



# City of Harrisonburg, Virginia

## Planning Commission Meeting

July 11, 2012

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 13, 2012 regular meeting.**

2) **New Business**

*Public Utility Application – Whitesel Brothers (Garbers Church Road)*

Consider a request from Whitesel Brothers Inc. for the City to provide water and sewer service per Section 7-2-4 of the City Code to a commercial business within Rockingham County. The property is partially located within the City of Harrisonburg and Rockingham County and is addressed as 1332 Garbers Church Road.

*Street Closing – Undeveloped Kyle Street Adjacent to 25-K-4 and 17 Through 21 (JMU)*

Consider a request from James Madison University to close approximately 19,542 +/- square feet of an undeveloped portion of Kyle Street. This section of Kyle Street is located between West Grace Street and Cantrell Avenue and is adjacent to tax maps 25-K-4 and 17 through 21.

*Preliminary Plat – Charleston Townes 2012 Addition*

Consider a request from Purple and Gold, LLC with representative Blackwell Engineering to preliminarily subdivide a 1.06 +/- acre parcel into 11 townhouse lots and one common area lot with a variance from the Subdivision Ordinance Section 10-2-42 (c) to allow the lots to not have public street frontage. The property, zoned R-3, Medium Density Residential District, does not have public street frontage but is addressed as 2237 Reservoir Street and identified as tax map 80-A-8A.

*Zoning Ordinance Amendment – Section 10-3-115 (3) (Security Fencing Heights within Commercial/Industrial Districts)*

Public hearing to consider a request to amend the Zoning Ordinance Section 10-3-115 (3) to clarify that fence heights may exceed six feet in height, by-right, on business or industrially zoned property when such fences are used for safety or security purposes.

3) **Unfinished Business**

4) **Public Input**

5) **Report of secretary and committees**

*Proactive Zoning*

6) **Other Matters**

7) **Adjournment**

Staff will be available Monday August 6, 2012 at 4:30 p.m. for those interested in going on a field trip to view the sites for the August 8, 2012 agenda.

**MINUTES OF HARRISONBURG PLANNING COMMISSION**  
**June 13, 2012**

The Harrisonburg Planning Commission held its regular meeting on Wednesday, June 13, 2012, at 7:00 p.m. in the City Council Chambers, 409 South Main Street.

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

Members absent: Judith Dilts and Bill Jones.

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

Vice-Chair Fitzgerald called the meeting to order and determined there was a quorum with five of seven members in attendance. She then asked if there were any corrections, comments or a motion regarding the minutes from the May 9, 2012 Planning Commission meeting.

Mr. Chenault moved to approve the minutes as presented from the May 9, 2012 regular Planning Commission meeting.

Mr. Da'Mes seconded the motion.

All voted in favor of approving the minutes (5-0).

**New Business**

***Alley Closing – Adjacent to 25-K-1 through 5 and 19 (JMU Real Estate Foundation Inc.)***

Vice-Chair Fitzgerald read the agenda item and asked staff to review.

Mrs. Banks said the following land uses are located on and adjacent to the property:

- Site:** Paved, 11+/- foot by 203+/- foot alleyway connecting Walnut Lane to undeveloped Kyle Street
- North:** Apartment building, zoned R-3
- East:** Across Walnut Lane, residential units, zoned R-3
- South:** Apartment buildings, zoned R-3
- West:** Undeveloped Kyle Street and a parking lot, zoned M-1

The applicant is requesting to close an alleyway that is located between Walnut Lane and an undeveloped portion of Kyle Street. The alley, approximately 11 feet in width and 203 feet in length, primarily functions as part of the adjacent parking and maneuvering area for the neighboring apartment buildings. James Madison University Real Estate Foundation, Inc. is the owner of the six parcels directly abutting the right-of-way and desires to close the alley in order to integrate the land into future development for the University.

There is an active sanitary sewer main, located within a public easement that is parallel to the alley and travels through two of the adjoining parcels. If City Council approves the closing, the Public Utilities Department has requested that the public sanitary sewer easement be extended into portions of the closed alley in order to accommodate continued maintenance to the sewer main.

The City has no plans to develop the alley and does not anticipate any negative consequences from vacating the right-of-way. Staff recommends closing the alleyway with the reserved public sanitary sewer easement extension.

Vice-Chair Fitzgerald asked if there were any questions for staff. Hearing none, she asked if there was anyone wishing to speak regarding this request. Hearing none, she asked for discussion or a motion from Planning Commission.

Mr. Chenault moved to recommend closure of the alley, subject to the reservation by the City for the portion necessary for the utility easement.

Mr. Way seconded the motion.

Vice-Chair Fitzgerald called for a voice vote on the motion.

All voted in favor of the motion to recommend approval of the alley closing (5-0).

Vice-Chair Fitzgerald said this request will move forward to City Council on July 10, 2012 with a favorable recommendation.

Mrs. Banks informed Planning Commission that they would probably be seeing this location again in the near future as JMU begins the process of doing some development at the site.

***Preliminary Plat – Sunset Heights, Alexiou Addition***

Vice-Chair Fitzgerald read the request and asked staff to review.

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

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

Site: Undeveloped property, zoned R-1

North: Heritage Oaks Golf Course and single family homes fronting Wyndam Woods Circle, zoned R-1

East: Single family homes fronting Circle Drive, zoned R-1

South: Single family homes fronting Circle Drive and City property including Rocktown Trails, zoned R-1

West: Heritage Oaks Golf Course, zoned R-1

The applicant is requesting to preliminarily subdivide three lots totaling 7.11 +/- acres into 10 single family home lots and to dedicate a public cul-de-sac street. The proposed development site is zoned R-1, Single Family Residential District and has public street frontage on Circle Drive and from a public street “stub” off of Wyndham Woods Circle.

The subject property has a history of being evaluated for potential single family home development as far back as 1990. The most recent proposal occurred in 2004 when the City approved a preliminary plat known as “Sunset Heights, Holmes Addition,” which planned two, separate sections of development. The first section included 13 single family home lots fronting a public cul-de-sac street. That section was ultimately final platted and constructed and exists now as James Place with multiple single family homes completed and occupied. The second section, the property currently under review, planned 19 single family home lots fronting a public street that stretched the length of the property from its Circle Drive street frontage to the public “stub” along Wyndham

Woods Circle. That section was never final platted and has since been sold to a new owner, who is now presenting the new layout.

As noted above, 10 single family home lots are planned along with the dedication of a public cul-de-sac street. The applicant plans to maintain ownership of lot 16 in Block E and to build and live in a single family home on that lot. Per the recently revised Subdivision Ordinance Section 10-2-41 (e), which states, "Cul-de-sacs and other permanent dead-end streets are prohibited except when permitted by the planning commission in accord with the DCSM," Planning Commission must give approval of this layout for it to comply with the Subdivision Ordinance. Staff has no problem with the permanent cul-de-sac configuration as shown and it appears it would be able to comply with the specifications of the Design and Construction Standards Manual (DCSM). Other than designing a public street configuration similar to the previously approved preliminary plat, which was denser than the planned layout, there are no other realistic alternatives as a public street could not be "stubbed" to the adjacent properties with the intent to extend that street because the adjoining properties include the City's Heritage Oaks Golf Course and the City's Rocktown Trails park. Staff recommends Planning Commission accept the proposed permanent public cul-de-sac street.

Other than Planning Commission consenting to the situation as just described, there are no major issues with the preliminary plat and it complies with all other Subdivision Ordinance requirements. The public street that would ultimately be built would meet minimum City standards including sidewalk on both sides of the street. Upon final platting, the City would accept the street and officially take ownership and provide typical maintenance services (i.e. snow removal, street repair, trash service, etc.).

Planning Commission should be aware of the specifics as listed in the "Notes" section described on the plat; specifically numbers 14 and 15. Although there is no officially recognized stream in this area or issues regarding the floodplain, this property includes a low-lying area that is prone to high volumes of water accumulating on and passing through this acreage. Note 14 explains that minimum floor elevations will be provided during the construction plan approval process for homes planned on the lots that are prone to collecting high volumes of water. Although it is not a subdivision requirement to demonstrate this on the plat, staff wanted it included on the plat for public awareness of this issue and to remind the developer to recognize the potential problems that could occur on those lots. This issue was previously worked out during the comprehensive site plan review process that occurred after the 2004 preliminary plat was approved.

Note 15 describes that the applicant will dedicate either an easement or fee simple property to the City for use as a shared use path as described on page 23 in the City's Bicycle and Pedestrian Plan as the "Circle Drive to Hillandale Park" connection. This connection, which is planned to cut-through this property, is part of a larger concept that would create a bicycle and pedestrian link from Westover Park and Thomas Harrison Middle School to Hillandale Park. The final plat for this development would not be approved until this connection is somehow accommodated, whether on the final plat or some other instrument for recordation.

Staff recommends approving the preliminary plat.

Vice-Chair Fitzgerald asked if there were any questions for staff regarding the preliminary plat request.

Mr. Da'Mes said when you say it meets all subdivision requirements does that include sidewalks along both sides of the street and around the cul-de-sac?

Mr. Fletcher replied yes.

Mr. Da'Mes asked if this included lighting for the cul-de-sac.

Mr. Fletcher said there are no public street standards for lighting with this type of subdivision street; at least none that I am aware of. I do not believe there is even a subdivision requirement for lighting.

Mrs. Turner said Harrisonburg Electric Commission (HEC) would provide the standard poles as part of the process.

Mr. Way asked if staff was comfortable with the arrangements for the bike path.

Mr. Fletcher replied yes.

Mr. Finks said the owner's lot is much larger than the other proposed lots; I question the size of each lot.

Mr. Fletcher said the subdivision meets all the subdivision regulations for an R-1 lot, which is a 10,000 square foot minimum. They would not be able to subdivide if they did not meet those requirements.

Vice-Chair Fitzgerald said there is no requirement for a public hearing for this request; however, the applicant or the applicant's representative is invited to speak.

Mr. Jerry Brunk, with Brunk and Hylton Engineering, said he is representing Michael Alexiou this evening regarding the preliminary plat. I will be glad to answer any questions you may have; I think staff has done a sufficient job on describing our request.

Hearing no further comments or questions, Vice-Chair Fitzgerald asked for discussion or a motion on the request.

Mr. Chenault moved to recommend approval of the preliminary subdivision plat. I think we are always grateful for R-1 development within the City. As well, we in the cycling community are very appreciative of Dr. Alexiou's efforts in working with us over the years and look forward to riding these trails.

Mr. Finks seconded the motion.

Mr. Da'Mes said he did have one question for staff. I know the concept of a bike trail connection through this neighborhood was somewhat opposed by neighbors in previous years. Has there been some type of discussion with the neighbors and is this trail acceptable.

Mr. Chenault said this is actually a different area and is not part of the prior area that was in controversy.

Mr. Da'Mes said thank you, because this is critical; since we have passed the Bicycle and Pedestrian Plan connectivity is important between the parks and the schools.

Vice-Chair Fitzgerald said there is a motion on the floor and it has been properly seconded; she then called for a voice vote on the matter.

All voted in favor of the motion to recommend approval of the preliminary plat (5-0).

Vice-Chair Fitzgerald said this request is therefore approved by this body.

***Special Use Permit – 1777 South Main Street***

Vice-Chair Fitzgerald read the request and asked for staff to review.

Mrs. Banks said 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: Commercial rental/retail business, zoned B-2  
North: Market, restaurant, and auto sales lot, zoned B-2  
East: Retail stores, zoned B-2  
South: Financial institution and business office, zoned B-2  
West: Extended stay hotel, zoned B-2 and single-family homes, zoned R-1

The applicants are requesting a special use permit (SUP) per section 10-3-91 (6) of the Zoning Ordinance in order to operate a building material sales and storage yard within the B-2, General Business District. The 2.31 +/- acre site, approximately 250 feet north of the intersection of South Main Street and Pleasant Hill Road, is currently the home of Rockingham Rent All. The property includes a 9,000 square foot building with a showroom, an additional 4,200 square foot building, and a fenced, outdoor storage area to the rear of the property.

Hajoca Corporation, a plumbing, heating, and industrial supply business, currently located in an M-1, General Industrial District along Waterman Drive, desires to relocate their business to the subject property at 1777 South Main Street. The proposed site provides extra warehouse and storage space for the business, along with a larger showroom, office area, and it would be a more visible and convenient location for customers.

