



# City of Harrisonburg, Virginia

## Planning Commission Meeting

September 12, 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 July 11, 2012 regular meeting and the August 8, 2012 regular meeting.**

2) **New Business**

*Rezoning – HRHA East Gay Street Project R-2 to R-3C*

Public hearing to consider a request from Franklin Heights, LLC to rezone 6 parcels, totaling 2.95 +/- acres, from R-2, Residential District to R-3C, Medium Density Residential District Conditional. The properties are located along the northern and southern sides of East Gay Street and along Hill Street. Existing units are addressed as 610 East Gay Street, 374 Hill Street, and 631 East Gay Street. The properties can be found on tax maps 33-O-17 through 20 and 33-L-6 & 7.

*Special Use Permit – HRHA East Gay Street Project (Multi-Family)*

Public hearing to consider a request from Franklin Heights, LLC for a special use permit per Section 10-3-48.4 (6) to allow multiple family dwelling units within the R-3, Medium Density Residential District. The properties, totaling 2.95 +/- acres, are located along the northern and southern sides of East Gay Street and along Hill Street. The properties are currently zoned R-2, Residential District but are proposed to be rezoned to R-3, Medium Density Residential District. Existing units are addressed as 610 East Gay Street, 374 Hill Street, and 631 East Gay Street. The properties can be found on tax maps 33-O-17 through 20 and 33-L-6 & 7.

*Zoning Ordinance Amendment – 10-3-48.4 (3) Reducing Required Parking*

Public hearing to consider a request from Franklin Heights, LLC to amend Section 10-3-48.4 (3); a subsection of the Uses Permitted by Special Use Permit category within the R-3, Medium Density Residential District. Subsection (3) currently allows application for reducing required parking areas to permit fewer than the required number of parking spaces for professional office uses only. If approved, the amendment would allow for all uses within the R-3, Medium Density Residential District the ability to apply for reduced parking areas. The requirement that an amount of open space equal to the amount of space that would have been used for required number of parking spaces is left available will remain.

*Special Use Permit – HRHA East Gay Street Project (Reducing Required Parking)*

Public hearing to consider a request from Franklin Heights, LLC for a special use permit per Section 10-3-48.4 (3) (as proposed for modification) to allow for the reduction in required parking areas for multiple family units within the R-3, Medium Density Residential District. The properties, totaling 2.95 +/- acres, are located along the northern and southern sides of East Gay Street and along Hill Street. Existing units are addressed as 610 East Gay Street, 374 Hill Street, and 631 East Gay Street. The properties can be found on tax maps 33-O-17 through 20 and 33-L-6 & 7.

3) **Unfinished Business**

4) **Public Input**

5) **Report of secretary and committees**

*Proactive Zoning*

6) **Other Matters**

*Portable Restroom Facilities*

7) **Adjournment**

Staff will be available Monday October 8, 2012 at 4:30 p.m. for those interested in going on a field trip to view the sites for the October 10, 2012 agenda.

**MINUTES OF HARRISONBURG PLANNING COMMISSION**  
**July 11, 2012**

The Harrisonburg Planning Commission held its regular meeting on Wednesday, July 11, 2012, at 7:00 p.m. in the City Council Chambers, 409 South Main Street.

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

Members absent: Alan Finks and Henry Way

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

Chairman Jones called the meeting to order and determined there was a quorum with five of seven members in attendance. He then asked if there were any corrections, comments or a motion regarding the minutes from the June 13, 2012 Planning Commission meeting.

Mrs. Fitzgerald moved to approve the minutes as presented from the June 13, 2012 regular Planning Commission meeting.

Mr. Chenault seconded the motion.

All voted in favor of approving the minutes (3-0), with Chairman Jones and Dr. Dilts abstaining because they were not in attendance at the June 13<sup>th</sup> meeting.

Mr. Finks arrived shortly after the vote on the minutes (7:02 p.m.).

**New Business**

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

Chairman Jones read the request and asked staff to review.

Mrs. Banks said 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.

Chairman Jones asked if there were any questions for staff.

Mr. Da'Mes asked if a change was made to this area within the recent Comprehensive Plan review.

