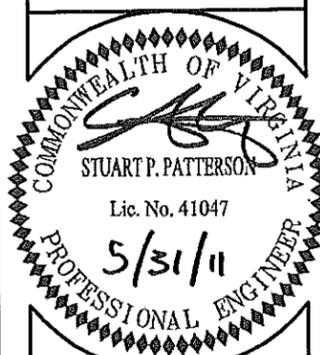
CLARK NEXSEN

Architecture & Engineering

1331 L STREET, NW
SUITE 600
WASHINGTON, DC 20005
202-461-3260 FAX 202-461-3265
WWW.CLARKNEXSEN.COM



1831 RADY COURT
RICHMOND, VA 23222



SITE INFO:
UNIVERSITY BOULEVARD COLLOCATION

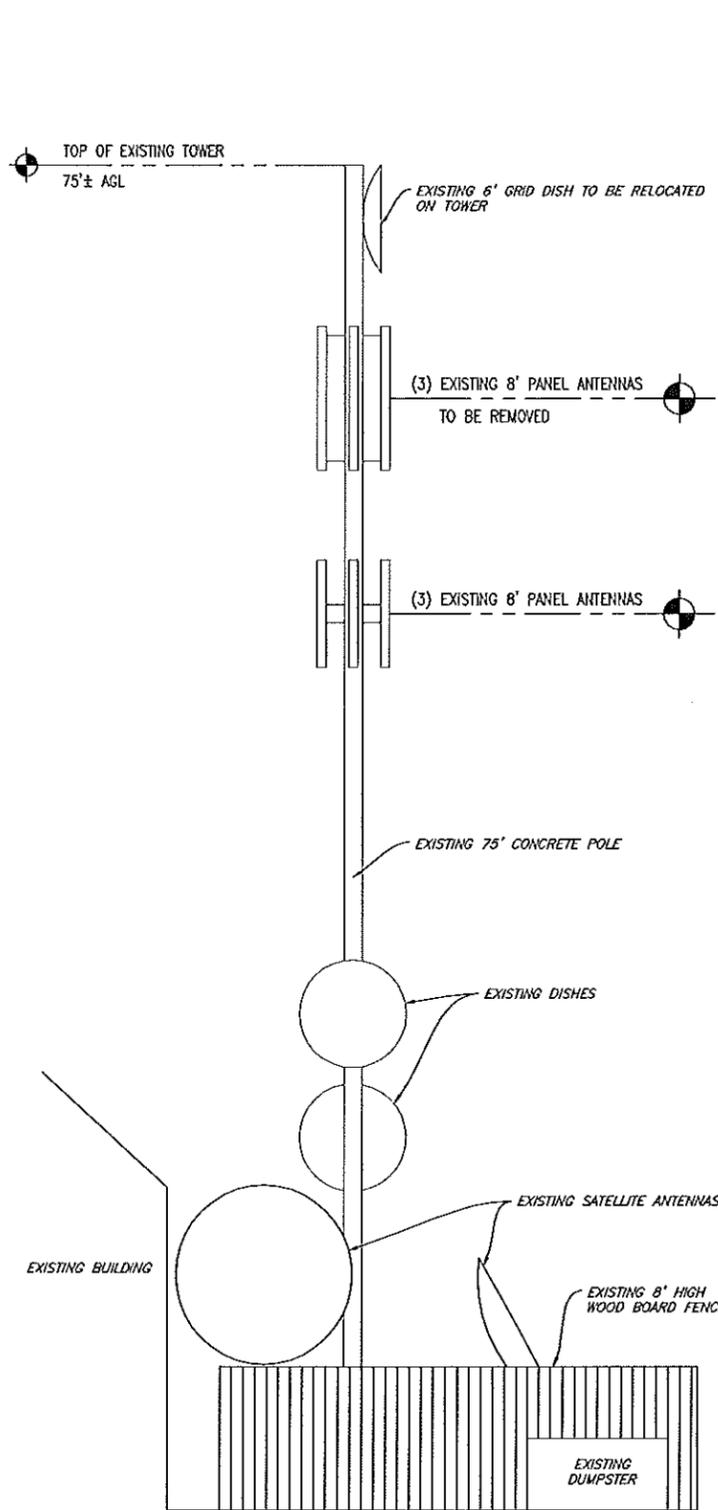
130 UNIVERSITY BLVD
HARRISONBURG, VA
22801

DESIGN:	SPP
DRAWN:	KAW
REVIEW:	CCC
TTV DATE:	X/X/XX
COMM. NO.	3036CCC

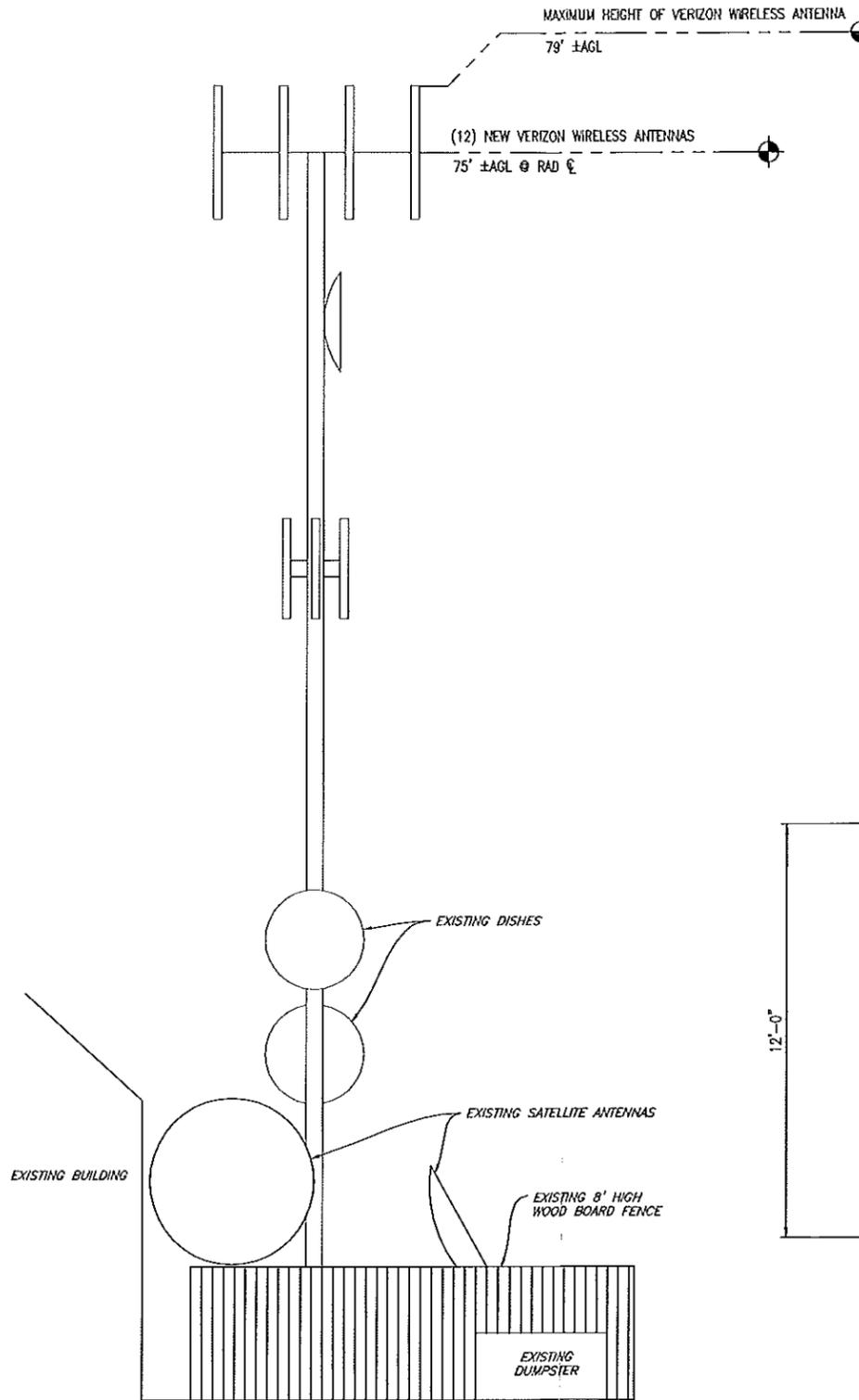
SUBMITTALS		
SYM.	DESCRIPTION	DATE
△	ZONING SUBMITTAL	5/06/11
△	SITE PLAN	5/23/11
△	REVISED ZONING SUBMITTAL	5/31/11
△		
△		
△		
△		

SHEET NAME:
SITE PLAN

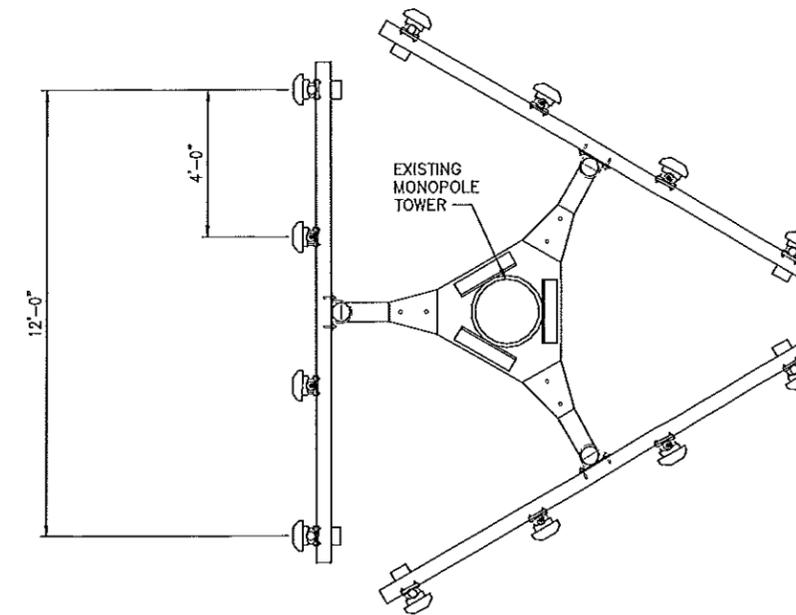
SHEET NO.:
C-1



1
C-2
EXISTING ELEVATION VIEW
NOT TO SCALE



2
C-2
PROPOSED ELEVATION VIEW
NOT TO SCALE



ANTENNA MOUNTING LAYOUT
NOT TO SCALE

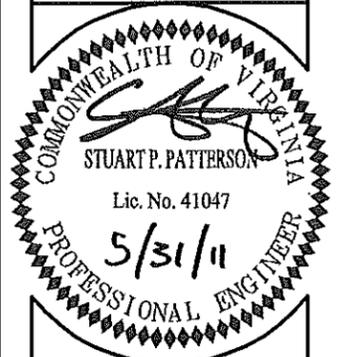
NOTES

1. NO COMMERCIAL ADVERTISING MATERIAL WILL BE USED IN CONJUNCTION WITH THE NEW TOWER.
2. CONTRACTOR TO REFER TO STRUCTURAL ANALYSIS PRIOR TO INSTALLATION OF ANTENNAS, COAX AND MOUNTING SYSTEMS.