The site is located along a busy, north-south corridor of the City, and is shown as part of the Corridor Enhancement Area within the Comprehensive Plan. The quality and character of these routes strongly influence the City's attractiveness and economic vitality; therefore, careful consideration should be given to uses, streetscapes, and access to the property. Staff has concern with outdoor storage and displays along this passageway, and suggests placing a condition on the SUP to prohibit storage or display of materials within the front and south side of the property.

Because of its proximity to the traffic signal at Pleasant Hill Road, there may be potential ingress/egress problems for customers at the site. Staff has discussed these concerns with the applicant and expressed to them the City will not be making modifications to traffic signal timings, street markings, or increased signage at their entrance (i.e. "Do Not Block" entrance signage) should this proposal be approved.

The applicants have expressed they would have outdoor storage in the fenced rear portion of the site. Going beyond the intentions of the applicant, staff is suggesting all outdoor storage be within the rear of the property. The rear of this property abuts an R-1, Single-family Residential District where a dense landscaping and fencing buffer currently exists. However, staff has concern with the close proximity to the homes. There may be noises associated with this type of outdoor storage area, such as trucks loading and unloading throughout the day, creating problems for the adjacent home owners. Staff realizes there are other permitted uses which could locate here and also create noise issues for the abutting properties; however, those uses would require a setback for buildings

and/or for parking. Staff is suggesting an additional condition that all outdoor storage is setback at least 30-feet from the rear property line, allowing for some additional space between the homes and this typically industrial use.

The Comprehensive Plan recognizes this area as Commercial and staff feels this particular use is not so intense that it would be incompatible with the other uses along this corridor, with the appropriate conditions. Staff recommends in favor of the request with the following conditions:

1. There shall be no outside storage or display of materials between the 9,000 square foot, showroom building and the front and south-side property lines;
2. All outdoor storage is setback at least 30-feet from the rear property line;
3. If in the opinion of Planning Commission or City Council, the building material storage yard 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.

Vice-Chair Fitzgerald asked if there were any questions for staff. Hearing none, she opened the public hearing and asked the applicant or the applicant's representative to speak.

Mr. John Colonna said he is the branch manager of Hajoca in Harrisonburg. Thank you very much for your time and thank you to staff for coming to check out our building and operation. I definitely want to understand all the restrictions that are being placed on the special use permit. Therefore, one thing that I want to ask is for some clarification regarding these cargo containers that are currently on the site, along the back. We intend to keep these containers, plus it would be costly to move them, is this condition (no storage within thirty-feet of rear property line) for new storage in the back or for all storage.

After Mr. Colonna spoke, the group discussed and questioned where the storage containers were located on the site. The current owner, Mr. Wayne Rothery, described the containers and their location to the Planning Commission.

Vice-Chair Fitzgerald asked what would happen with the containers if they were to remain on the site.

Mrs. Banks said they would have to sit back thirty-feet.

Mr. Fletcher said based on the condition the containers would have to be moved thirty-feet interior to the property.

Mr. Rothery said as pointed out in the staff report there is a double fence along the back of the property and the area is completely covered with overgrowth; you cannot see the houses to the rear. If you have to move everything in thirty-feet, you are wasting thirty-feet of usable area.

Mrs. Turner asked if these containers should have been setback thirty-feet from the rear property line when they were placed many years ago.

Mrs. Banks said that is correct, if they are set as permanent structures they should be thirty-feet from the rear property line, because that side of the property abuts a residential zoning district.

Mr. Fletcher agreed and said technically, those containers were located there illegally. He continued by stating the thirty-foot setback is not something we came up with arbitrarily, it is a required setback when B-2 and M-1 properties are adjacent to a residential district. Also, it was not necessarily the sight of the storage within thirty-feet, it was mostly the noise related to the storage.

Mr. Da'Mes asked what would be the setback if the storage were moved along the north property boundary.

Mr. Fletcher replied ten feet.

Mr. Da'Mes asked what are the containers placed on currently; some type of concrete slab.

Mr. Rothery said probably concrete blocks.

Mr. Way asked if there was anyone present tonight that lives in the residential district behind this property.

Mr. Richard Myers and Mary Alison D'Silva said they own one of the homes on Tamela Court that backs up to the property in question. To answer your question regarding noise, it is not terrible. There are times with the equipment and storage next to us that we hear noise from stuff being moved around or when trailers are being hitched or unhitched.

Mr. Myers continued saying the photo you have showing fencing in the rear of the property is not like that at our property. We do not have solid fencing, only the chain link fence. In the fall and winter when there are no leaves on the trees, we can look directly at the parking and storage area for Rockingham Rental.

Mr. Way asked Mr. Myers if he would support a thirty-foot buffer.

Mr. Myers replied we would honestly be happier with a tall, solid fence and doing away with the thirty-foot buffer. However, the six-foot requirement would not be high enough. Eight feet is somewhat on the low side because of the slope in the topography, but we could live with it.

Mr. Da'Mes asked the applicant if they would be willing to do a solid fence in lieu of removing the containers and providing the thirty-foot buffer.

Mr. Colonna said if that is a compromise we could make, yes I would be very much for it.

Mr. Way asked staff if they saw any problems with a solid fence rather than a buffer.

Mrs. Banks said it is more of a height question for the fence.

There was discussion regarding where the existing fence was located and where a solid fence would need to be located.

Mr. Fletcher clarified the discussion to this point. First, you should be aware that next month staff will be bringing to you a proposed Zoning Ordinance amendment to modify the fencing regulations. There has been some misinterpretation of how certain language has been read and applied. The particular section currently states "in business and industrial districts walls and fences which are clearly used for safety or security purposes may be superseded by other height regulations". There are some wording issues with this section regarding the superseding and other height regulations that do not really make sense; but, it has been interpreted for years that B-2 or M-1 property can erect a fence that is taller than six-feet in height if it is used for safety or security purposes. The condition for which we are discussing this evening is not a safety or security reason; it is an aesthetic buffer, it does not enclose the property for safety or security purposes. Therefore, my question for staff is, does Planning Commission have the capability to suggest a condition to City Council that allows a fence to be erected taller than what is regulated by the Zoning Ordinance.

Mr. Chenault said I thought one of the reasons for the fencing that is being discussed tonight was for the noise issue, even as much as the visual. I take noise to be as much of a safety issue for the residents of the adjoining property and that is a reasonable interpretation in my mind.

Vice-Chair Fitzgerald said I think noise can be a quality of life issue as well as a safety issue.

Mr. Chenault said if we are trying to pigeon hole the ordinance, than it was probably not what they intended when they enacted that section of the ordinance. In my mind it is not too far of a stretch to justify it.

Mrs. Turner said I do not know that on preference Planning Commission can authorize a taller fence than what the ordinance currently allows as a condition to the SUP. If we want to say the noise is a safety issue; is it so noisy that we feel there is a problem with safety in this area. Then I suppose you are allowing it not as a condition, but because it is a fence that is meeting the safety and security reasons. The only other thing I can think of is that it abuts a residential neighborhood and the use could be an attractive nuisance for children in the neighborhood. But children could get there by walking around the corner if the fence is constructed across the rear.

Mr. Myers said if he could add to the conversation regarding security, the installation of a solid fence behind our property would complete fencing, of any type, all around the back of the property. Right now there is chain link, but there is a gap in that fencing. Therefore, completing it would cut-off access between the business property from the residential property.

Mr. Paul Keppel, agent for the owner of the property, asked if this could be accomplished with landscaping or some type of natural materials. Right now there are deciduous trees there that essentially lose their leaves and expose the property. If we can finish securing the perimeter of the property with some type of fencing that is acceptable to the neighbor and to the Planning Commission and provide some type of natural sound and viewshed protection, would that not serve to allow the extra thirty-feet to operate within the back of the business.

Mr. Fletcher said to be clear, if Planning Commission and City Council do not believe it is necessary to have the thirty-foot buffer, then materials can be stored within thirty-feet, but you could not have a structure there.

Mr. Keppel said this is a big site; however businesses need room to operate and maneuver. That thirty-foot is valuable to the perspective tenant. If we can accommodate what the adjoining property owners desire, a viewshed and a noise barrier, with a portion of solid fencing and some type of natural landscaping, such as a species of evergreen tree.

Mr. Way said if I understand staff is saying that Planning Commission has no discretion to say whether or not something is a valuable thing for safety and security.

Mrs. Turner said you would need to have some solid reasoning to go behind that idea.

Mr. Way questioned whether the completion of the rear fencing so that it is the same style all along the back was enough.

Mrs. Turner said you would then need to have a reason as to why the completion of a fence is a necessary security or safety measure.

Mr. De'Mas said I think on behalf of the owner of the site it is a security issue. You have a lot of inventory stored back there.

Mr. Keppel said I am not talking about going above the six feet with the fence, I am saying you plant trees along with the fence.

Vice-Chair Fitzgerald said you are stating two separate issues here; the fence for the security and the landscaping for the noise.

Mr. Keppel said correct. You close up the back with the fence that meets the current code and then we provide landscaping that would take care of the problems for the adjoining property owners. If this is suitable for Mr. Myers and suitable for Planning Commission, then I think we could take care of that.

Mr. Fletcher said legally, yes, they could do what is being proposed.

Vice-Chair Fitzgerald asked if this worked for the adjoining property owner.

Mr. Myers said there would be a solid fence the rest of the way across; but, it would only be six feet in height. I would appreciate a fence taller than six feet. Landscaping is good; but, it may take awhile for it to grow in to be a significant benefit.

Mr. Colonna said we would build a taller fence if that is possible.

Mr. Da'Mes said you could if you say it is for security purposes to secure inventory within the back.

Mrs. Turner said the Zoning Administrator would have to concur with your concern that it is needed to be there for security reasons. I would say that if the existing solid fence is not taller than six foot; but yet you think there needs to be one taller than six foot near the Myers property, then probably there needs to be a taller fence at the neighbor's house as well. But the Zoning Administrator would need to determine if this was for a valid safety and security purpose.

Mr. Colonna said in terms of security I could have over \$500,000 worth of inventory in the rear storage yard. Therefore, from my end as a businessman, I would like to keep it secure. I would also like to say that once the outdoor storage of pipe is in place, it is loaded only by hand; there is not a fork lift operating throughout the day in the back of the property.

Mrs. Banks said that is a valid point. It is security for the business that is operating.

There was discussion regarding the current fencing and what portions of the property the fence enclosed.

Mr. Finks said it appears to me that these two, Mr. Myers and the applicant, are going to come together on some type of a compromise and what Planning Commission needs to decide is whether or not it is legal.

Mr. Fletcher said from what I have heard so far from the discussion, it is legal. We just need to decide whether or not you believe it is enough.

Mr. Chenault said my position is that I believe it is enough. It is a security fence. We have two competing interests that I feel we need to protect; the adjoining property owner and the applicant's interest. I do not have a problem with saying that the fence would provide security for both property owners. I do not even have an issue with the fence going around the entire property or not. There are many commercial properties in town that only fence in portions of their property, knowing well that anybody could get into that property and steal, but still you try to do the best that you can for security. If we need an interpretation from the Zoning Administrator, then what I am hearing is that it is legal, and I am willing to buy into that interpretation.

Mr. Da'Mes said what I have not heard is what type of fence. Are we specifying a solid fence?

There was agreement among the Commissioners that it would be a solid fence extending the length of the rear of the property.

Mrs. Banks said to clarify we are saying removal of the chain link fence along the back and construction of the solid fence to replace it, from the property corner to the existing building; all along the adjoining R-1, Single-Family Residential properties.

Mr. Da'Mes said we are talking about a solid fence, six feet in height, correct? Along with an evergreen buffer and the thirty-foot buffer?

Mr. Way said I was under the assumption that if we did the fence and evergreen buffer we were not going to condition the thirty-foot buffer for storage.

Mr. Colonna said for our business it would be very valuable to have that extra thirty foot space.

Mr. Chenault said as I understand it Planning Commission could require a fence taller than six feet and that being the case I would like to see an eight foot fence. That I believe it would do away with the need for any planting requirements.

Vice-Chair Fitzgerald said what about the issue of the thirty foot buffer.

Mr. Way said I was assuming that the noise and issues associated with it would be taken care of with the fence rather than the thirty foot buffer.