CLARK NEXSEN

Architecture & Engineering

1331 L STREET, NW
SUITE 600
WASHINGTON, DC 20005
202-461-3260 FAX 202-461-3266
WWW.CLARKNEXSEN.COM



SITE INFO:
UNIVERSITY BOULEVARD COLLOCATION

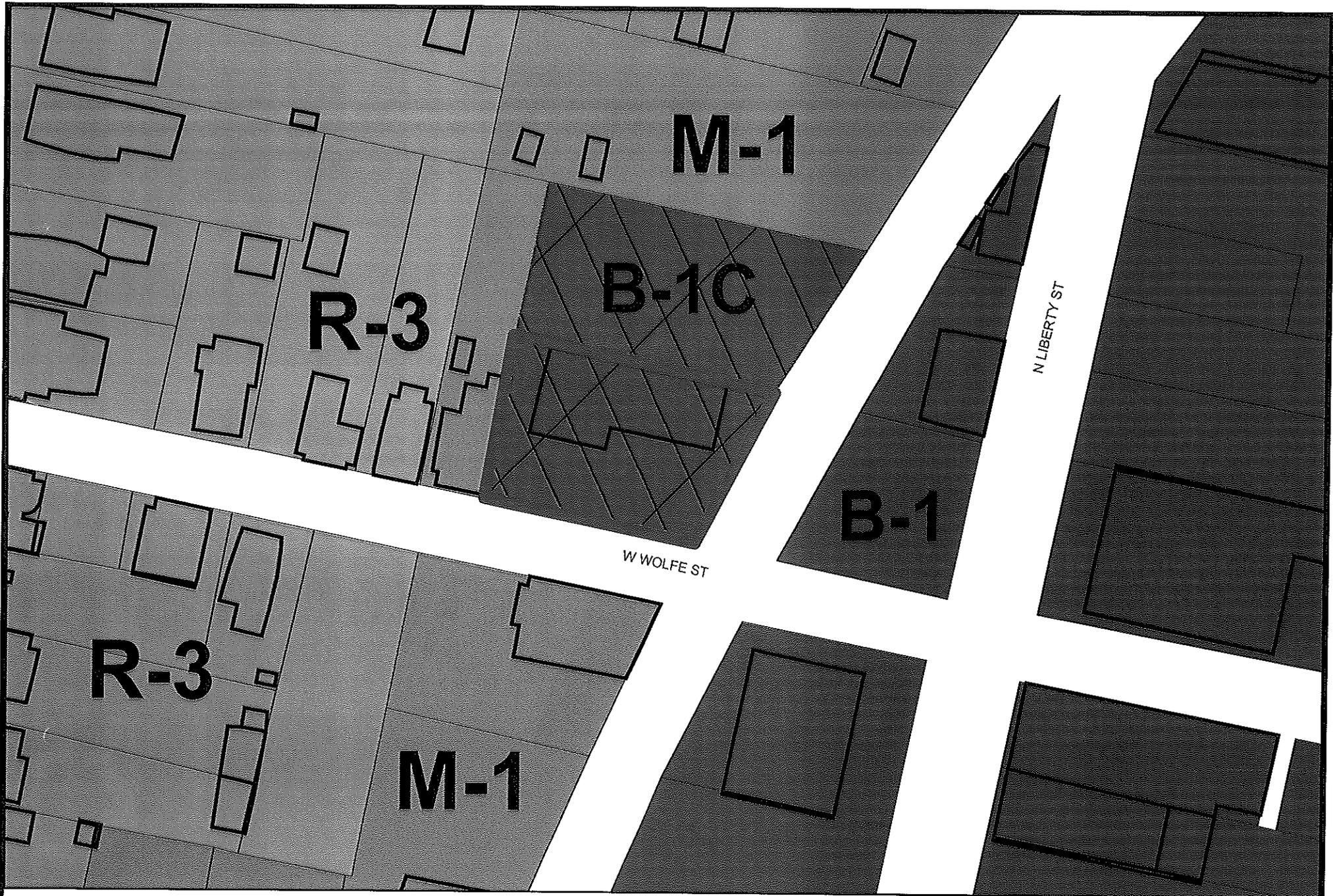
130 UNIVERSITY BLVD
HARRISONBURG, VA
22801

DESIGN: SPP
DRAWN: KAW
REVIEW: CCC
TTV DATE: XX/XX
COMM. NO. 3036CCC

SUBMITTALS		
SYM.	DESCRIPTION	DATE
△	ZONING SUBMITTAL	5/08/11
△	SITE PLAN	5/23/11
△	REVISED ZONING SUBMITTAL	5/31/11
△		
△		
△		

SHEET NAME:
ELEVATION VIEW

SHEET NO.:
C-2



120 West Wolfe Street
S.U.P. 10-3-85 (4) - Vehicle Repair



120 West Wolfe Street
S.U.P. 10-3-85 (4) - Vehicle Repair



City of Harrisonburg, Virginia

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

STAFF REPORT

July 13, 2011

SPECIAL USE PERMIT – 120 WEST WOLFE STREET (WROCKSTREET LLC)

GENERAL INFORMATION

- Applicant:** WRockstreet, LLC with representatives Leo Cook and Casey Stemper
- Tax Map:** 35-O-4
- Acreage:** 10,411 +/- square feet
- Location:** 120 West Wolfe Street
- Request:** Public hearing to consider a request for a special use permit per Section 10-3-85 (4) to allow for the repair of vehicles in the B-1, Central Business District.

LAND USE, ZONING, AND SITE CHARACTERISTICS

The Comprehensive Plan designates this area as Mixed Use Development. This designation includes both existing and proposed new mixed use areas. These areas are intended to combine residential and non-residential uses in planned neighborhoods where the different uses are finely mixed instead of separated. 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, which could be combined in the same building or on the same street. 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.

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

- Site:** Illegal vehicle repair shop, zoned B-1C
- North:** Vacant property (owned by the applicants), zoned B-1C
- East:** Across the Norfolk Southern Rail Line, vacant paved lot, zoned B-1
- South:** Across West Wolfe Street, vacuum repair shop, zoned M-1
- West:** Non-conforming dwelling unit, zoned M-1

EVALUATION

The applicants are requesting a special use permit (SUP) per Section 10-3-85 (4) of the Zoning Ordinance to allow for vehicle repair in the B-1, Central Business District to bring their illegal use into

conformance with the Zoning Ordinance. The property is located at 120 West Wolfe Street and is zoned B-1C, Central Business District Conditional.

The property is one of two properties rezoned in March 2009 from M-1, General Industrial District to B-1C. At that time, their plan was to demolish the existing structures and to construct a mixed use building containing commercial and residential uses. The existing proffers (written verbatim) are as follows: (The proffer letter and mentioned exhibits are provided for reference within the packet.)

1. The site Plan as provided in Exhibit A is proffered as to general layout, approximate square footage of the building and dedicated parking. The amount of commercial space will be up to 2,816 sq. ft., and the amount of residential space will be up to 6,570 sq. ft. The number of residential units will not exceed 7. The number of bedrooms will not exceed 9. The building will be Mixed Use.
2. The occupancy of each residential unit will not exceed a single family or two unrelated persons per unit.
3. Parking for residential units will be one space per bedroom. Parking for commercial space will be one space for each 300 sq. ft.
4. Use Restrictions. The following uses as delineated in Harrisonburg's Zoning Ordinance, Article P. B-1 Central Business District, §10-3-84 shall be permitted on the Property:
 - 1) Retail stores, convenience shops, personal service establishments, restaurants, food and drug stores;
 - 2) Governmental, business, professional offices and financial institutions;
 - 3) Hotels, motels, and buildings used for dwelling units, CBD, as defined under Article F, except that such occupancy may be superseded by building code regulations;
 - 4) Theaters, community rooms, museums and galleries and other places of assembly for the purpose of entertainment or education;
 - 5) Religious, educational, charitable and benevolent institutional uses which do not provide housing facilities;
 - 6) General service or repair shops, when not employing more than ten (10) persons on the premises in a single shift (not including persons whose principal duties are off the premises) and providing that all storage and activities are conducted within a building;
 - 7) Accessory uses incidental to any permitted uses which are attached to or within the principal building.
5. Applications will be made for all Special Uses where necessary.
6. Buffer. A 6' fence of one type shown in Exhibit B will be placed on the west boundary of the property.
7. Landscaping will include a minimum of two (2) deciduous trees or planters and a minimum of ten (10) bushes in locations as shown on the conceptual plan.
8. The buildings will have a brick façade on the south side of the building facing Wolfe St. and the east side facing the railroad, and no vinyl siding will be used on any part of the façade. A brick walkway or brick stamped decorative concrete will be provided on the south side of the building where elevation permits. The style of the building will be esthetically similar to Exhibit C. A bicycle rack will be located on the property.
9. Severability. The unenforceability, illegality, elimination, revision, or amendment of any proffer set forth herein, in whole or in part, shall not affect the validity or enforceability of the other proffers or the unaffected part of any such proffer.