Mr. Colonna said I would like to say as well that I feel our business, Hajoca, will be an improvement for the neighbors to the rear in terms of the noise; we are not opened on the weekends and our hours are 7a.m. until 4p.m.

Mr. Chenault asked if deliveries were made at night.

Mr. Colonna replied no.

Mr. Finks said we are agreeing on an eight foot, solid fence with no thirty foot buffer.

Mrs. Banks clarified that there could be storage within the thirty foot setback, but the trailers would need to be moved to meet the required setback.

Mr. Colonna said if we can use the extra thirty feet, we will gladly move the trailers. The trailers are nice to have, but they are not essential to the business.

Mrs. Turner said the condition would be to erect and maintain the solid fence, is that correct?

Planning Commission concurred.

Mrs. Banks said to review; the condition would be for an eight foot, solid fence all along the property boundary abutting the R-1, Single Family Residential District. There is not a thirty foot setback requirement for any material storage; however, if you want to keep the structures they would need to be moved and staff can discuss that further with the applicant. There is a building permit requirement in order to construct a fence greater than six feet in height, so when you are ready to install the fence, you will need to pull permits.

Vice-Chair Fitzgerald said we are still in the middle of a public hearing, so if there is anyone else wishing to speak regarding this request you may do so at this time. Hearing none, she closed the public hearing and asked Planning Commission for further discussion or a motion.

Mr. Finks said we have discussed this completely and I move to recommend approval of the request with the condition of the eight foot solid fence across the back, remove the thirty foot storage setback, and include the other remaining conditions proposed by staff.

Mr. Chenault seconded the motion.

Vice-Chair Fitzgerald called for a voice vote on the motion.

All voted in favor of the motion to recommend approval of the special use permit with conditions (5-0).

Vice-Chair Fitzgerald said this request will move forward to City Council on July 10<sup>th</sup> with a favorable recommendation.

***Zoning Ordinance Amendment – Portable Restroom Facility (10-3-24, 58.4, 85, 91, and 97)***

Vice-Chair Fitzgerald read the agenda item and asked staff to review.

Mr. Fletcher said staff is proposing to amend the Zoning Ordinance to manage the use of portable restroom facilities to allow them only by special use permit in certain zoning districts. In doing so, staff has drafted a definition of “portable restroom facility” to be inserted into the Zoning Ordinance and is recommending the use be a special use permit within the MX-U, Mixed Use Planned Community District; B-1, Central Business District; B-2, General Business District; and M-1, General Industrial district.

This proposed amendment resulted from two, separate entities recently inquiring with the City about installing portable restroom facilities, on private property, as a permanent means for providing a bathroom for the individuals that work for their operations and for the customers that patronize their businesses. The types of businesses and operations that are currently interested in having these facilities are not required to provide restrooms for their employees or for customers to the businesses.

In discussing the proposals, staff has concluded there are no City Codes or other relevant codes that prohibit a property owner from locating a portable restroom facility on their property and using it indefinitely. At this time, it is not public information to who has discussed the intent to install these facilities, and thus it is appropriate to maintain confidentiality; however, staff can communicate that both locations are in the City’s downtown area. Although staff has concerns about permanently locating these types of facilities anywhere in the City, arguably the downtown area causes the greatest concern due to its pedestrian nature and close-quarters environment.

Up to this time, the City has not regulated the use of portable restroom facilities as they are mainly used on a temporary basis at active construction sites and at festivals and other special events. The intended use as a permanent fixture, however, creates concern for issues such as security, general maintenance, health and sanitation matters, and concerns regarding site aesthetics.

When reading the proposed legislation, note that it would not prohibit active construction sites from using portable restroom facilities by-right nor would it require groups or individuals to obtain a special use permit to use them for festivals or special events so long as they are not located for more than three consecutive days.

Staff recommends the following statement be included in the Zoning Ordinance Section 10-3-24 to define “portable restroom facility:”

A movable restroom facility including but not limited to single portable toilets, portable sinks, trailer-mounted toilets, and restroom trailers that may include showers and tubs.

Staff also recommends the following statement be included within Sections 10-3-58.4, 85, 91, and 97, which is the special use permit sections of MX-U, B-1, B-2, and M-1, respectively:

Portable restroom facilities, other than at active construction sites, for a period of more than three (3) consecutive days.

Vice-Chair Fitzgerald asked if there were any questions for staff.

Mr. Chenault said I appreciate staff picking this up. I am familiar with one of the proposed projects downtown and I believe it is something we need to have within our ordinance. It would help protect downtown from just having portable restrooms wherever. It does not prohibit them; it still allows them by special use permit. I am in favor of this.

Mr. Way said I know we spoke about this earlier this week; the three days is the most appropriate length of time you determined, is that based on conversations with other communities or what.

Mr. Fletcher said it was basically internal discussions allowing it to go three days over a weekend for times when you may have weekend events, such as Court Days. The facility could be located on site on a Friday, be there Saturday and Sunday, and then picked up on Monday. This would not be such a huge issue. If there is some type of violation associated with this, it would be a violation that would have to be rectified within thirty days. But the three days was just internal conversation that we felt made the most sense.

Vice-Chair Fitzgerald said at this time I will open the public hearing and ask if there is anyone wishing to speak in favor or in opposition of this amendment. Hearing none, she closed the public hearing and asked Planning Commission for further discussion or a motion on the request.

Mr. Finks said I too think this is a good idea. We are a college town and I am sure if they were allowed by right downtown they would become a target for someone to knock over.

Mr. Da'Mes said I was thinking up to this point there has not been an issue with this type of facility. What accommodations are we making for those that need this type of facilities; are we just imposing on the local businesses.

Mrs. Turner said this amendment would not keep someone from having this type of facility; they would just need to obtain the permission first.

Vice-Chair Fitzgerald said do you have some sense as to why this is an issue. Is there something in particular that has made this become an issue?

Mr. Fletcher said there are two different types of uses that are proposing this for downtown. The uses that are proposing to use the portable bathroom facilities as permanent facilities were not required by building code, or by any code for that matter, to provide a permanent structure. The locations where these facilities were proposed were not some place that was desirable in the downtown because of its aesthetic appearance and unsightliness. We felt that if there was no other option other than this type of facility, then we could provide the special use permit opportunity that would give it the opportunity on a case-by-case basis with conditions if necessary. Also, if it is not within any of the listed zoning classifications it is illegal.

Mrs. Turner said on public property these facilities are permitted.

Mr. Chenault moved to recommend approval of the zoning ordinance amendment dealing with the portable restroom facilities.

Mr. Way seconded the motion.

Vice-Chair Fitzgerald called for a voice vote on the motion.

All voted in favor of the motion to recommend approval (4-0).

Mr. Da'Mes said he was abstaining from voting on this matter.

Vice-Chair Fitzgerald said this matter will move forward to Council on July 10<sup>th</sup> with a favorable recommendation.

### **Unfinished Business**

None.

### **Public Input**

None.

### **Report of secretary and committees**

Mrs. Banks said during the month of May, inspectors were in the Northeast Neighborhood for proactive zoning where they found 29 violations consisting of inoperable vehicles and discarded materials. This month they will be visiting the Exit 243 area of the City.

Mr. Chenault said at City Council last night we enacted a provision to create two additional revitalization zones within the City. One is on South Main Street on the west side of South Main Street from Pleasant Hill Road to the City limits. The other is in the Valley Mall area from Interstate 81 bounded by Market Street and Reservoir Street, just behind the Valley Mall. Basically, what these zones allow are waiver of real estate tax for rehabilitation of over one million dollars on retail use properties for up to a period of five years. It also provides relief from the BPOL tax up to a period of a year. This is to try to encourage some recycling, redevelopment, and revitalization of some of the retail and commercial properties within these areas.

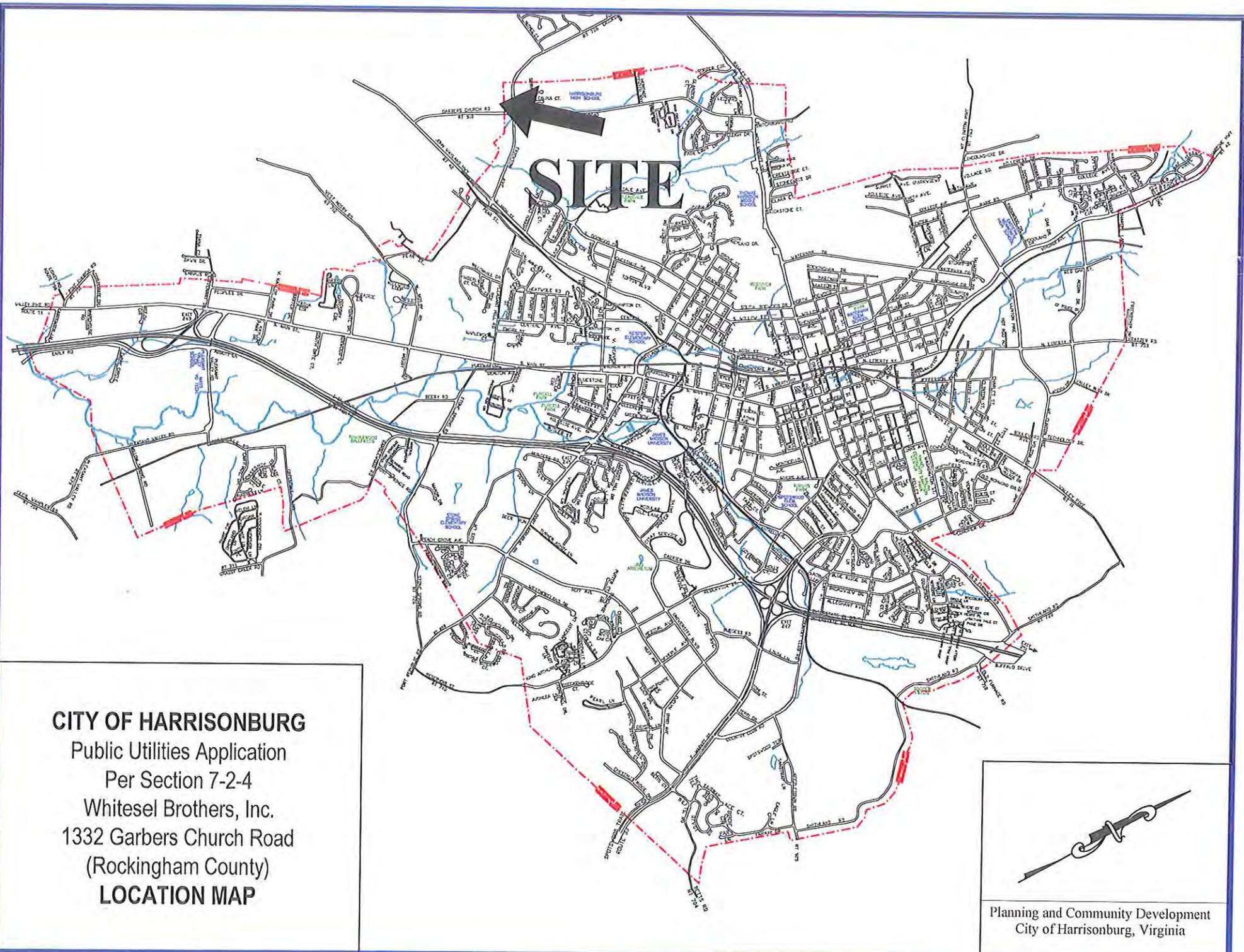
To give you an example we have heard that the people who bought the Valley Mall are thinking of putting a couple of million dollars of work into the mall. These types of incentives could encourage others to do the same as well. It is very similar to what we have in the downtown.

### **Other Matters**

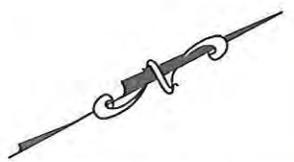
Mr. Fletcher said for next month we have a public utilities application, a preliminary plat, a street closing request and a zoning ordinance amendment.

### **Adjournment**

The meeting was adjourned at 8:30 p.m.



**CITY OF HARRISONBURG**  
Public Utilities Application  
Per Section 7-2-4  
Whitesel Brothers, Inc.  
1332 Garbers Church Road  
(Rockingham County)  
**LOCATION MAP**

  
Planning and Community Development  
City of Harrisonburg, Virginia



**Public Utilities Application  
Whitesel Brothers, Inc. (Garbers Church Road)**



Department of Planning  
and  
Community Development  
Division of Planning and Zoning



**MEMORANDUM**

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**TO:** Harrisonburg Planning Commission  
**FROM:** Alison Banks, Planner  
**RE:** **Public Utilities Request for Whitesel Brothers, Inc.**  
**DATE:** Friday, July 6, 2012

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Whitesel Brothers Incorporated, a full service dealership for sales, parts and service of agricultural equipment, located in Rockingham County, is requesting to connect their facility to the City's water and sewer infrastructure. The business has over three acres of property situated in both the City and the County. The main entrance is located on Garbers Church Road, but they also have access to Erickson Avenue.

Per Section 7-2-4 (b) of the City Code, all uses, other than residential uses involving fewer than ten units, requesting to be connected to the City's water and sewer infrastructure, shall be reviewed by Planning Commission and then forwarded to City Council for final approval or rejection.

The proper application has been completed by the owner and the Public Utilities Department has stated they have the ability to provide both water and sewer service to the site. The owner would be responsible for all design calculations and fees associated with the requested services.

Planning staff has no concerns and the Public Utilities Department has no issues at this time.

---

409 South Main Street, Harrisonburg, Virginia, 22801

Phone: 540.432.7700

Fax: 540.432.7777

Web Site: [www.harrisonburgva.gov](http://www.harrisonburgva.gov)



## City of Harrisonburg, Virginia

Water and Sewer Operations Center

2155 Beery Road

Harrisonburg, Virginia 22801

(540) 434-9959 / Fax (540) 434-9769



May 14, 2012

Whitesel Brothers Inc.  
1332 Garbers Church Road  
Harrisonburg, VA 22801

**Re: Whitesel Brothers, Inc.  
Application for Public Utilities from the City of Harrisonburg**

Dear Mr. Germroth:

I have received your "Application for Public Utilities from the City of Harrisonburg, Virginia to Facilities Located in Rockingham County". In response, pursuant to City Code of Ordinance, your type of utility use will require you to obtain recommendations from this department and the City Planning Commission before pursuing final approval from the City Council. After City Council approval, you will be required to submit your service design through the City of Harrisonburg Department of Public Utilities.

In addition, once your application is approved by City Council the following conditions will apply:

1. Customer shall submit completed Water Service Design Calculations (4-27A and 4-27B) to the Department of Public Utilities for review and approval. Calculations will determine the size water service needed to supply the commercial lot. Water Service Design Calculations form has been attached for your use. Upon payment of applicable fees, City forces will construct approved water service.
2. Upon payment of applicable fees, City Forces will construct a 4" lateral from manhole 114/9 to right-of-way of 1332 Garbers Church Road.

At this time, your project has been proposed as part of the July 2012 Planning Commission Agenda. Please feel free to contact Adam Fletcher with the Department of Community at 540.432.7700 to confirm this information and to discuss this process in more detail.

If we can assist you, please call Meranda Lokey or myself at 434-9959.

Cordially:

Mike Collins  
Director of Public Utilities

cc . Adam Fletcher  
Ed Roach  
Stacy Turner  
William Vaughn  
Barry Hertzler

The City With The Planned Future

**APPLICATION FOR PUBLIC UTILITIES  
FROM CITY OF HARRISONBURG, VIRGINIA  
TO FACILITIES LOCATED IN ROCKINGHAM COUNTY**

✱

**I. GENERAL INFORMATION** Jeff Germroth (By Applicant)

Name of Applicant: Whitesel Brothers Inc  
Address of Applicant: 1332 Garbers Church Rd Harrisonburg VA 228  
Telephone of Applicant: (540) 434-4457  
Service Location ID: \_\_\_\_\_ TM \_\_\_\_\_ LOT \_\_\_\_\_ Parcel \_\_\_\_\_  
Service Location Address: \_\_\_\_\_  
Type of Utility Requested:  Water  Sewer  
Type of Utility Use:  Residential  Commercial  Industrial  Institutional  
 Agriculture  Other: \_\_\_\_\_  
Rockingham County Approval: Attachment \_\_\_\_\_

**II. UTILITY INFORMATION** (By Applicant)

A. Average Daily Usage:  
1 Equivalent Residential Connections \* 260 gpd / E.R.C. = 260 gpd  
Other Calculations: \_\_\_\_\_  
Specific Data (describe): \_\_\_\_\_

B. Peak Daily Usage  
AWWA Fixture Units is Equivalent to \_\_\_\_\_ gpm  
Average Daily Demand \* Peak Factor of \_\_\_\_\_ = \_\_\_\_\_ gpm  
Specific Data describe): \_\_\_\_\_

C. Fire Flow Demand  
Requirement \_\_\_\_\_ gpm  
Describe needs assessment: \_\_\_\_\_

III. UTILITY ASSESSMENT COMMENTS

(By Director)



A. System Zone for Water

Zone ID: 1st Lot

Zone Transfer & Storage Issues for Daily Demand: NONE

Site Specific Delivery and Pressure Issues for

Peak Demand:

Fire Flow Demand: AVAILABLE FIRE FLOW IS STRONG IN THE MAINS BUT HYDRANT PLACEMENT MAY NOT SUIT THIS BUSINESS.

Other Issues:

B. System for Sanitary Sewer

Collection System Comments: CITY OWNED - NO ISSUE

Interceptor System Comments: ROCKINGHAM COUNTY OWNED IN ERICKSON AVE.

Treatment System Comments:

Note: Comments may include the need for engineering evaluations that shall be completed prior to final evaluation of this application.

IV. RECOMMENDATION



Recommendation for Approval

Recommendation for Approval Subject to the Applicant Completing the following:

Forward to Planning Commission

Forward to City Council

Signature of Applicant

4-30-2012

Date

Signature of Director of Public Utilities

5/11/2012

Date

**Request for Review of Availability for Water and/or Sewer  
To Land Located in Rockingham County**

City of Harrisonburg Code of Ordinances Section 7-2-4 requires that Rockingham County (the County) acknowledge that an Applicant (as defined in such ordinance) has requested public utility service from the City of Harrisonburg (the City) for property located in the County. By signatures of the Applicant, and authorized representatives of the City and the County, the City will begin to evaluate the City's ability to provide the requested services.

**APPLICANT**

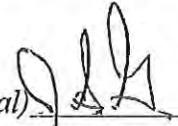
The signature of the Applicant is an official request to obtain City utility services and acknowledgement that Applicant has reviewed the conditions of City Code of Ordinance Section 7-2-4 (see Page 2), including the requirement to submit certain documents incidental to this application.

**Services Requested:**

*WATER (Please Initial)*

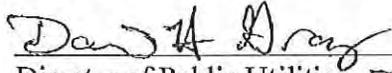
  
Signature

*SEWER (Please Initial)*

  
Date 7-30-2012

**CITY OF HARRISONBURG**

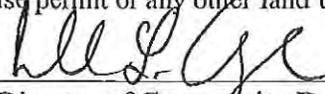
The signature of the City's Director of Public Utilities acknowledges the Applicant's request for utility services from the City. The signature does not constitute approval of services, but the City's intent to review the request and evaluate the City's ability to provide the requested services. The City will provide to the County a statement regarding the availability of requested services and the City's intent to provide such services subject to approval by the County.

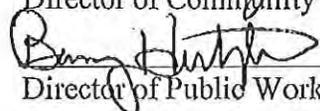
  
Director of Public Utilities ENG. SUPT.

5-1-12  
Date

**COUNTY OF ROCKINGHAM**

The signatures of the County Officials below acknowledge the Applicant's intent to use utility services of the City instead of the County. These signatures shall not imply approval by the County of the provision of said services by the City. Final approval is contingent upon the Board of Supervisors' consent pursuant to Virginia Code, Section 15.2-2143. This acknowledgement in no way implies or constitutes approval of any rezoning, special use permit or any other land use related request that requires Board or administrative approval.

  
Director of Community Development

  
Director of Public Works

4-30-2012  
Date

4/30/12  
Date

Comments: \_\_\_\_\_

APPLICATION FOR PUBLIC UTILITIES FROM CITY OF HARRISONBURG, VA  
TO FACILITIES LOCATED IN ROCKINGHAM COUNTY  
AUTHORIZATION OF REVIEW

City Code of Ordinance Section 7-2-4(e) states, "The Director may charge a reasonable fee to cover time and expenses of processing the application". The following policy shall be used to distribute the expenses incurred by the Department of Public Utilities.

- 1. Initial Review:** There shall be no charge to execute the "Application and Acknowledgement" form used to initiate the review process by City and County officials. There shall be no charge to provide the first response to the "Application for Public Utilities From City of Harrisonburg, Virginia to Facilities Located in Rockingham County: Code of Ordinance 7-2-4". It should be recognized that the first response may be a letter of recommendation for approval or disapproval, or, it may provide stipulations for additional information or engineering evaluation.
- 2. Continued Review:** Under circumstances progressing beyond the initial review, the Department shall invoice the applicant for specific cost as incurred. Upon request, the Department may provide a non-binding estimate for the applicant to consider. The costs shall include, but are not limited to: processing, consulting and support as applied directly to the management of the application.

"Processing costs" - shall only include the time of the "application officer" to handle, coordinate, evaluate, review and manage the process until the application has been closed; unit billing rate shall be \$28.55/hour.

"Consulting costs" - shall refer to contracted, or in-house, hydraulic modeling performed to evaluate the water or sewer system impact. Contracted cost shall be forwarded at invoice costs. In house engineering rate shall be at \$34.55/hour.

"Support costs" - shall refer to the collection of information by field technicians billed at the rate accepted to # person crew used.

I hereby acknowledge that I may be charged according to the above policy.

\_\_\_\_\_  
Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
P.O. Box; Street #

\_\_\_\_\_  
City, State, Zip

**ORDINANCE AMENDING AND RE-ENACTING SECTION 7-2-4  
OF THE CODE OF ORDINANCES  
CITY OF HARRISONBURG, VIRGINIA**

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF HARRISONBURG, VIRGINIA:

That Section 7-2-4 be repealed and replaced by the following provisions:

(a) The owner or his agent (the Applicant of a parcel of land located outside the corporate limits or the City of Harrisonburg may apply to the Director of Public Utilities of Harrisonburg (the Director) for permission to connect to the City's potable water or sanitary sewer systems. Prior to applying for approval from the City, the Applicant shall obtain acknowledgement from the County of Rockingham of his request for City utility services. Such acknowledgement may take whatever form is acceptable to both the County and the Director, and need not commit the County to final approval. Such acknowledgement by the County shall be submitted with the application to the City. For new water connections, the application shall include (i) the estimated average daily demand, (ii) peak instantaneous demand, and (iii) fire flow demands.