The SUP process began as a result of a zoning enforcement inspection due to an anonymous complaint regarding the potential storage of inoperable vehicles as well as the potential lacking of proper screening, which is typically associated with a vehicle repair business in an M-1 district. Upon inspection and further investigation of the parcel, the prominent issue that arose was that the operation of vehicle repair is not a use permitted by-right on the subject parcel due to its B-1 zoning classification. Staff then sent a notice of violation to the property owners informing them that the

vehicle repair use was not permitted by-right. During the rectification period, the property owners explained they thought that vehicle repair was permitted per proffer number 4.6) above specifying that general service and repair shops were permitted. Staff explained the Zoning Ordinance further clarifies that general service and repair shops include examples such as cleaning and laundry establishments, printing and tailoring shops, appliance repairs, and upholstery and furniture repairs and that vehicle repair is a separate use and can operate in the B-1 district only with a SUP. The property owners decided to rectify the situation by applying for a SUP to allow a vehicle repair use. The SUP in which they are applying is per Section 10-3-85 (4), which states: *Repair of vehicles, recreation equipment, or trailers with all activities and storage of inoperable vehicles completely enclosed within a permitted structure. Vehicle excludes over the road tractors, their trailers, heavy equipment, manufactured homes, industrialized buildings, and agricultural equipment. No vehicle salvage, storage of inoperable vehicles, or sale of junk is allowed.*

As noted within the letter submitted by the applicants, a vehicle repair business may have operated on site for more than 40 years. Staff cannot confirm that statement to be exactly true, however research performed by staff has proved that a vehicle repair business did operate on site for many years and as recent as 2007. In addition, one can clearly observe the buildings on site are designed for a vehicle repair business as well as a car wash establishment, which per staff's research are some of the uses that operated on this property in the past.

It should be recognized, however, that during the time when a vehicle repair business operated at this property, the parcel was zoned M-1, which permits vehicle repair by-right. It should be further understood that unlike in the B-1 and B-2 zoning districts, where all vehicle repair activities must occur within an enclosed structure, the M-1 district states that outside storage or repair shall be located in a designated area and screened from general public view. In conversation with the business owner, he stated that he previously worked from the automotive repair shop at 191/193 South Avenue, where the associated buildings have recently been demolished for the construction of the forthcoming CVS pharmacy/retail store at the corner of South High Street and South Avenue, which was previously zoned M-1.

During the review of the special use permit request, staff recently observed inoperable vehicles on site as well as the collection of junk, debris, and several other inoperable vehicles on the adjoining lot, behind the vehicle repair business, which is also owned by the applicants. Staff has discussed this issue with the property owners and has mailed them a notice of these violations.

Despite the situation in which this case surfaced, and irrespective of the property's other violations, the main question under consideration is whether the subject property is an appropriate location for a SUP to operate a vehicle repair use. After much scrutiny and discussion, staff believes a SUP for a vehicle repair use is fitting at this location. Clearly, main parts of the building are intended for such a use, and as discussed above, such a use has operated on site for many years in the past, and had this property not been rezoned in 2009, vehicle repair would be a by-right use.

As noted within the applicants' letter, if the SUP is granted, they will install garage doors on the old, open car wash bays, where some vehicle repair and storage occurs. Although they are willingly stating they will perform such measures, as stated in the SUP ordinance language, all activities must occur within an enclosed structure thus enclosing the open bays is essentially a requirement of the permit.

The property owners and the operator of the business must strive to rectify their violations relating to the collection of inoperable vehicles and the storage of junk and other debris. Failure to do so could

result in a misdemeanor charge. It should be clearly understood, that if the SUP is approved, the actions related to these violations are still not permitted.

Staff believes vehicle repair at this location would have no more adverse effect on the health, safety, or comfort of persons living or working in the surrounding area than would any use generally permitted in this district. Staff supports a favorable recommendation to City Council to approve this request with the following conditions:

1. One parking space shall be provided per bay plus one additional space shall be provided associated with the office space of the business. Parking spaces shall be clearly marked and delineated on site. (Thus, if each bay is used as discussed with the applicant, which was to use five bays, then six parking spaces would be required.)
2. The garage doors to cover the open bays shall be installed within 30 days of approval of the SUP.
3. If in the opinion of Planning Commission or City Council, the use becomes a nuisance, the SUP can be recalled for further review, which could lead to the need for additional conditions, restrictions, or the revocation of the permit.

June 8, 2011

City of Harrisonburg Planning & Community Development
City Planner Mr. Adam Fletcher
409 South Main Street
Harrisonburg, VA 22801

Subj: Special Use Permit (TM Parcel 35-O-4)

Dear Mr. Fletcher:

As you know, we re-zoned the above property from M-1 Industrial to B-1 Central Business District Conditional in early 2009. In doing so, we included a proffer that specifically allowed repair services on the site, subject only to a 10 person size restriction and storage restrictions:

6) General Service or repair shops...not employing more than ten (10) persons...and providing that all storage activities are conducted within a building.

Due to the slowdown of the general economy, we have not been immediately able to build on the property as planned. Instead, we rented the parcel to a vehicle repair business. We reasonably thought this use of the property was permitted in our proffers. This is the same vehicle repair use that the property has had for more than 40 years under the M-1 Zoning.

In late April, 2011, we received a letter from the Harrisonburg Zoning Inspector, informing us that the above repair shop use did not include 'Vehicle Repair.' Given this information, we (property owner and tenant) are seeking a Special Use Permit under Section 10-3-85 of the Harrisonburg Ordinance. Specifically, we are seeking approval to allow "Repair of Vehicles" at the above site as permitted in the Ordinance:

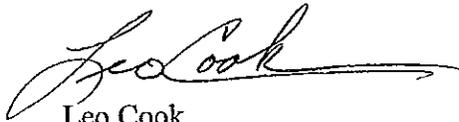
4) Repair of vehicles, recreation equipment, or trailers with all activities and storage of inoperable vehicles completely enclosed within a permitted structure. Vehicle excludes over the road tractors, their trailers, heavy equipment, manufactured homes, industrialized buildings, and agricultural equipment. No vehicle salvage, storage of inoperable vehicles, or sale of junk is allowed.

If the Special Use is granted, we plan to enclose the current open bays with garage doors. We will require that all cars be stored inside the bays. This will significantly improve the property's appearance. If the Special Use is not granted, our small business tenant will move and it may even go bankrupt. The property may go vacant again, and vagrants may return to this site. This has been a constant problem in this section of the City.

In closing, I want to emphasize that we want what is right for the City of Harrisonburg. We have allowed the Harrisonburg Fire Department to use an adjacent facility on W. Rock Street for training. When the training was finished, we had to demolish the building to keep vagrants out. This neighborhood still needs a lot of improvement, but this will take time. We believe in the short term the vehicle repair shop should be allowed to operate at this site. This is activity we believe would be good for the City. When the economy turns around, hopefully in a couple of years, we fully intend to develop the property along the lines of our B-1 zoning plans submitted to the City.

Please contact me if you wish to discuss this further.

Best Regards,

A handwritten signature in cursive script that reads "Leo Cook". The signature is written in black ink and has a long, horizontal flourish extending to the right.

Leo Cook
WRockStreet, LLC
PH: 407.822.2333

EXISTING PROFFERS

City of Harrisonburg Community Development
Director of Community Development
Ms. Stacey Turner
409 South Main Street
Harrisonburg, VA 22801

February 11, 2009

Subject: Rezoning of T.M. Parcels 35-O-4, 35-O-5

Dear Ms. Turner:

As a condition of rezoning, the Owners and Developers (the "Developer") proffer that the development of the subject property (the "Property") on this application shall be in accordance with §15.2-2298 of the Code of Virginia and the Zoning Ordinance of the City of Harrisonburg and for the conditions set forth in this submission, if and only if, the zoning request for B-1, Central Business District, is granted. The Owners wish to revise the proffers previously submitted in a letter dated July 1, 2008. This is being done to address concerns on the part of the City's Planning Staff and the Planning Commission as expressed at the June 11, 2008, meeting of the Planning Commission. If this request for rezoning is denied or approved with conditions not agreed to by the Developer and the Owners, the proffers and conditions shall immediately be null and void and of no further force or effect. If the rezoning request is granted, these proffers and conditions will supersede all proffers and conditions that may now exist on the Property.

This application contains three exhibits described as follows:

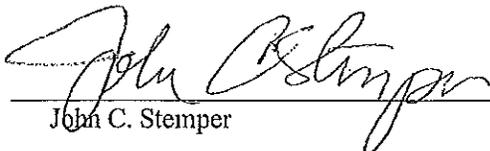
Exhibit A –Site Plan prepared by Blackwell Engineering, PLC and dated February 4, 2009.

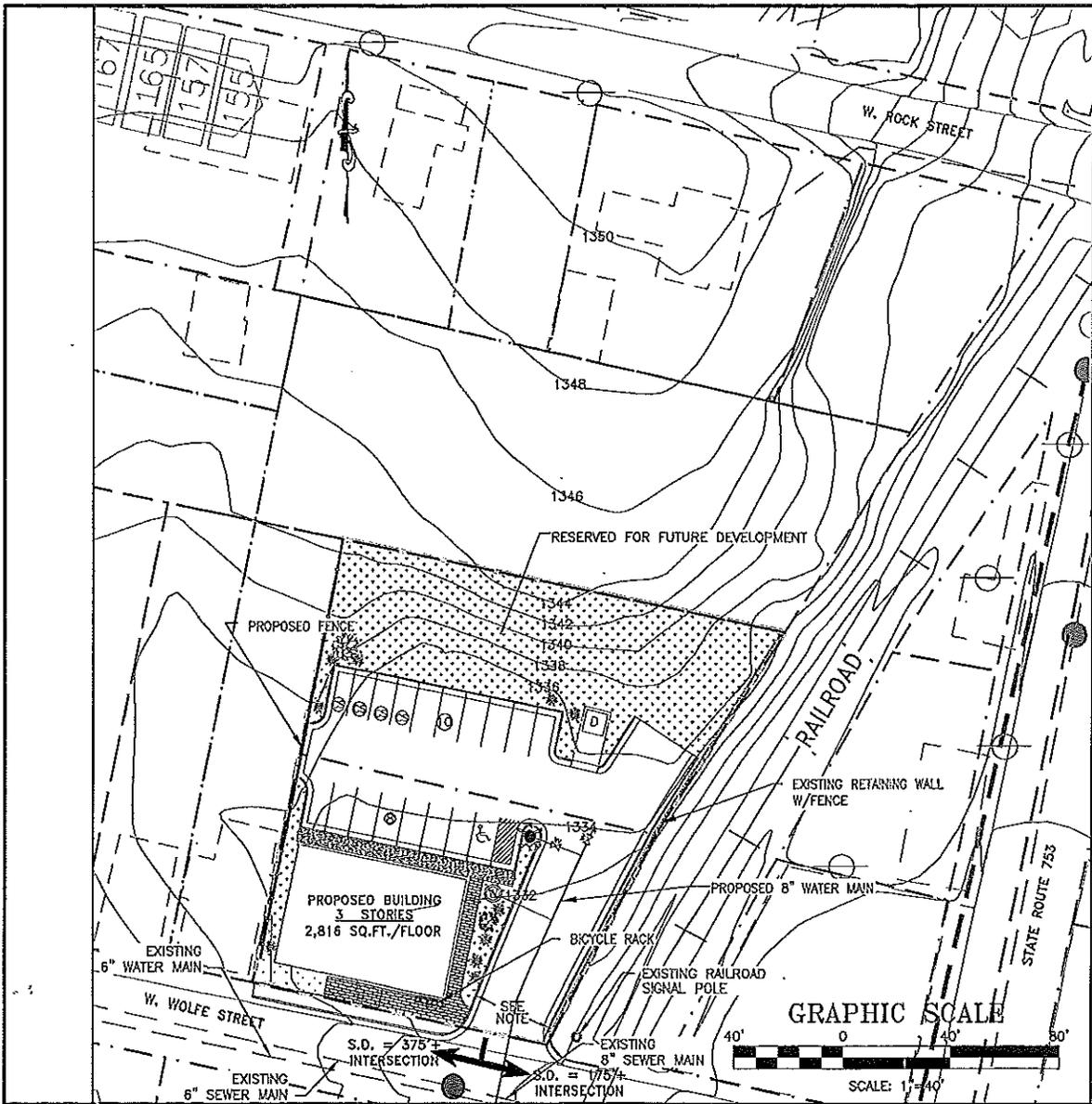
Exhibit B – Three (3) examples of proposed buffer fencing types.