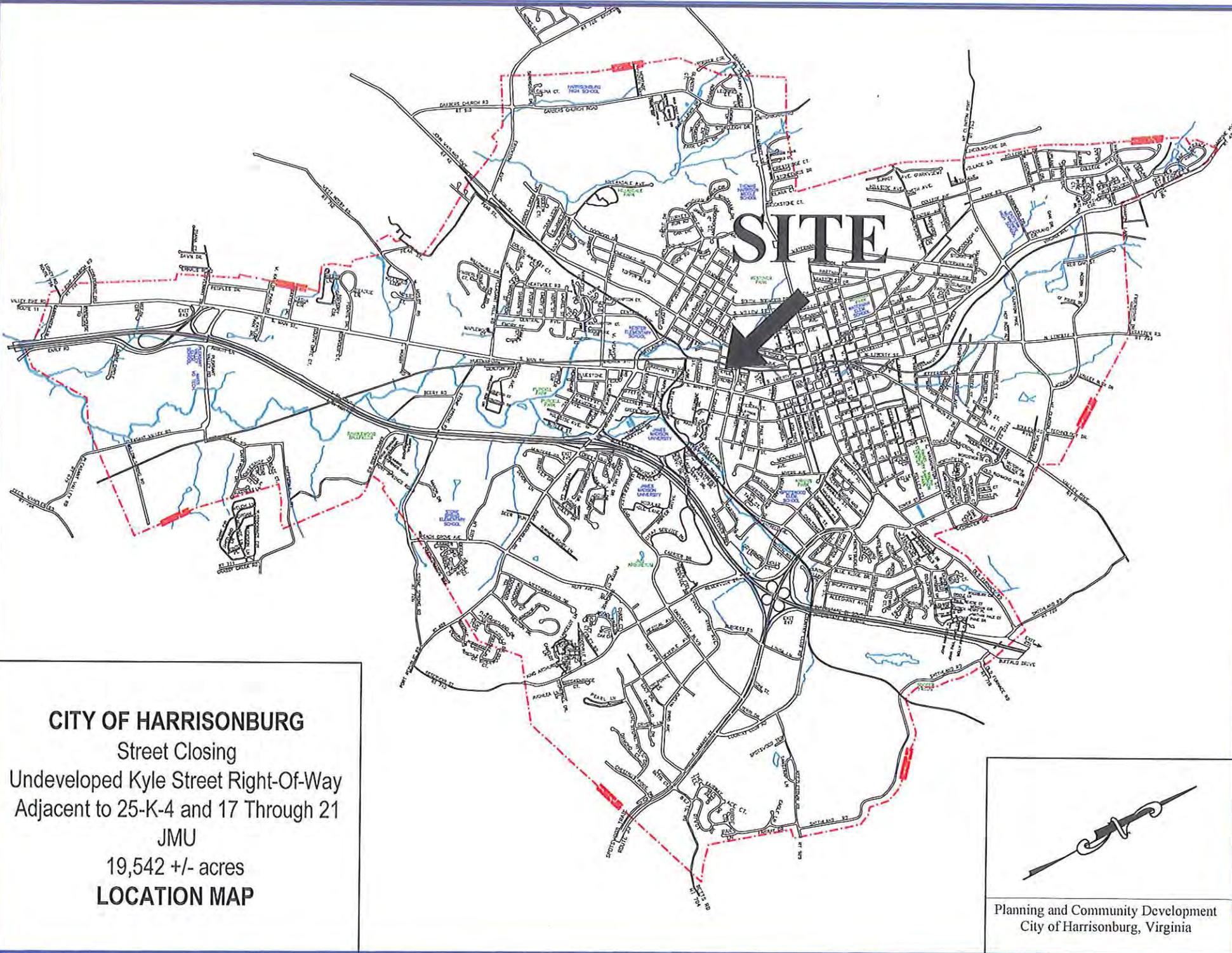
(b) Where the intended use of the Applicant's land is residential involving fewer than ten units, the Director shall either approve or reject the application. Where there is any other intended use the Director shall forward the application to the Planning Commission for its recommendation. After consideration by the Commission, the application shall be forwarded to City Council, with the recommendations of both the Commission and Director for final approval or rejection.

(c) Prior to acting on the application, the Director may require that the Applicant submit appropriate engineering reports or studies that demonstrate the anticipated impact on the City's water or sanitary sewer system along with any recommendations for changes or additions to the City's infrastructure indicated because of the proposed new connections. All engineering studies and reports shall be paid for by the Applicant.

(d) All infrastructure, whether it be an extension to a main, or a new service line or lateral, shall be installed in accordance with the City's Design and Construction Standards Manual at the Applicant's expense. Once installed by the Applicant and accepted by the Director, water lines up to the meter and sanitary sewer lines up to the laterals shall be the property of the City. The Applicant shall provide all reasonably required easements, at the Applicant's expense.

(e) The Director may charge a reasonable fee to cover time and expenses of processing the application.

(f) The "main" is a water or sanitary sewer line that serves more than one customer. A "service line" is a water line proceeding from a main that serves one customer. A "lateral" is a sanitary sewer line proceeding from a main that serves one customer.

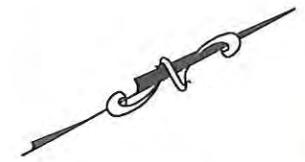


**SITE**

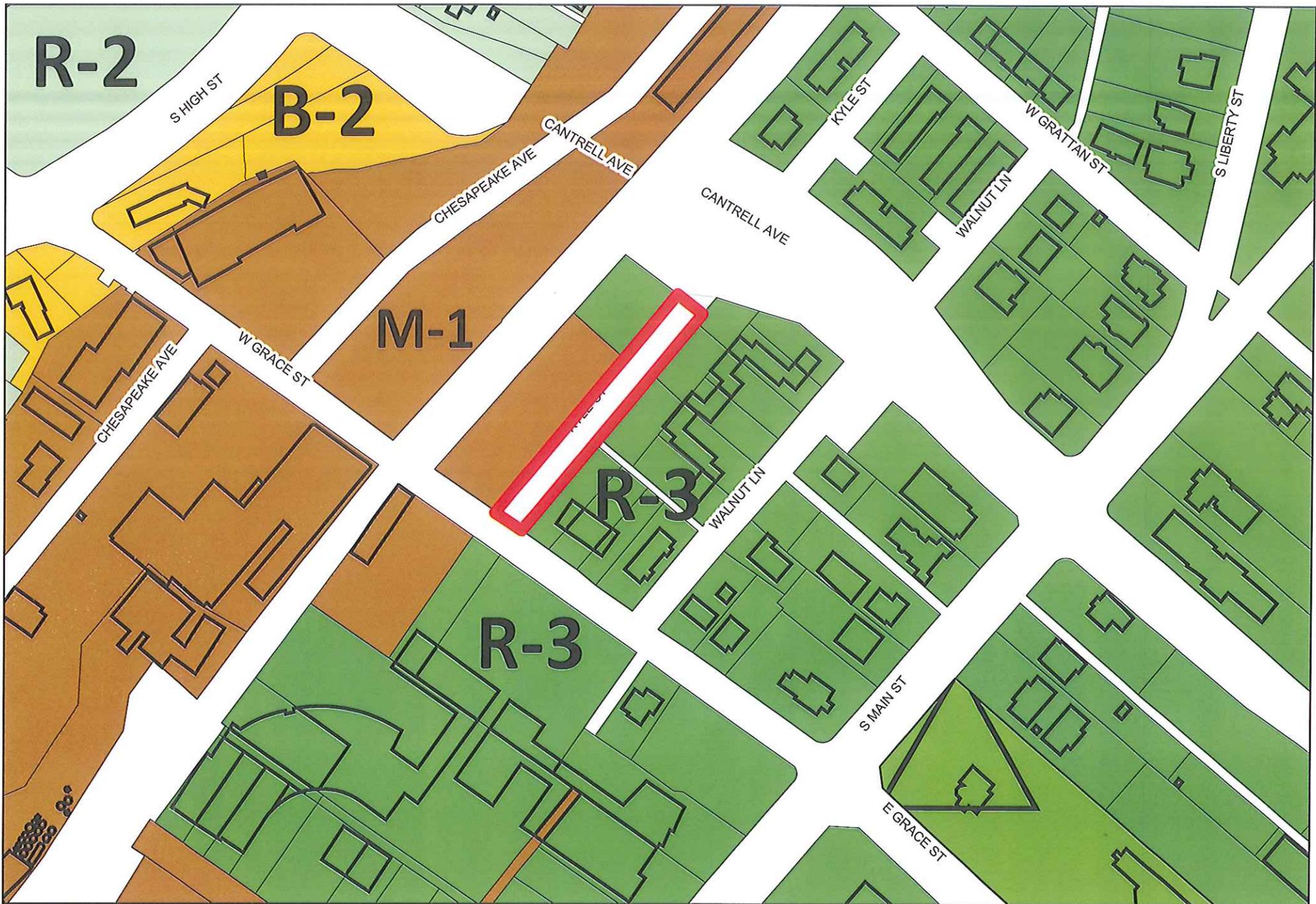


**CITY OF HARRISONBURG**

Street Closing  
Undeveloped Kyle Street Right-Of-Way  
Adjacent to 25-K-4 and 17 Through 21  
JMU  
19,542 +/- acres  
**LOCATION MAP**



Planning and Community Development  
City of Harrisonburg, Virginia



**Street Closing - Undeveloped Kyle Street Right-Of-Way  
Adjacent to 25-K-4 and 17 Through 21 (JMU)**



# City of Harrisonburg, Virginia

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

## STAFF REPORT

July 11, 2012

### STREET CLOSING – UNDEVELOPED KYLE STREET ADJACENT TO 25-K-4, 17 THROUGH 21 (JMU)

#### GENERAL INFORMATION

- Applicant:** James Madison University (JMU)
- Tax Map:** Street right-of-way adjacent to 25-K-4 and 17 through 21
- Acreage:** 19,542 +/- square feet
- Location:** Undeveloped portion of street right-of-way located perpendicular to West Grace Street and Cantrell Avenue.
- Request:** Consider a request from James Madison University to close 19,542 +/- square feet of an undeveloped portion of Kyle Street.

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

- Site:** Undeveloped portion of Kyle Street (currently used for parking)
- North:** Street right-of-way of Cantrell Avenue
- East:** Apartment buildings, zoned R-3
- South:** Across West Grace Street, JMU Facilities Management parking lot, zoned M-1 and R-3
- West:** Parking lot, zoned M-1 and R-3

#### EVALUATION

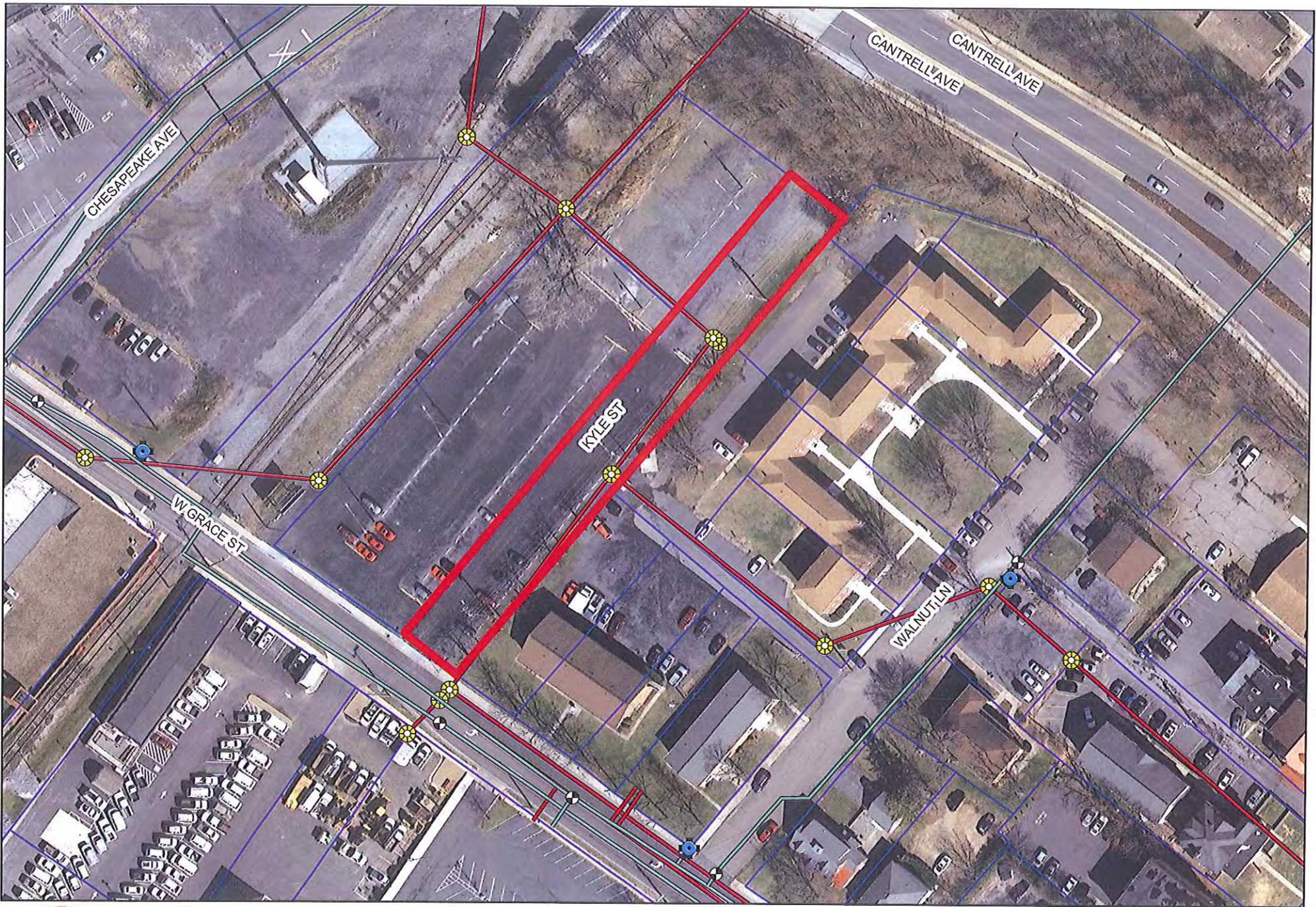
The applicant is requesting to close an undeveloped portion of Kyle Street that is located perpendicular to West Grace Street, between Walnut Lane and the Chesapeake & Western Railroad. Currently, the right-of-way is being used as parking for JMU.

JMU and/or JMU Real Estate Foundation own all but one of the surrounding properties. Tax Map parcel 25-K-21 is owned by the City of Harrisonburg. The applicant is requesting to purchase that parcel as well; however it is not reviewed as part of this request. If approved, JMU would incorporate this land into their future development plans for the area.

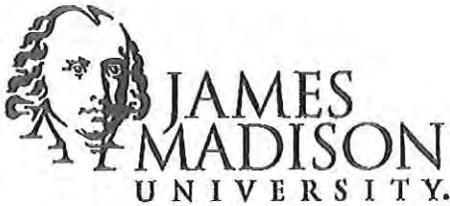
There are two City utilities located within the Kyle Street right-of-way that would require easements if City Council approves the street closing. Harrisonburg Electric Commission (HEC) has an overhead power line currently in service that wraps around the area and serves buildings at the corner of South Main Street and Cantrell Avenue. HEC would need a fifteen foot wide utility easement centered on the pole line in order to maintain their infrastructure.

The Public Utilities Department has an active sanitary sewer main situated within the right-of-way and has requested that a public sanitary sewer easement be positioned over the area to accommodate continued maintenance of the sewer main.

There are no plans to develop the Kyle Street right-of-way and the City does not anticipate any negative consequences from vacating the street. Staff recommends closure of this portion of Kyle Street with the requested HEC and public sanitary sewer easements reserved.



**Street Closing - Undeveloped Kyle Street Right-Of-Way  
Adjacent to 25-K-4 and 17 Through 21 (JMU)**



June 8, 2012

Mr. Earl Thumma, Jr.  
345 South Main Street  
Harrisonburg, VA 22801

RE: TAX MAP PARCEL 25-K-21 on Kyle Street

Mr. Thumma:

James Madison University (JMU) requests that the City of Harrisonburg abandon the paper street known as Kyle Street located off West Grace Street along with the landlocked property known as Tax Map No. 25-K-21 ("parcel") that is surrounded property owned by JMU and the JMU Real Estate Foundation. In exchange for the abandonment of the paper street and parcel, JMU will grant the City of Harrisonburg an easement near the R2 lot off Hillside Avenue for purposes of the Bluestone Trail. The acquisitions and easement were approved by the JMU Board of Visitors at the June 1, 2012 meeting and JMU is prepared to move forward with all of the proposed transactions.

Upon confirmation from you of the City's agreement with the arrangement described above, JMU will work with the City to draft the necessary papers.

If you have any questions, please contact me at 540.568.7204 or [cookvg@jmu.edu](mailto:cookvg@jmu.edu).

Sincerely,

Jim Cook  
Director of Real Property &  
Space Management

Office of Real Property &  
Space Management MSC 5806  
1015 Harrison Street  
Harrisonburg, VA 22807  
540.568.7204 Phone  
540.568.7111 Fax

Date application received: 6/11/12

**Application for Street or Alley Closing  
City of Harrisonburg, Virginia**

*Need to collect.*

Review fee: \$50.00 Board of Viewers appointment \$ \_\_\_\_\_ Total Paid: \$ \_\_\_\_\_

Applicant's Name: James Madison University  
Street Address: (MSC 5806) 1015 Harrison Street E-mail: cookvg@jmu.edu

City: Harrisonburg State: Virginia Zip: 22807

Telephone: Work 540-568-7204 Fax 540-568-7111 Mobile \_\_\_\_\_

Representative (if any): \_\_\_\_\_

Street Address: \_\_\_\_\_ E-mail: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: Work \_\_\_\_\_ Fax \_\_\_\_\_ Mobile \_\_\_\_\_

**Description of Request**

Location Tax Map Parcel 25-K-21 on Kyle Street along with the undeveloped and unopened Kyle Street

Square footage of area to be closed: To be determined by survey

Cost per square foot: \$ \$9.00 Total cost: \$ \_\_\_\_\_

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

Name and addresses of adjacent property owners ( Additional names listed on separate sheet)

North: City of Harrisonburg

South: BOV of JMU and City of Harrisonburg

East: BOV of JMU

West: Chesapeake and Western Railroad

*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.*

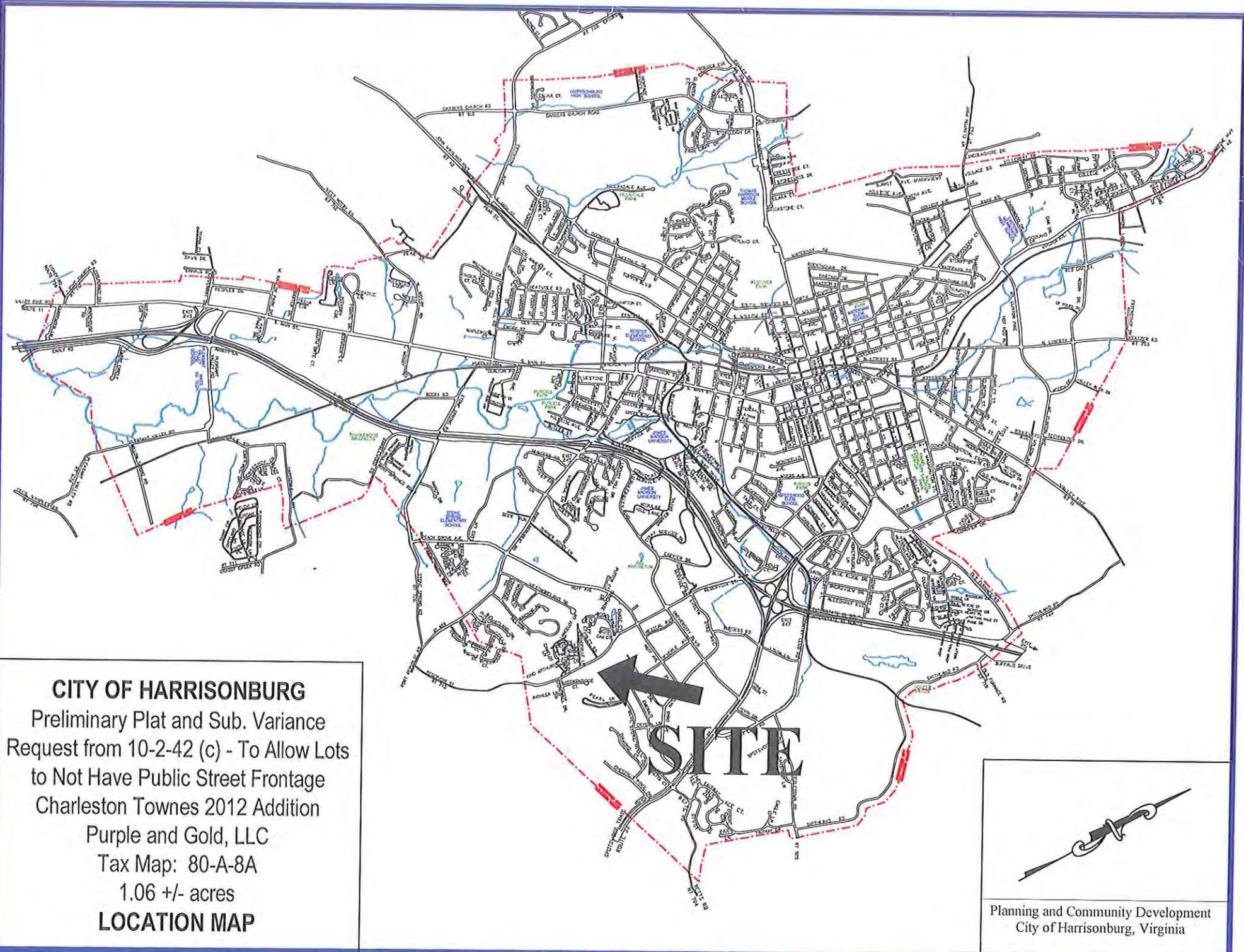
Signature: *James G. Cook*  
Applicant

Date: 6/12/12

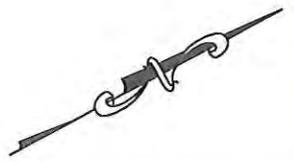
**ITEMS REQUIRED FOR SUBMISSION**

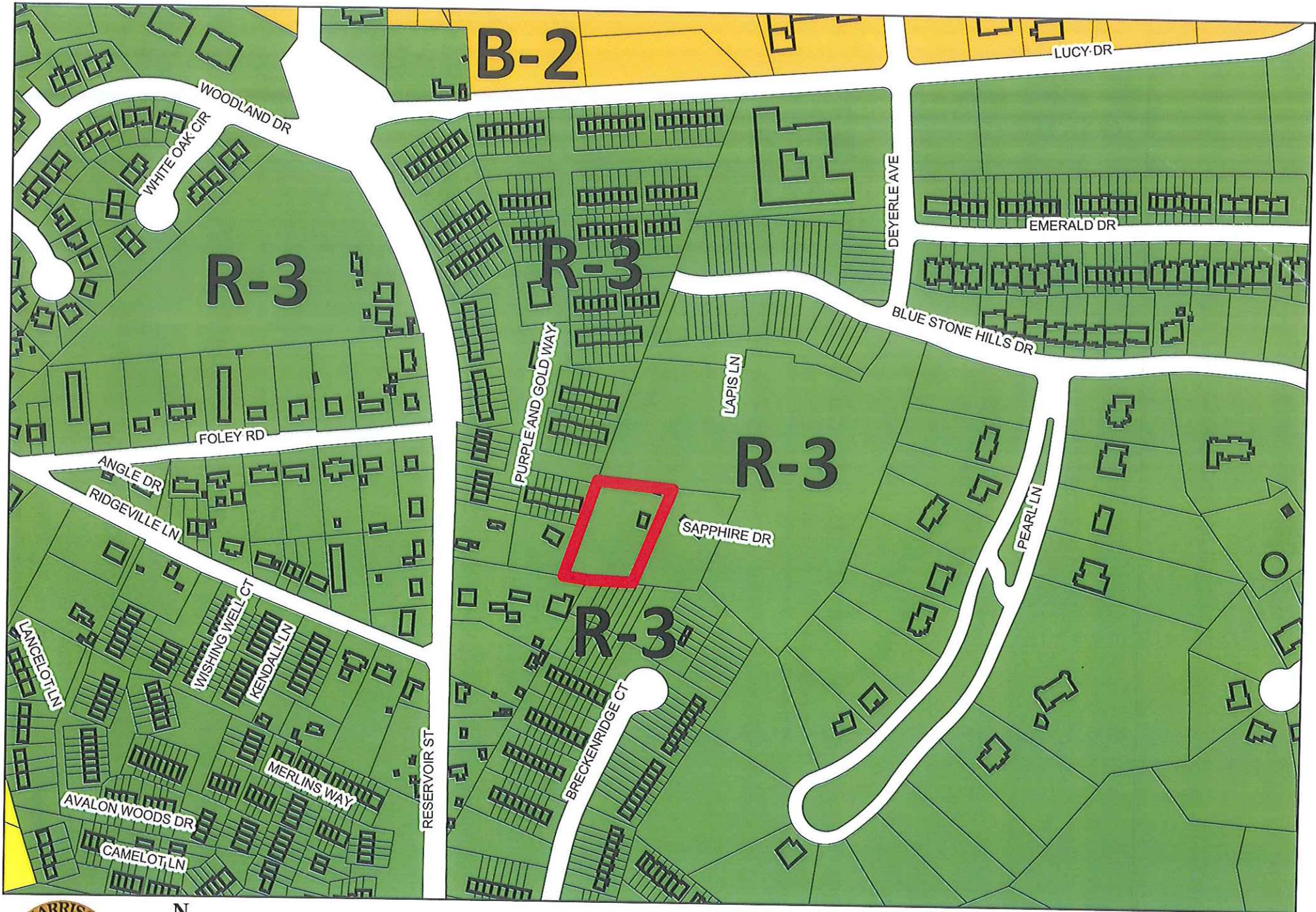
- Completed application
- Letter described proposed use
- Adjacent property owners
- Survey & metes and bounds description (prepared by a surveyor, engineer, or other person duly authorized by the State)
- Value per square foot of cost to purchase
- Fees paid
- Other \_\_\_\_\_

*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 a fair market value determined by the Commissioner of Revenue.*



**CITY OF HARRISONBURG**  
 Preliminary Plat and Sub. Variance  
 Request from 10-2-42 (c) - To Allow Lots  
 to Not Have Public Street Frontage  
 Charleston Townes 2012 Addition  
 Purple and Gold, LLC  
 Tax Map: 80-A-8A  
 1.06 +/- acres  
**LOCATION MAP**

  
 Planning and Community Development  
 City of Harrisonburg, Virginia



**Charleston Townes 2012 Addition**  
**Preliminary Plat and Sub. Variance from 10-2-42 (c)**



# City of Harrisonburg, Virginia

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

## STAFF REPORT

July 11, 2012

### PRELIMINARY PLAT – CHARLESTON TOWNES 2012 ADDITION

#### GENERAL INFORMATION

**Applicant:** Purple and Gold, LLC

**Tax Map:** 80-A-8A

**Acreage:** 1.06 +/- acres

**Location:** 2237 Reservoir Street

**Request:** Consider a request to preliminarily subdivide a 1.06-acre parcel, zoned R-3 Medium Density Residential District, into 11 townhouse lots and one common area lot with a variance from the Subdivision Ordinance Section 10-2-42 (c) to allow the lots to not have public street frontage.