Exhibit C—Example of building façade and architecture.

1. The Site Plan provided in Exhibit A is proffered as to general layout, approximate square footage of the building and dedicated parking. The amount of commercial space will be up to 2816 sq.ft., and the amount of residential space will be up to 6570 sq. ft. The number of residential units will not exceed 7. The number of bedrooms will not exceed 9. The building will be Mixed Use.
2. The occupancy of each residential unit will not exceed a single family or two unrelated persons per unit.
3. Parking for residential units will be one space per bedroom. Parking for commercial space will be one space for each 300 sq. ft.
4. Use Restrictions. The following uses as delineated in Harrisonburg's Zoning Ordinance, Article P. B-1 Central Business District, § 10-3-84 shall be permitted on the Property:
 - 1) Retail stores, convenience shops, personal service establishments, restaurants, food and drug stores,
 - 2) Governmental, business, and professional offices and financial institutions,
 - 3) Hotels, motels, and buildings used for dwelling units, CBD, as defined under Article F, except that such occupancy may be superseded by building regulations,
 - 4) Theaters, community rooms, museums and galleries and other places of assembly for the purpose of entertainment or education,
 - 5) Religious, educational, charitable and benevolent institutional uses which do not provide housing facilities,
 - 6) General service or repair shops, when not employing more than ten (10) persons on the premises in a single shift (not including persons whose principal duties are off the premises) and providing that all storage and activities are conducted within a building,
 - 8) Accessory uses incidental to any permitted uses which are attached to or within the principal building.
5. Applications will be made for all Special Uses where necessary.
6. Buffer. A 6' fence of one type shown in Exhibit B will be placed on the west boundary of the property.
7. Landscaping will include a minimum of two (2) deciduous trees or planters and a minimum of 10 bushes in locations as shown on the conceptual plan.
8. The buildings will have a brick façade on the south side of the building facing Wolfe St. and the east side facing the railroad, and no vinyl siding will be used on any part of the façade. A brick walkway or brick stamped decorative concrete will be provided on the south and east sides of the building where elevation permits. The style of the buildings will be esthetically similar to Exhibit C. A bicycle rack will be located on the property.
9. Severability. The unenforceability, illegality, elimination, revision, or amendment of any proffer set forth herein, in whole or in part, shall not affect the validity or enforceability of the other proffers or the unaffected part of any such proffer.

OWNER/DEVELOPER:


John C. Stemper



OWNER/DEVELOPER:
 LEO COOK/JOHN STEMPER
 WROCKSTREET, LLC
 231 DIXIE AVE.
 HARRISONBURG, VA 22801
 PHONE: 770 852-9320
 540 476-1501

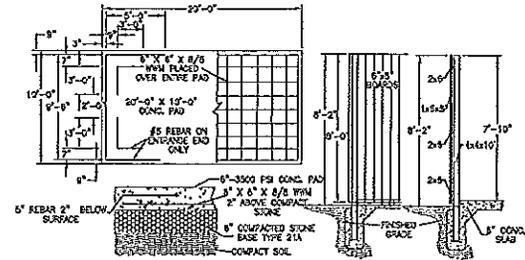
PROPERTY INFO:
 TM# 35-0-4,5
 LOCATION:
 120 WEST WOLFE STREET
 HARRISONBURG, VA. 22801
 0.520± ACRES
 ZONED: M-1
 USE: 0.240 AC.-UNDEVELOPED
 &
 0.281 AC.-CAR WASH
 FEMA FLOOD ZONE X

DEVELOPMENT INFO:
 PROPOSED REZONE:
 FROM M-1 TO
 B-1C
 PROPOSED USE:
 COMMERCIAL/RESIDENTIAL
 COMPLEX
 UP TO 7 RESIDENTIAL UNITS
 UP TO 2816 SF COMMERCIAL

NOTE: ENTRANCE DESIGN TO BE DETERMINED DURING COMPREHENSIVE SITE PLAN REVIEW PROCESS.

LEGEND

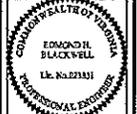
---	CENTER LINE
⊗	EXISTING UTILITY POLE
⊙	EXISTING LIGHT POLES
⊕	PROPOSED UTILITY POLE
W	WATER LINES
⊖	SANITARY LINES
⊕	SANITARY SEWER CLEANOUT
⊖	STORM SYSTEM
⊕	PROPOSED DITCH
PL	EXISTING PROPERTY LINE
---	SETBACK LINE
---	EASEMENT LINE
---	EXISTING BUILDING
---	PROPOSED BUILDING
---	PROPOSED ROAD/EOP
---	PROPOSED PARKING
---	EXISTING ROAD
⊗	COMPACT PARKING SPACE
⊗	CURBING: CG-2 OR CG-6
⊗	HANDICAP PARKING
⊗	CG-12/ASPHALT RAMP
⊗	DUMPSTER
⊗	EXISTING FIRE HYDRANT
⊗	PROPOSED FIRE HYDRANT
⊗	WATER VALVE
⊗	WATER METER
---	EXISTING FENCE LINE
---	PROPOSED FENCE
---	CONCRETE PAVING
---	BRICK/STAMPED CONCRETE
---	HEAVY PAVEMENT
---	LIGHT PAVEMENT
---	GRAVEL AREA
---	GRASS AREA
---	TRAFFIC FLOW



GARBAGE DUMPSTER PAD DETAIL
 B.T.S.
DUMPSTER SCREENING
 B.T.S.

BLACKWELL ENGINEERING, PLC
 505 East Market Street
 Harrisonburg, Virginia 22801

Date:	2-4-09
Designed by:	DHG
Drawn by:	RJL
Scale:	1" = 40'
Job No.:	1997



PROPOSED REZONING
 WEST WOLFE STREET COMPLEX
 WROCKSTREET, LLC
 231 DIXIE AVE.
 HARRISONBURG, VA 22801

Drawing No.
1
 of 1 Sheets



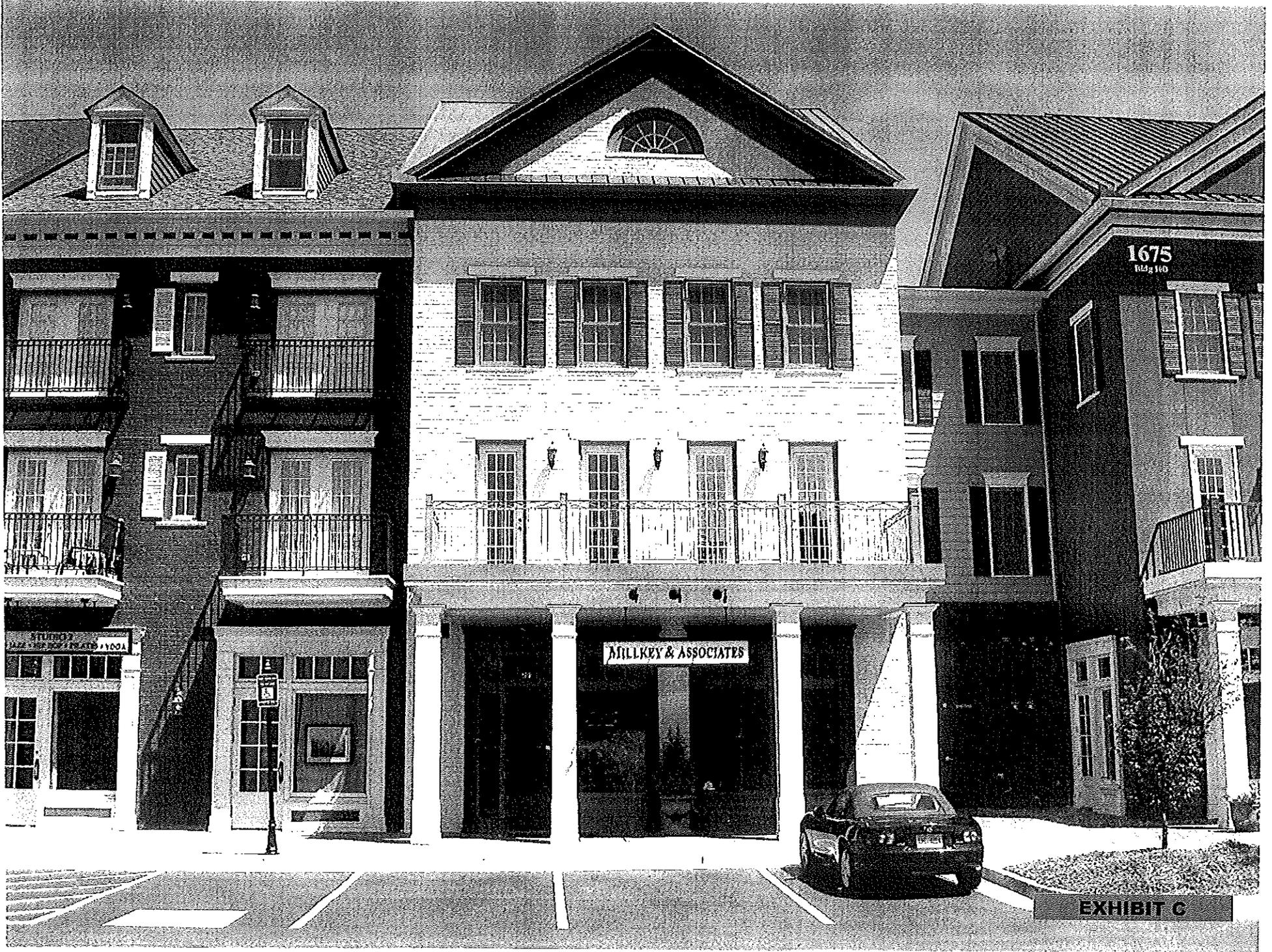
EXHIBIT B1



EXHIBIT B2



EXHIBIT B3



MILLKEY & ASSOCIATES

1675
Bldg 160

EXHIBIT C

Date Application Received: 06-07-11

Application for Special Use Permit City of Harrisonburg, Virginia

Fee: \$325.00 plus \$25.00 per acre

Total Paid: \$ 350.00 AF

Property Owner's Name: Wrockstreet LLC
Street Address: 231 Dixie Ave Email: _____
City: Harrisonburg State: VA Zip: 22801
Telephone: Work 540 433 7905 Fax _____ Mobile _____