#### LAND USE, ZONING, AND SITE CHARACTERISTICS

The Comprehensive Plan designates this area as Medium Density Residential. This designation states that these areas are designated in areas near major thoroughfares or commercial areas. Most of these areas have been developed or are approved for development of a variety of housing types such as single-family, duplex, and in special circumstances, apartments. Depending on the specific site characteristics, densities in these areas may range from 1 to 15 units per acre.

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

**Site:** Single family detached home, zoned R-3

**North:** Undeveloped property, preliminarily platted for the Townes at Bluestone townhomes, zoned R-3

**East:** Undeveloped property, preliminarily platted for the Townes at Bluestone townhomes, zoned R-3

**South:** Breckinridge Court townhomes and single family detached home, zoned R-3

**West:** Charleston Townes townhomes and single family detached home, zoned R-3

#### EVALUATION

Purple and Gold, LLC, the developers of the Charleston Townes student housing complex, is requesting to preliminarily subdivide a 1.06 +/- acre parcel into 11 townhome lots and one common area parcel. The subdivision requires City Council approval as the planned layout requires a variance from the Subdivision Ordinance Section 10-2-42 (c) to allow lots to not have public street frontage (until recent Subdivision Ordinance amendments, this requirement was listed as (d)). Currently, the property does not have public street frontage and is accessible only from Reservoir Street via a

driveway over an established 12-foot in width private access easement stretching almost 300 feet across two, neighboring parcels.

The planned 11 units would become part of the existing 132-unit student housing townhome complex known as Charleston Townes, where street maintenance, snow removal, and trash pick-up is provided by private companies. (Images of the units and amenities of the existing development can be viewed at <http://www.charlestantownes.com>). Charleston Townes, originally known as Purple and Gold Townhomes, was first preliminarily platted in 2006 with a variance from the Subdivision Ordinance to allow lots to not have public street frontage. That plat ultimately expired. The developers then resubmitted their same plan of development and again received preliminary approval in February 2008. Following this approval, the developers final platted the development in phases and received approval of the development's final phase in May 2011. The platting of Charleston Townes initiated the dedication and construction of Lucy Drive to Reservoir Street.

From the original submissions, the development was intended to accommodate the student population offering four bedroom units with amenities that included a clubhouse, swimming pool, and open recreational areas. A property owner's association was planned to be established to maintain the private yards and common areas as the lots were intended to be sold for independent ownership. However, Purple and Gold, LLC decided to maintain ownership of all lots within the development. Per Section 10-3-113 (5) of the Zoning Ordinance, all common areas shall be maintained by, and be the sole responsibility of, the developer-owner of the townhouse development until such time as the developer-owner conveys such common areas to a non-profit corporation whose number shall be all of the individual owners of the townhouses in the townhouse development.

The subject parcel is adjacent to 2300 Purple and Gold Way (tax map 80-A-139), the southernmost lot of Charleston Townes. Purple and Gold Way, the private street/parking area of Charleston Townes, would be extended from this parcel, at the existing private street grade, onto the subject property. This ingress and egress location would be the only access to these units. The currently used private access easement and driveway to Reservoir Street would not be utilized. Instead, all residents would use Purple and Gold Way to the established ingress and egress points for Charleston Townes including the right-in right-out entrance on Reservoir Street and the divided entrance along Lucy Drive. As noted on the plat, this planned development would not interrupt the usage of the private access easement deeded across the southern boundary of the subject parcel for the adjacent property to the east: tax map 80-A-8.

Forty-six more parking spaces (seven more than required) would be added to accommodate the 11 new units. To maintain the illustrated parking lot layout, a comprehensive site plan must be submitted before September 1, 2012, as the newly adopted Parking Lot Landscaping ordinance becomes effective on that date. The parking lot as shown on the plat does not meet the new provisions, but a note on the plat recognizes this matter.

If approved, the developer should be aware there are several issues that must be resolved including the connection to the waterline in the adjacent Charleston Townes development, which will not be permitted until that line is substantially complete; to relocate the dumpster as shown on tax map 80-A-139 as it does not meet setback requirements; to ensure that stormwater management will be handled appropriately; and that water and sewer capacity will be evaluated during the Preliminary Engineering Report prior to comprehensive site plan submittal.

Other than the requirement of Section 10-2-42 (c), the plat meets all other requirements of the Subdivision Ordinance. This request is no different than the previously approved sections of Charleston Townes and therefore staff supports a favorable recommendation to City Council to approve the preliminary layout with a variance to allow the lots to not front along a public street.

Date Application Received: 06-12-12

Total Paid: \$440.00 AF

# Application for Preliminary Subdivision Plat Approval

## City of Harrisonburg, Virginia

Fee: w/o Variance Request \$175.00 plus \$20.00 per lot Plus fees for TIA reviews where applicable (see back for details)  
Variance Request \$200.00 plus \$20.00 per lot

I, Edmond H. Blackwell, hereby apply for preliminary subdivision plat approval for the following property located within the City of Harrisonburg:

### Description of Property

Title of Subdivision: Charleston Townes  
Location (Street Address): Reservoir Street Sheet: 80 Block: A Lot: 8A  
Total Acreage: 1.06± Number of Lots Proposed: 12 Zoning Classification: R-3  
Proposed Use of Property: Townhomes **AF**

Property Owner's Name: Purple + Gold LLC (Contract Purchaser)  
Street Address: 1763 Brookhaven Dr Email: \_\_\_\_\_  
City: Harrisonburg State: VA Zip: 22801  
Telephone: Work 540 433 2216 Fax \_\_\_\_\_ Mobile 540 820 5313

Owner's Representative (if applicable): Edmond H Blackwell  
Street Address: 566 E. Market St. Email: ed@blackwellengineering.com  
City: Harrisonburg State: VA Zip: 22801  
Telephone: Work 540-432-9555 Fax 540-434-7604 Mobile \_\_\_\_\_

Developer: Associated Developers LLC  
Telephone: 540-433-2216 Email: wtro@shentel.net

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

### VARIANCES

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

I (we) hereby apply for a variance from Section 10-2-42(c) of the City of Harrisonburg  
Subdivision Ordinance and/or Section 10-2-42(a) of the City of Harrisonburg Design and  
Construction Standards Manual, which require(s):

- 1) All lots to front on a public street.  
All townhouse lots will front on a private street, which will be maintained by an Association. The Association will maintain all private streets, parking lots, sidewalks, and common grass areas. A copy of the Homeowners' Assoc. agreement will be provided with the final plat.

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):

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] Signature: \_\_\_\_\_  
Property Owner 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

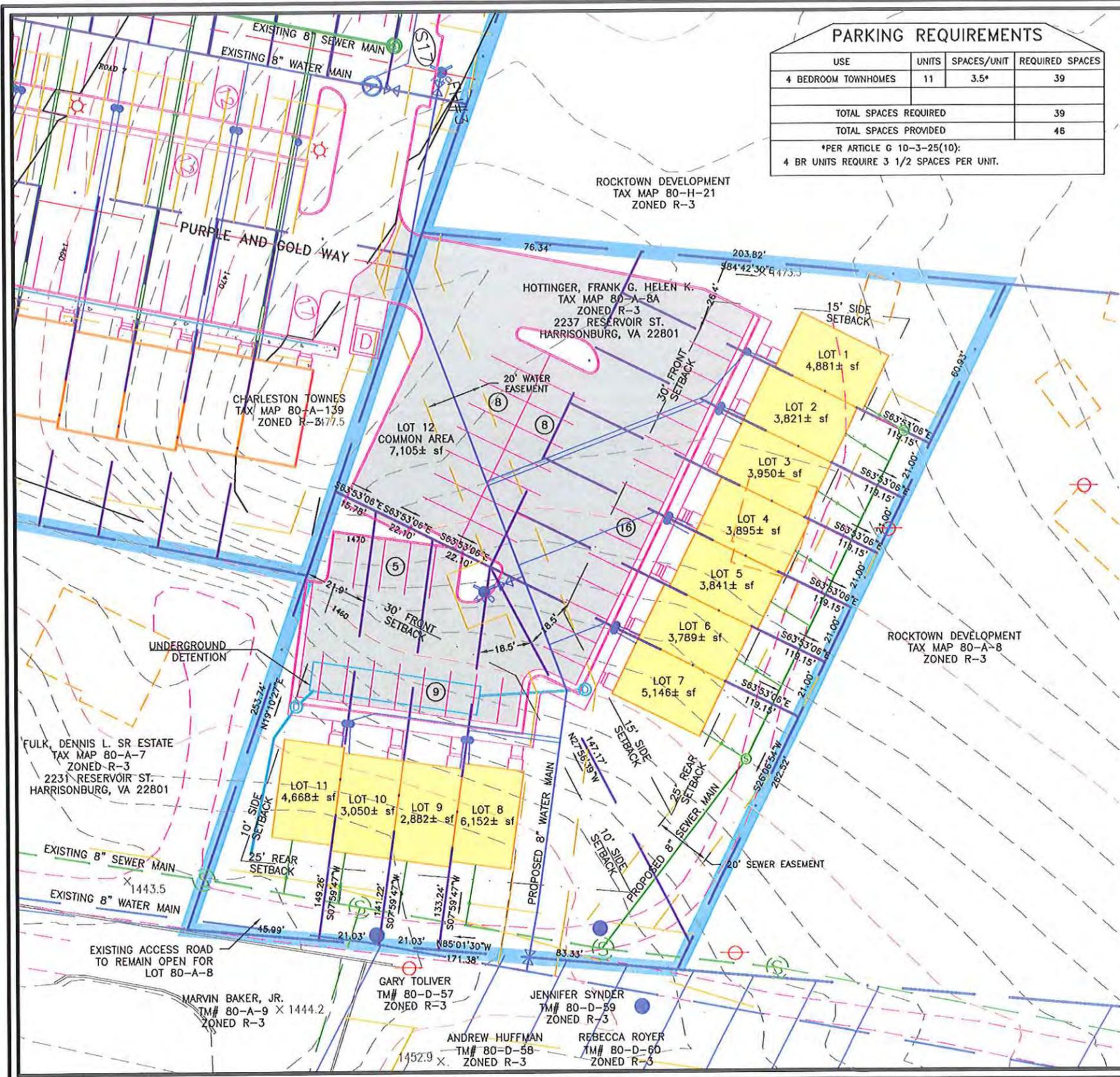
*If yes, then fees must be made payable to VDOT to cover costs associated with the TIA review.*

***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

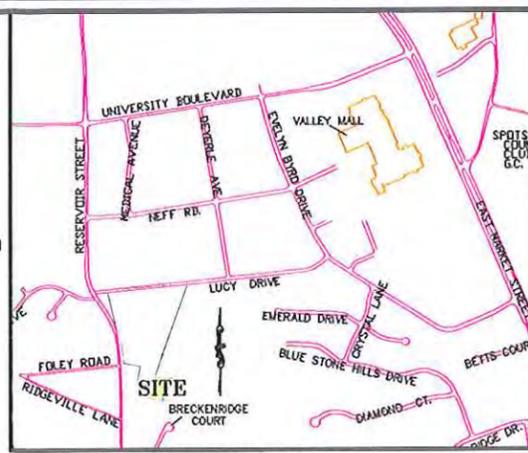
*If yes, then an additional \$1,000.00 must be made payable to the City to cover costs associated with the TIA review.*

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



PARKING REQUIREMENTS			
USE	UNITS	SPACES/UNIT	REQUIRED SPACES
4 BEDROOM TOWNHOMES	11	3.5*	39
TOTAL SPACES REQUIRED			39
TOTAL SPACES PROVIDED			46
*PER ARTICLE G 10-3-25(10): 4 BR UNITS REQUIRE 3 1/2 SPACES PER UNIT.			