Owner's Representative: Casey Stemper
Street Address: 231 Dixie Ave Email: _____
City: Harrisonburg State: VA Zip: 22801
Telephone: Work 540 433 7905 Fax _____ Mobile _____

Description of Property and Request

Location (Street Address): 120 W. Wolfe St
Tax Map Number Sheet: 35 Block: 0 Lot: 4 Lot Area: ~10,411 sq. ft.
Existing Zoning Classification: B-1C
Special Use being requested: Automotive Repair 10-3-85(4)

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

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

North: _____
South: _____
East: _____
West: _____

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

Signature: _____
Property Owner

ITEMS REQUIRED FOR SUBMISSION

- | | |
|--|--|
| <input type="checkbox"/> Completed Application | <input type="checkbox"/> Fees Paid |
| <input type="checkbox"/> Site Plan | <input type="checkbox"/> Property Located on Tax Map |
| <input type="checkbox"/> Description of Proposed Use | <input type="checkbox"/> _____ |
| <input type="checkbox"/> Adjacent Property Owners | <input type="checkbox"/> _____ |

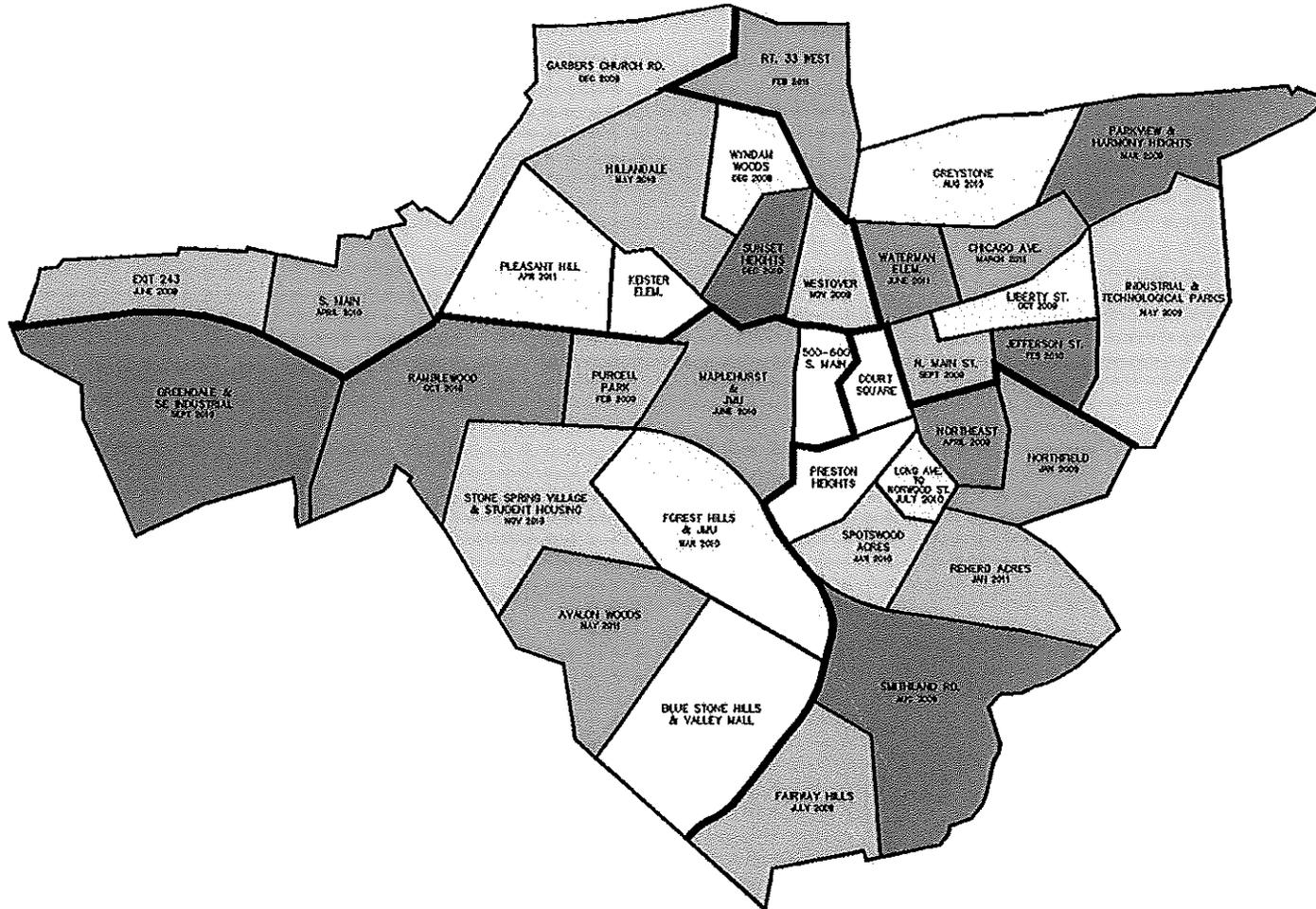
June 2011 Proactive-Zoning Report

For the month of June 2011 the proactive-zoning program targeted the **Waterman Elementary** section of the city. During the proactive inspections a total of **eighteen 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	9	10	12
February 2011	RT 33 West	6	6	0	16
March 2011	Chicago Ave	29	29	16	22
April 2011	Pleasant Hill	17	16	4	13
May 2011	Avalon Woods	11	7	7	26
June 2011	Waterman Elementary	18	n/a	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 July 2011 will be directed towards the enforcement of the Zoning Ordinance in the **Bluestone Hills & Valley Mall** section of the City.

Proactive Zoning Map





Department of Planning
and
Community Development
Division of Planning and Zoning



MEMORANDUM

TO: Harrisonburg Planning Commission
FROM: Adam Fletcher, City Planner
RE: Preliminary Plat Extension Request: Community Street Plat Variances
DATE: Friday, July 8, 2011

The following letter is from Kimberly Moyer, a representative of Court Square Properties, LLC, requesting to extend the validation on a previously approved, outstanding subdivision. The request is related to the July 14, 2009 approved preliminary plat titled "Proposed Redivision of the Remaining Portion of Lot 63, 64, 65, & 66 of Effinger's Addition to Harrisonburg."

In 2009, the intent of the subdivision was to preliminarily subdivide three lots, zoned B-1, Central Business District, located within the block bordered by Community Street, East Wolfe Street, old North Mason Street, and East Rock Street, into six lots. The application included variances to deviate from the requirements of Sections 10-2-41 (i) (3), 43, 45, 66, and 67 of the Subdivision Ordinance, which require the dedication of certain easements, right-of-way, and the construction of any necessary street improvements. Staff supported the request, Planning Commission voted 6-0 (one member was absent) in favor of the application, and then City Council unanimously approved the request 5-0. (The extract from the City Council meeting, minutes from the Planning Commission meeting, and the associated staff report and other supporting documents, including the plat, are provided for reference.)

Per the Subdivision Ordinance Section 10-2-26, which outlines the requirements for individuals to file a final subdivision plat, or section thereof, following the approval of a preliminary subdivision plat, subsection (d) states: *failure to file a final plat or section thereof within twenty-four (24) months after approval of the preliminary plat will render such approval null and void unless an extension of time is applied for and granted by the planning commission.* Thus, Court Square Properties, LLC is requesting just over a one year extension—until July 15, 2012—to file a final subdivision plat, or section thereof, to maintain their valid preliminary plat. Since the preliminary plat was approved on July 14, 2009, unless the extension is granted by Planning Commission at its July 13, 2011 regular meeting, the plat will become null and void the next day.

Staff has no reservations with this request.

409 South Main Street, Harrisonburg, Virginia, 22801

Phone: 540.432.7700

Fax: 540.432.7777

Web Site: www.harrisonburgva.gov

July 1, 2011

Dear Adam and Harrisonburg Planning Commission:

I am writing this to formally request an extension on the deadline for submitting our final plat for tax map numbers 034-O-16, 034-O-17, and 034-O-18. This has been a difficult process for us, with many extenuating circumstances that have prevented us from being able to finalize this project. In addition, the owner has been out of the state/country for much of the past 9 months, making it additionally difficult to complete this. A lot of time has been spent on this, trying to determine the best use for the property as well as the best designation for the land. To ensure that the most beneficial use is accomplished, we request an extension until July 15, 2012.

Thank you very much for considering this request.


Kimberly Moyer
Court Square Properties, LLC
540-437-0193

SUBJECT:

**COUNCIL APPROVES A REQUEST FROM THE
HILL GROUP PROPERTIES**

**EXTRACT TAKEN FROM MINUTES OF
CITY COUNCIL MEETING HELD ON:**

**REGULAR MEETING
July 14, 2009**

Planning and Community Development Director Turner presented a request from the Hill Group Properties to preliminarily subdivide three lots with variances requested from the Subdivision Ordinance. The parcel contains approximately 36,682 sq. ft. and is located between Community Street and old North Mason Street right-of-way. The Comprehensive Plan designates this area as Mixed Use Development. Mrs. Turner reviewed the surrounding uses in the area. The applicant is requesting to preliminarily subdivide three lots, zoned B-1, Central Business District, into six lots. The properties include three single family structures, three duplexes (one of which was recently destroyed by a fire), and several buildings. The purpose of the subdivision is to place each dwelling structure on its own lot. After submitting an application to subdivide these properties through an administrative minor subdivision process, staff notified the property owner that both Community Street and old North Mason Street did not have the required 50 feet of right-of-way or the required street infrastructure, and therefore would be required to dedicate the necessary right-of-way and build the street improvements. The applicant has pledged to dedicate right-of-way to the existing porch foundations to help accommodate future street improvements. Since the properties are zoned B-1, there are no area or dimensional requirements and no setback requirements; and other than the above requested variances, the proposed request meets all other subdivision requirements. Planning Commission recommended approval to preliminarily subdivide the three lots with variances requested from the Subdivision Ordinance. Council Member Frank offered a motion to approve the request to subdivide the three lots as presented. The motion was seconded by Council Member Wiens and approved with a recorded roll call vote taken as follows:

Vote: Yes - Vice-Mayor Baugh
Council Member Wiens
Council Member Byrd
Council Member Frank
Mayor Degner

Absent – None

I, Yvonne Ryan, MMC, Clerk of the Harrisonburg City Council, do hereby certify that the foregoing is a true copy of an excerpt taken from the draft minutes of a regular meeting held on Tuesday, July 14, 2009.

Given under my hand this 15th July 2009.


CITY CLERK

**OFFICE OF CITY CLERK OF COUNCIL
HARRISONBURG, VA 22801**

AGENDA ITEM # _____

AGENDA ITEM ACTION REQUEST

	Meeting Date: July 14, 2009 Meeting Type: Regular <input checked="" type="checkbox"/> Special <input type="checkbox"/>
Requestor: <input type="checkbox"/> Manager <input type="checkbox"/> City Attorney <input type="checkbox"/> Department <input checked="" type="checkbox"/> Other	Item: Consider a request from Hill Group Properties to preliminarily subdivide three lots totaling 36,682 +/- sq. ft. into six lots with variances from the Subdivision Ordinance Sections 10-2-41 (i) (3), 10-2-43, 10-2-45, 10-2-66, and 10-2-67.
Reviewed: <input type="checkbox"/> Manager <input type="checkbox"/> City Attorney <input type="checkbox"/> Department <input checked="" type="checkbox"/> Other	Review: Planning Commission recommended approval (6-0) of the preliminary plat with the variances from the Subdivision Ordinance on tax map parcels 34-O-16,17, & 18.
Recommend: YES: <input checked="" type="checkbox"/> NO: <input type="checkbox"/> <input type="checkbox"/> Manager <input type="checkbox"/> City Attorney <input type="checkbox"/> Department <input checked="" type="checkbox"/> Other	
	Attachments: Planning Commission extracts and other supporting documents.



City of Harrisonburg, Virginia

DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT

409 South Main Street

Harrisonburg, Virginia 22801

Website: <http://www.harrisonburgcommdev.com/>

Telephone: (540) 432-7700 Fax: (540) 432-7777

July 6, 2009

TO THE MEMBERS OF CITY COUNCIL

CITY OF HARRISONBURG, VIRGINIA

SUBJECT: Consider a request from Hill Group Properties to preliminarily subdivide three lots totaling 36,682 +/- sq. ft. into six lots with variance requests from the Subdivision Ordinance Sections 10-2-41 (i) (3), 10-2-45, 10-2-66, and 10-2-67.

EXTRACT FROM MINUTES OF HARRISONBURG PLANNING COMMISSION MEETING HELD ON: June 10, 2009.

Chairman Burden read the request and asked for staff to review.

Mr. Fletcher said Comprehensive Plan designates this area as Mixed Use Development. This designation includes both existing and proposed new mixed use areas. These areas are intended to combine residential and non-residential uses in planned neighborhoods where the different uses are finely mixed instead of separated. 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.

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

Site: Six dwelling structures located upon three lots, zoned B-1

North: Single family home, zoned B-1

East: Across Community Street, barber shop and dwelling units, zoned B-1

South: Vacant lot and dwelling units, zoned B-1

West: Across old North Mason Street and North Mason Street, commercial uses, zoned B-1

The applicant is requesting to preliminarily subdivide three lots, zoned B-1, Central Business District, into six lots. The properties, which include three single family structures, three duplexes (one of which was recently destroyed by a fire), and several outbuildings, are located within the block bordered by Community Street, East Wolfe Street, old North Mason Street, and East Rock Street. The purpose of the subdivision is to place each dwelling structure on its own lot. The applicant is also requesting variances to deviate from the requirements of Sections 10-2-41 (i) (3), 10-2-45, 10-2-66, and 10-2-67 of the Subdivision Ordinance, which require the dedication of right-of-way and any necessary street improvements.

After submitting an application to subdivide these properties through an administrative minor subdivision process, staff notified the property owner that both Community Street and old North Mason Street did not have the required 50 feet of right-of-way or the required street infrastructure, and

therefore would be required to dedicate the necessary right-of-way and build the street improvements. However, given the fact that the subject property has existing structures that are situated approximately three to six feet from the property line and due to the unusual layout and use of old North Mason Street, staff understood this subdivision was unique and unlike similar variance requests.

Currently, Community Street has 25 feet of right-of-way with about 15 feet of pavement; sidewalk exists only along the frontage of the applicant's frontage, and the street has no curb or guttering. In this particular situation, the applicant would be required to dedicate 12.5 feet of right-of-way and widen the street to help accommodate 30-feet of pavement with curb, guttering, and a five-foot sidewalk along with a two foot grass strip. However, because the buildings sit so close to the front property line, the property owner could not dedicate the required amount right-of-way without removing the existing structures. The applicant, however, has pledged to dedicate right-of-way close to the existing porch foundations, which is what staff recommended. Due to the structures' skewed alignments to the street, the applicant will dedicate variable widths of property to the City to help accommodate future street improvements; widths will vary from 3.4-feet to 5.5-feet. Staff recommends, as we have with other requests, for the applicant to receive the variance to not build the street improvements to allow future improvements to occur comprehensively.

On the other side of the block, the applicant has about 162 feet of property frontage along old North Mason Street. This one-way street is a remnant portion of the original street that was improved and relocated in the early 1960's to make way for the four-lane section of what is now North Mason Street. The City owns the right-of-way of old North Mason Street, the right-of-way that encompasses North Mason Street, and the triangular shaped parcel between these streets; therefore, the City does not necessarily need additional right-of-way dedicated along this frontage. However, staff suggested the applicant dedicate right-of-way to ensure all areas of the existing sidewalk be included in public property. The plat illustrates where the applicant is dedicating small variable widths to the City to accommodate that request. Additionally, due to the unusual use of this one-way street, staff is also requesting the applicant receive the same variance to not build the standard street improvements for this small, uncommon street.

Since the properties are zoned B-1, there are no area or dimensional requirements and no setback requirements; and other than the above requested variances, the proposed request meets all other subdivision requirements. The applicant should be aware however, since they are planning to reconstruct the structure damaged by the recent fire, the proposed property boundary location, to the north of that building, is important to specific requirements of the Building Code. Once they finalize the location of that property boundary, the applicant should work with the Building Division to determine if they are required to meet specific Building Code requirements such as increased rating protection.

Staff supports this preliminary plat and the four variance requests to deviate from Sections 10-2-42 (i) (3), 10-2-45, 10-2-66, and 10-2-67 with the condition that the applicant dedicates right-of-way as shown on the preliminary plat along Community Street and along old North Mason Street.

Chairman Burden asked if there were any questions for staff. Hearing none, he said this is not a public hearing; however, he asked the applicant or applicant's representative if they would like to speak. Hearing none, he asked staff to state the reasons why they are comfortable with this plat and the changes as recommended.

Mr. Fletcher responded because of the existing situations, it is a little unrealistic to ask them to remove existing structures in order to dedicate the necessary right-of-way, unlike the last situation which was a vacant piece of property. This is prime B-1 property and I would be hesitant to think that the City

would not request the dedication of right-of-way if the developer were to do a comprehensive redevelopment of the entire block. If something were to happen and they did remove the structures and went through the site plan review process, my guess is that the Public Works Department and Engineering Staff would work with them to comprehensively improve Community Street in this area. The way that Old North Mason Street is currently being used, as a one way street, or driveway to the existing units and the way that Community Street is now being used, in staff's opinion the variances in this situation are valid.

Mr. Baugh said he is prepared to support this. It is a B-1 area, an area that inherently has that kind of flexibility to it.

Mr. Chenault said he too is in support. At first he had some setback concerns; but if you look at Route 42 when it was widened to four lanes, the sidewalk is right up against the front porch of homes and it functions pretty well. I do not have an issue with this.

Mrs. Turner asked if the applicant was also requesting a variance from easements under Section 10-2-43, to not have an easement along the front property line.

Mr. Fletcher said that is not part of the application.

Mrs. Turner said with this plat they are not intending to provide them, because that would be an easement where their buildings are located. Do we need include this request?

Mr. Fletcher said the way the City Surveyor and I have looked at these particular situations when subdividing or vacating property lines in old neighborhoods, is that the easement is not necessarily needed because those utilities already exists.

Mrs. Turner said I knew we had done that administratively for some of the older neighborhood subdivisions; however, I did not know if you had talked about whether this variance needed to be added to this request.

Mr. Fletcher said to be honest, it never came up and I had looked at it as an older neighborhood with utilities already existing. If this is more comprehensively redeveloped, then everything would probably go underground and easements would need to be established at that time.

Mrs. Turner said we probably need to point out that the applicant is not observing that requirement as well.

Mr. Snell moved to approve the preliminary plat with the variances requested and to include an additional variance to Section 10-2-43 dealing with easements for utilities.

Mr. Finks seconded the motion.