- LEGEND**
- CENTER LINE
  - SITE BOUNDARY
  - E/T — ELECTRIC/TELEPHONE
  - ⊕ — METER/ TRANSFORMER
  - ⊕ — EXISTING UTILITY POLE
  - ⊕ — EXISTING LIGHT POLES
  - ⊕ — PROPOSED UTILITY POLE
  - W — WATER LINES
  - FM — SANITARY SEWER FORCE MAIN
  - S — SANITARY LINES
  - SC — SANITARY SEWER CLEANOUT
  - ST — STORM SYSTEM
  - PD — PROPOSED DITCH
  - G — GAS LINES
  - PL — EXISTING PROPERTY LINE
  - SL — SETBACK LINE
  - EL — EASEMENT LINE
  - EB — EXISTING BUILDING
  - PB — PROPOSED BUILDING
  - PR — PROPOSED ROAD/EOP
  - PP — PROPOSED PARKING
  - ER — EXISTING ROAD
  - EP — EXISTING PARKING
  - CB — CURBING: CG-6 OR CG-7
  - CB — CURBING: CG-2 OR CG-3
  - HP — HANDICAP PARKING
  - AR — CG-12/ASPHALT RAMP
  - DP — DUMPSTER
  - FH — EXISTING FIRE HYDRANT
  - PFH — PROPOSED FIRE HYDRANT
  - FDC — FIRE DEPARTMENT CONNECTION
  - WV — WATER VALVE
  - WM — WATER METER
  - EFL — EXISTING FENCE LINE
  - PFL — PROPOSED FENCE
  - CP — CONCRETE PAVING
  - HP — HEAVY PAVEMENT
  - LP — LIGHT PAVEMENT
  - GA — GRAVEL AREA
  - GR — GRASS AREA



**VICINITY MAP**

**SITE DESIGN:**  
 BLACKWELL ENGINEERING, PLC  
 ATTN: ED BLACKWELL  
 566 EAST MARKET STREET  
 HARRISONBURG, VA 22801  
 540-432-9555

**OWNER:**  
 FRANK & HELEN HOTTINGER  
 C/O MARVIN HOTTINGER  
 3251 BEULAH ROAD  
 KEEZLETOWN, VA 22832  
 540-269-8715

**DEVELOPER:**  
 WALT TROUBAUGH  
 370 NEFF AVE. SUITE 1  
 HARRISONBURG, VA 22801  
 540-433-2216

**PROPERTY INFO:**  
 TM# 80-A-8A  
 1.06± ACRES  
 ZONED: R-3,  
 USE: MEDIUM-DENSITY  
 RESIDENTIAL  
 FEMA FLOOD ZONE X

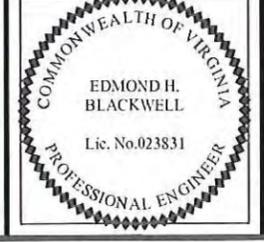
**BUILDING INFO:**  
 USE: THREE-STORY SINGLE  
 FAMILY TOWNHOMES  
 TOTAL AREA = 1.06± AC  
 714 SF EACH FLOOR  
 UNIT HEIGHT = 9'  
 USE GROUP R  
 IBC CLASS 310.1  
 NFF= 1000 GPM

- NOTES**
1. TO MAINTAIN THE CURRENT PARKING LAYOUT, A COMPREHENSIVE SITE PLAN MUST BE SUBMITTED BEFORE SEPTEMBER 1, 2012.
  2. ALL PARKING AREAS TO COMPLY WITH ARTICLE G AND WHERE NECESSARY WITH CITY CODE 10-3-48.6.
  3. THE EXISTING CHARLESTON TOWNES OWNERS ASSOCIATION WILL OWN AND MAINTAIN THIS 2012 ADDITION. THESE NEW LOTS ARE TO BE A PART OF THE OVERALL CHARLESTON TOWNES DEVELOPMENT.
  4. THE TOPO USED FOR THIS PLAT IS FROM THE CITY'S 1996 AERIAL TOPO; EXTERIOR BOUNDARY PROVIDED BY BENNER AND ASSOCIATED. DETAILED FIELD TOPO TO BE OBTAINED FOR COMPREHENSIVE SITE PLAN.
  5. THE PROPOSED DISTURBED AREA FOR THIS DEVELOPMENT WILL BE LESS THAN ONE ACRE.

**BLACKWELL ENGINEERING, PLC**  
 566 East Market Street  
 Harrisonburg, Virginia 22801  
 Phone: (540) 432-9555 BE@BlackwellEngineering.com Fax: (540) 434-7604

Date: JULY 5, 2012
Revision Date

Designed by: EHB	Scale: 1"=25'
Drawn by: EHB	
Job No. 1570-2012	



**PRELIMINARY PLAT FOR 2012 ADDITION**

CHARLESTON TOWNES  
 ASSOCIATED DEVELOPERS  
 1463 BROOKHAVEN DEIVE  
 HARRISONBURG, VA

Drawing No.
1
of 1 Sheets



# City of Harrisonburg, Virginia

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

## STAFF REPORT July 11, 2012

### ZONING ORDINANCE AMENDMENT Sections 10-3-115 (3) & (5)

Staff is proposing to amend the Zoning Ordinance Section 10-3-115 Walls and Fences to clarify regulations associated with wall and fence heights located on business and industrially zoned property. Although it was advertised to also modify subsection (5) of the same section, staff decided to move forward with only an amendment to subsection (3). (For reference, a copy of Section 10-3-115, in its entirety, is provided within the packet.)

Recently, close evaluation of Section 10-3-115 (3) caused internal discussion among staff regarding the intent, and word choice, of this ordinance. Currently, Section 10-3-115 (3) states: In business and industrial districts walls and fences which are clearly used for safety or security purposes may be superseded by other height regulations.

For many years, staff has interpreted this to mean walls and fences in business and industrial districts desired by the business for safety and security purposes can be taller than six feet in height (subsections (1) and (2) of the same section generally restricts wall and fence heights to six feet). However, close examination of the text in subsection (3) does not clearly grant that permission. The wording indicates that for walls and fences in business and industrial districts to be greater than six feet in height, there would need to be other height regulations which “replace” the zoning requirements.

Although the Building Code has minimum height requirements for fences or barricades around pools, railings on retaining walls, and others, neither zoning staff nor the Building Official are aware of any regulations requiring walls or fences to be taller than six feet in height. It seems unlikely, or at least infrequent, that any other “superseding” regulations would require a taller or shorter fence.

To permit what staff believes is good zoning practice and what has been allowed for many years, we propose the following language:

- (3) In business and industrial districts walls and fences which are clearly used for safety or security purposes may be greater than the height otherwise permitted.  
~~superseded by other height regulations.~~

Draft

ORDINANCE AMENDING AND RE-ENACTING SECTION  
10-3-115

OF THE  
CODE OF ORDINANCES  
CITY OF HARRISONBURG, VIRGINIA

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

**That Section 10-3-115 Walls and Fences shall be amended by modifying the text within subsection (3) as shown:**

- (3) In business and industrial districts walls and fences which are ~~clearly~~ used for safety or security purposes may be greater than the height otherwise permitted. ~~superseded by other height regulations.~~

The remainder of Section 10-3-115 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the \_\_\_\_ day of \_\_\_\_\_, 2012.  
Adopted and approved this \_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
**MAYOR**

ATTESTE:

\_\_\_\_\_  
CLERK OF THE COUNCIL

**Sec. 10-3-115. - Walls and fences.**

Walls and fences, beams and similar items which may restrict passage or vision or simply enhance private property may be located within required yards and defined by building setbacks except as restricted herein:

- (1) No walls or fences within front yards shall exceed a height of six (6) feet as measured from grade at the front property line.
- (2) No walls or fences or similar items other than landscaping within side and rear yards shall exceed an average height of six (6) feet; except that such items, when attached to a principal building, may not exceed eight (8) feet in height when clearly incidental to a function of the building rather than site improvement.
- (3) In business and industrial districts walls and fences which are clearly used for safety or security purposes may be superseded by other height regulations.
- (4) In all use districts, except a B-1 central business district, walls and fences, hedgerows and other dense landscaping and other items which occur on corner lots, which exceed three and one-half (3½) feet in height, and present an obstruction to vision, shall be reduced in height or relocated at least twenty (20) feet from the intersection of right-of-way lines.
- (5) In all residential districts walls and fences which adjoin property lines shall not be electrified, barbed or otherwise secured in a manner inappropriate or dangerous to the neighborhood. Such restrictions may be waived within customary agricultural areas which are isolated from residential buildings.
- (6) Walls and fences shall not impede sight distance at entrances and street intersections, in accord with the DCSM.
- (7) Walls, fences and other enclosures for special uses, such as swimming pools, transformers and substations, shall be restricted by other regulations which shall supersede this section.

*(Ord. of 4-23-96; Ord. of 3-13-12(29))*

## June 2012 Proactive-Zoning Report

For the month of June 2012 the proactive-zoning program targeted the **Exit 243** section of the city. During the proactive inspections a total of one violation was found. The violation consisted of an illegal sign.

MONTH	SECTOR	4 <sup>th</sup> CYCLE VIOLATIONS	CORRECTED	1 <sup>st</sup> CYCLE	2 <sup>nd</sup> CYCLE	3rd CYCLE
December 2011	Wyndham Woods	2	2	2	0	4
January 2012	Northfield	13	13	21	6	19
February 2012	Purcell Park	8	8	7	6	5
March 2012	Parkview	5	5	19	7	16
April 2012	Ind./Tech Park	0	0	0	1	0
May 2012	Northeast	29	25	80	45	63
June 2012	Exit 243	1	n/a	10	0	1
July 2012	Fairway Hills			1	0	0
August 2012	Smithland Rd.			0	4	0
September 2012	N. Main St.			13	4	4
October 2012	Liberty St.			6	4	18
November 2012	Westover			18	8	17
December 2012	Garber's Church			1	2	1
January 2013	Spotswood Acres			6	4	1
February 2013	Jefferson St.			26	22	35
March 2013	Forest Hills/JMU			6	1	1
April 2013	S. Main St.			1	0	2
May 2013	Hillandale			7	5	17
June 2013	Maplehurst/JMU			6	5	2
July 2013	Long Ave/Norwood			12	28	17
August 2013	Greystone			13	10	13
September 2013	Greendale/SE			3	2	5
October 2013	Ramblewood			4	8	1
November 2013	Stone Spring Village/JMU			2	10	0
December 2013	Sunset Heights			7	29	10
January 2014	Reherd Acres			10	12	9
February 2014	RT 33 West			0	16	6
March 2014	Chicago Ave			16	22	29
April 2014	Pleasant Hill			4	13	17
May 2014	Avalon Woods			7	26	11
June 2014	Waterman Elementary			6	61	18
July 2014	Keister Elem			6	5	8
August 2014	500-600 S. Main			7	30	16
September 2014	Court Square			0	3	2
October 2014	Bluestone Hills & Valley Mall			3	33	31
November 2014	Preston Heights			8	3	1

The proactive-zoning program for July 2012 will be directed towards the enforcement of the Zoning Ordinance in the **Fairway Hills** section of the City.