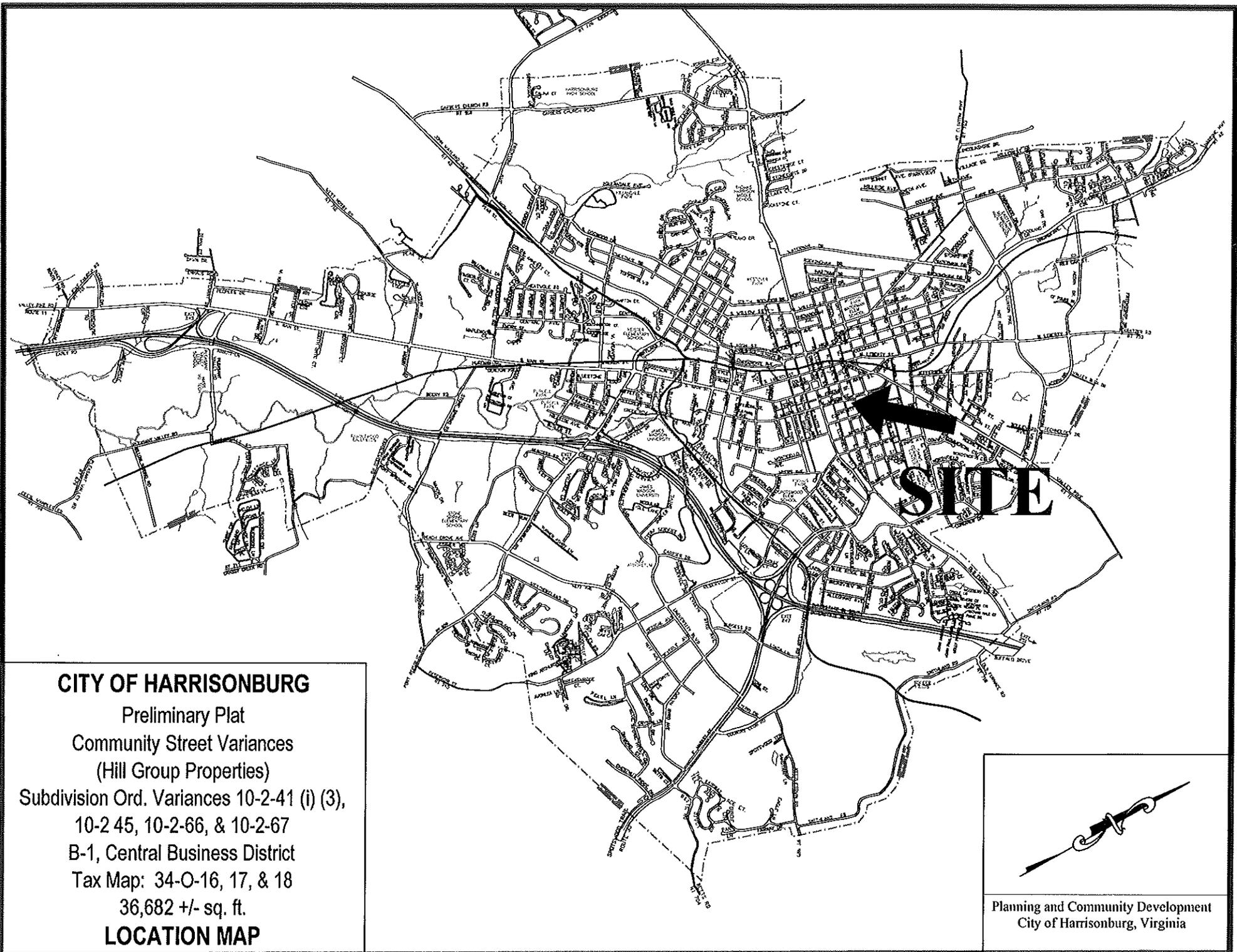
All voted in favor of the motion (6-0) to recommend approval of the preliminary plat with variances.

Chairman Burden said this will move forward to City Council on July 14th.

Respectfully Submitted,



Alison Banks
Planner



CITY OF HARRISONBURG

Preliminary Plat

Community Street Variances

(Hill Group Properties)

Subdivision Ord. Variances 10-2-41 (i) (3),

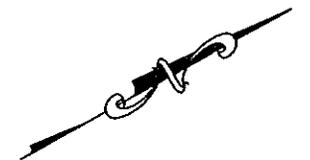
10-2-45, 10-2-66, & 10-2-67

B-1, Central Business District

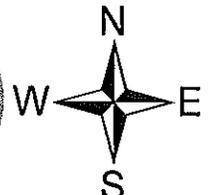
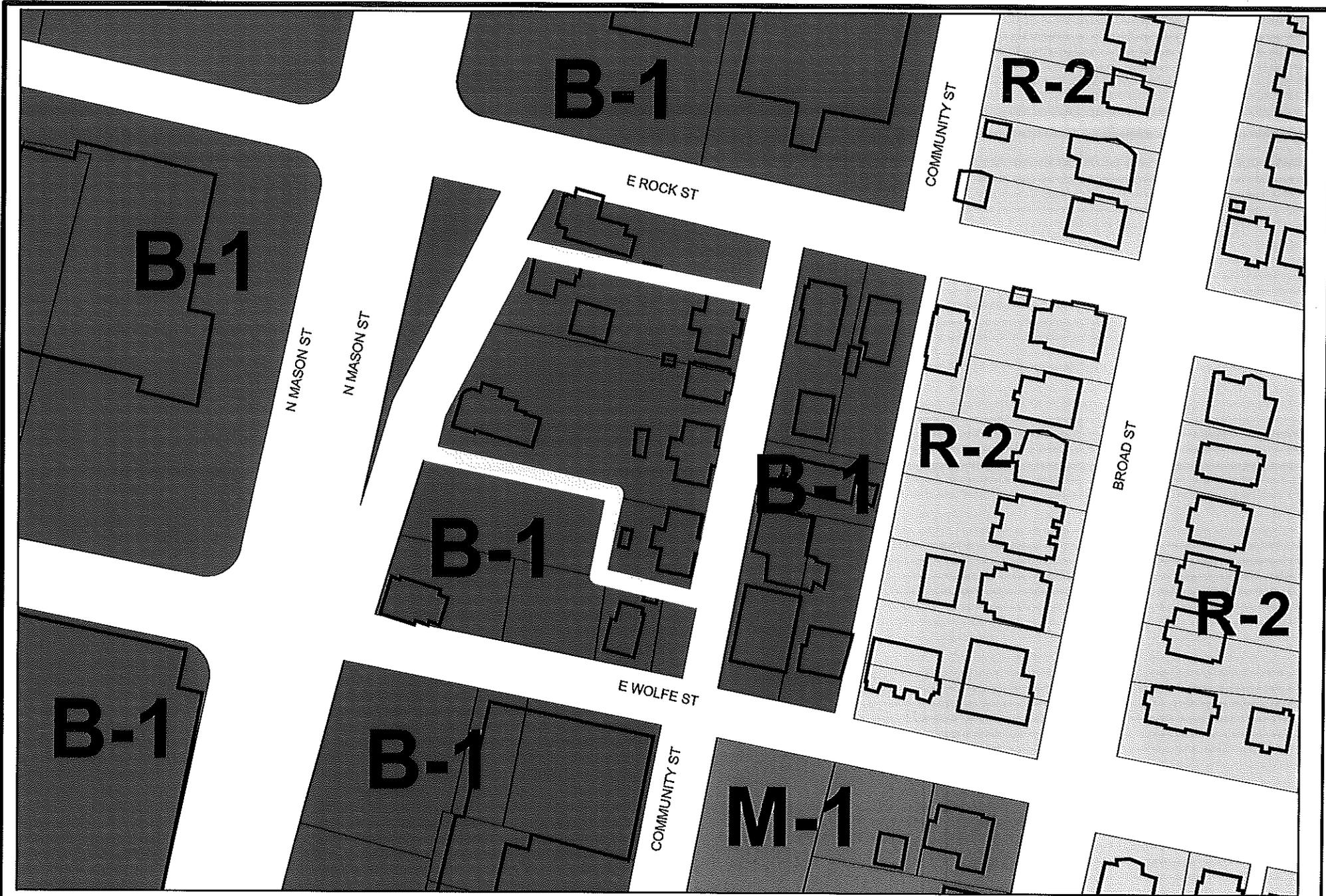
Tax Map: 34-O-16, 17, & 18

36,682 +/- sq. ft.

LOCATION MAP



Planning and Community Development
City of Harrisonburg, Virginia



Hill Group - Community St Variances Preliminary Plat Request



City of Harrisonburg, Virginia

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

STAFF REPORT

June 10, 2009

PRELIMINARY PLAT – HILL PROPERTIES – COMMUNITY STREET VARIANCES

GENERAL INFORMATION

- Applicant:** Hill Group Properties
- Tax Map:** 34-O-16, 17, & 18
- Acreage:** 36,682 +/- square feet
- Location:** Lots located between Community Street and old North Mason Street
- Request:** Consider a request to preliminarily subdivide three lots into six lots with variances to the Subdivision Ordinance Sections 10-2-41 (i) (3), 10-2-45, 10-2-66, and 10-2-67.

LAND USE, ZONING, AND SITE CHARACTERISTICS

The Comprehensive Plan designates this area as Mixed Use Development. This designation includes both existing and proposed new mixed use areas. These areas are intended to combine residential and non-residential uses in planned neighborhoods where the different uses are finely mixed instead of separated. 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.

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

- Site:** Six dwelling structures located upon three lots, zoned B-1
- North:** Single family home, zoned B-1
- East:** Across Community Street, barber shop and dwelling units, zoned B-1
- South:** Vacant lot and dwelling units, zoned B-1
- West:** Across old North Mason Street and North Mason Street, commercial uses, zoned B-1

EVAULATION

The applicant is requesting to preliminarily subdivide three lots, zoned B-1, Central Business District, into six lots. The properties, which include three single family structures, three duplexes (one of which was recently destroyed by a fire), and several outbuildings, are located within the block bordered by Community Street, East Wolfe Street, old North Mason Street, and East Rock Street. The purpose of the subdivision is to place each dwelling structure on its own lot. The applicant is also requesting variances to deviate from the requirements of Sections 10-2-41 (i) (3), 10-2-45, 10-2-66, and 10-2-67 of the Subdivision Ordinance, which require the dedication of right-of-way and any necessary street improvements.

After submitting an application to subdivide these properties through an administrative minor subdivision process, staff notified the property owner that both Community Street and old North Mason Street did not have the required 50 feet of right-of-way or the required street infrastructure, and therefore would be required to dedicate the necessary right-of-way and build the street improvements. However, given the fact that the subject property has existing structures that are situated approximately three to six feet from the property line and due to the unusual layout and use of old North Mason Street, staff understood this subdivision was unique and unlike similar variance requests.

Currently, Community Street has 25 feet of right-of-way with about 15 feet of pavement; sidewalk exists only along the frontage of the applicant's frontage, and the street has no curb or guttering. In this particular situation, the applicant would be required to dedicate 12.5 feet of right-of-way and widen the street to help accommodate 30-feet of pavement with curb, guttering, and a five-foot sidewalk along with a two foot grass strip. However, because the buildings sit so close to the front property line, the property owner could not dedicate the required amount right-of-way without removing the existing structures. The applicant, however, has pledged to dedicate right-of-way close to the existing porch foundations, which is what staff recommended. Due to the structures' skewed alignments to the street, the applicant will dedicate variable widths of property to the City to help accommodate future street improvements; widths will vary from 3.4-feet to 5.5-feet. Staff recommends, as we have with other requests, for the applicant to receive the variance to not build the street improvements to allow future improvements to occur comprehensively.

On the other side of the block, the applicant has about 162 feet of property frontage along old North Mason Street. This one-way street is a remnant portion of the original street that was improved and relocated in the early 1960's to make way for the four-lane section of what is now North Mason Street. The City owns the right-of-way of old North Mason Street, the right-of-way that encompasses North Mason Street, and the triangular shaped parcel between these streets; therefore, the City does not necessarily need additional right-of-way dedicated along this frontage. However, staff suggested the applicant dedicate right-of-way to ensure all areas of the existing sidewalk be included in public property. The plat illustrates where the applicant is dedicating small variable widths to the City to accommodate that request. Additionally, due to the unusual use of this one-way street, staff is also requesting the applicant receive the same variance to not build the standard street improvements for this small, uncommon street.

Since the properties are zoned B-1, there are no area or dimensional requirements and no setback requirements; and other than the above requested variances, the proposed request meets all other subdivision requirements. The applicant should be aware however, since they are planning to reconstruct the structure damaged by the recent fire, the proposed property boundary location, to the north of that building, is important to specific requirements of the Building Code. Once they finalize the location of that property boundary, the applicant should work with the Building Division to determine if they are required to meet specific Building Code requirements such as increased rating protection.

Staff supports this preliminary plat and the four variance requests to deviate from Sections 10-2-42 (i) (3), 10-2-45, 10-2-66, and 10-2-67 with the condition that the applicant dedicates right-of-way as shown on the preliminary plat along Community Street and along old North Mason Street.

Hill Group Properties

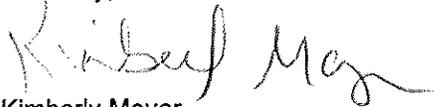
2 S. Main Street
Suite M
Harrisonburg, VA 22801
540-437-0193

To Whom It May Concern:

Hill Group Properties, LLC is applying for variances to the following sections – 10-2-45, 10-2-41 I3, 10-2-66, and 10-2-67. We are unable to provide the required Right Of Way due to the fact that the improvements are situated so close to the street that the Right Of Way would go through the structures. We would be willing to give a Right Of Way up to the porch of each structure. Thank you very much for your consideration to this matter.

If you have any questions, please call me at 476-4442.

Sincerely,



Kimberly Moyer
Property Manager

Date Application Received: 05-12-09

Total Paid: \$ 235.00 AF

Application for Preliminary Subdivision Plat Approval

City of Harrisonburg, Virginia

Fee: w/o Variance Request \$150.00 plus \$10.00 per lot
Variance Request \$175.00 plus \$10.00 per lot
Plus fees for TIA reviews where applicable (see back for details)

I, Kimberly Moyer, hereby apply for preliminary subdivision plat approval for the following property located within the City of Harrisonburg:

Description of Property

Title of Subdivision: _____
Location (Street Address): 213-249 Community + 232 + 242 N Mason Sheet: _____ Block: _____ Lot: _____
Total Acreage: _____ Number of Lots Proposed: 6 Zoning Classification: B1

Proposed Use of Property: residential

Property Owner's Name: Hill Group Properties
Street Address: 2 S main St Suite m Email: Kmoyer195@aol.com
City: Harrisonburg State: Va Zip: 22801
Telephone: Work 476-4442 Fax _____ Mobile 476-4442

Owner's Representative (if applicable): Kimberly Moyer
Street Address: same Email: _____
City: _____ State: _____ Zip: _____
Telephone: Work _____ Fax _____ Mobile _____

Developer: _____
Telephone: _____ Email: _____

Surveyor/Engineer: Jeff Simmons
Telephone: 732-0420 Email: _____

VARIANCES

NOTE: If a variance is requested, please provide the following information:
I (we) hereby apply for a variance from Section 10-2-45, 10-2-66 of the City of Harrisonburg
Subdivision Ordinance and/or Section 10-2-41, 13, 10-2-67 of the City of Harrisonburg Design and
Construction Standards Manual, which require(s):

See attached letter

I (we) believe a variance should be granted based on the following "unnecessary hardship" which is peculiar to the property in question (See Section 10-2-2 of the Subdivision Ordinance):

See attached letter

The City of Harrisonburg's preliminary plat and subdivision requirements are in the code of the City of Harrisonburg, Subdivision Ordinance, Sections 10-2-1 through 10-2-86. Please read these requirements carefully.

Certification: I have read the ordinance requirements. I also certify that the information contained herein is true and accurate.

Signature: [Signature] Property Owner
Signature: _____ Applicant, if different from owner

See Back for Additional Application Fees Regarding TIA Reviews

TIA Review Fees

- (a). Would the development from this preliminary plat require a Traffic Impact Analysis by VDOT?
Yes _____ No

If yes, then fees must be made payable to VDOT to cover costs associated with the TIA review.

PLEASE NOTE – If a TIA is required, this application shall not be considered accepted until the TIA has been reviewed.

- (b). Would the development from this preliminary plat require a Traffic Impact Analysis review by the City?
Yes _____ No

If yes, then an additional \$1,000.00 must be made payable to the City to cover costs associated with the TIA review.

PLEASE NOTE – If a TIA is required, this application shall not be considered accepted until the TIA has been reviewed.



MASON STREET
(83' AND VARIABLE RIGHT OF WAY)

PROPOSED REDIVISION OF THE REMAINING PORTION OF LOT 63, 64, 65 & 66 OF THE EFFINGER'S ADDITION TO HARRISONBURG

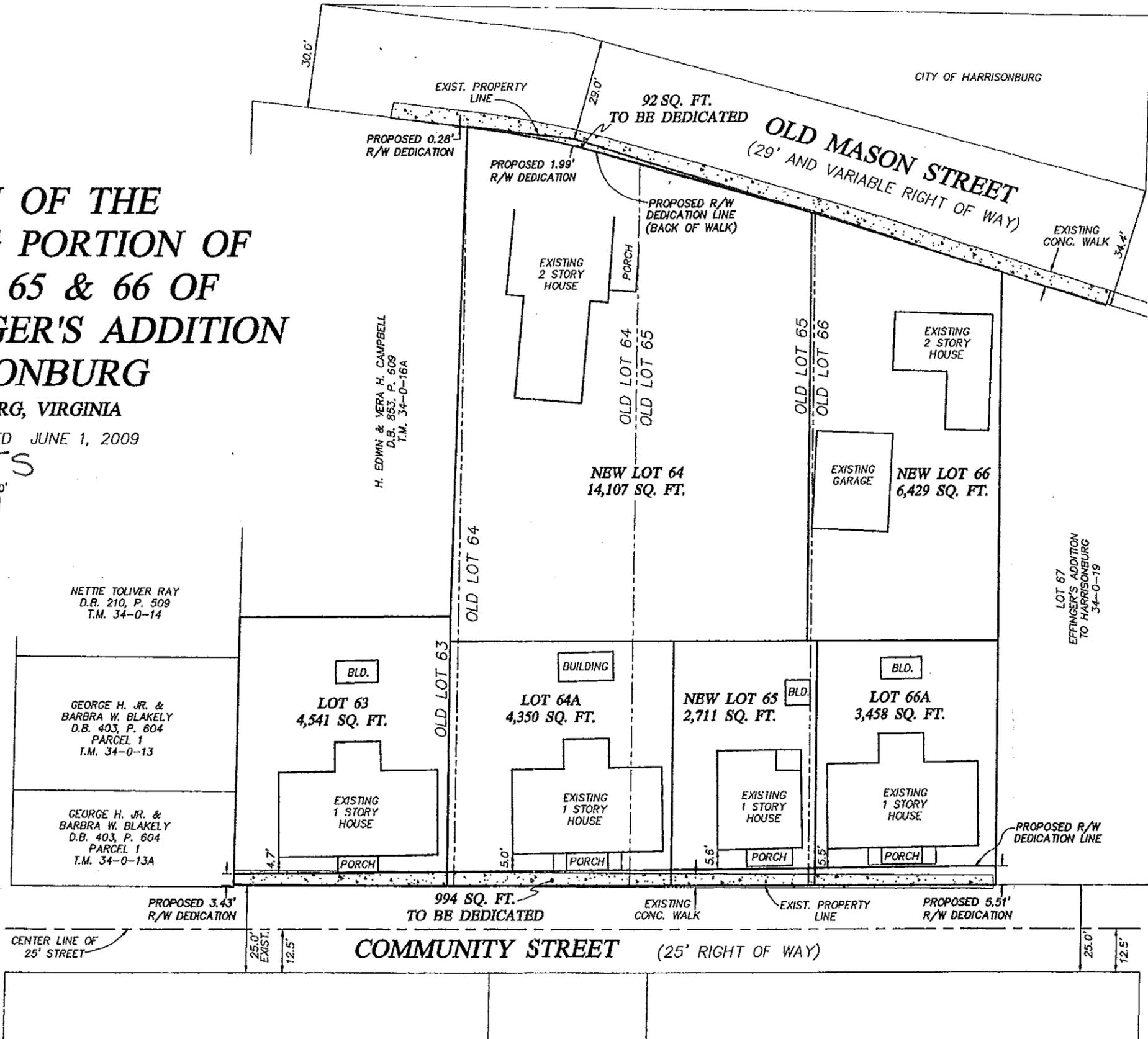
CITY OF HARRISONBURG, VIRGINIA

MAY 12, 2009 REVISED JUNE 1, 2009

SCALE 1" = 20' NTS
0' 20' 40' 60'

WOLF STREET

ROCK STREET



SIMMONS SURVEYING, P.C.
1061 C SOUTH HIGH ST. UNIT C
HARRISONBURG VA 22801
(540) 432-0420