Mrs. Banks said yes, we made a land use change to Commercial from Low Density Mixed Residential.

Mr. Chenault moved to approve the utility extension for Whitesel Brothers.

Mr. Finks seconded the motion.

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

All voted in favor (6-0).

Chairman Jones said this request will move forward to City Council on August 14, 2012 with a favorable recommendation.

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

Chairman Jones read the agenda item and asked staff to review.

Dr. Dilts recused herself at this time because of her affiliation with the applicant.

Mrs. Banks said 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

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.

Chairman Jones asked about the easements and will JMU agree to them?

Mr. Fletcher said it is not whether or not they agree to them, they will have to if they wish to purchase it. The City will reserve the easements before it is sold. There is a very good chance that all of these utilities will be relocated when the site is redeveloped by JMU.

Chairman Jones asked if there were any further questions. Hearing none, he asked if there was a motion.

Mr. Finks moved to recommend approval of the closing of Kyle Street in this area.

Mrs. Fitzgerald seconded the motion.

Chairman Jones called for a voice vote on the motion.

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

Chairman Jones said this will be heard at City Council on August 14, 2012.

At this time Dr. Dilts returned to the Council Chambers and rejoined the meeting.

***Preliminary Plat – Charleston Townes 2012 Addition***

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

Mr. Fletcher said 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

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.

Chairman Jones asked if there were any questions for staff.

Mr. Da'Mes asked what is the distance from the road (Reservoir Street) to the new area where the townhomes are proposed.

Mr. Fletcher replied I do not know what the distance would be. However, we do not regulate the distance because it is a private street. I can say that the Fire Department did not have any comments or concerns regarding the distance or access.

Chairman Jones said this is not a public hearing; however, if the applicant or their representative would like to speak they may do so at this time.

Mr. Walt Trobaugh, a partner in the development, said he is available to answer any questions the Commission may have.

Chairman Jones asked if there were any questions or discussion. Hearing none, he asked if there was a motion on the request.

Mr. Chenault moved to recommend approval of the Preliminary Plat for Charleston Townes 2012 addition in accordance with the staff recommendation.

Dr. Dilts seconded the motion.

Chairman Jones called for a voice vote on the motion.

All voted in favor of recommending approval of the Preliminary Plat with the requested variance (6-0).

Chairman Jones said this will move forward to City Council with a favorable recommendation on August 14<sup>th</sup>.

Mr. Fletcher added that although he did not mention this tonight, it is in the staff report about the landscape regulations. The layout of this development, as currently proposed, does not meet the recently approved landscape requirements. However, if they turn in their comprehensive site plan before September 1, 2012, they will be okay with the proposed layout. If they turn it in after September 1, they will have some issues that must be resolved.

Mr. Chenault said I do have one question for the applicant that is not necessarily related. You have already donated the land for the widening of Reservoir Street, is that correct.

Mr. Trobaugh said yes, it was actually a swap with the City.

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

Chairman Jones read the agenda item and asked staff to review.

Mr. Fletcher said 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.~~

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

Mr. Finks moved to recommend approval of the changes to subsection three as presented by staff.

Mr. Chenault seconded the motion.

Chairman Jones called for a voice vote.

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

Chairman Jones said this amendment will move forward to City Council with a favorable recommendation from Planning Commission.

#### **Unfinished Business**

None.

#### **Public Input**

None.

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

Mrs. Banks said the Exit 243 section of the City was targeted for the month of June. Only one violation was found; an illegal sign. Next month our inspectors will be in the Fairway Hills area.

Mr. Chenault said last night at City Council the special use permit request for Hajoca on South Main Street was approved unanimously. The motion to approve the ordinance amendment regulating portable restroom facilities failed for lack of a second.

Mr. Fletcher added that the portable restroom facility ordinance has been referred back to Planning Commission to discuss what type of standards should be in place to control such facilities; where they can go, how they can go in and so forth. City Council did not care for the special use permit concept for portable restroom facilities.

Mrs. Fitzgerald asked whether this now opens up a discussion about the context to which they have been possibly proposed to be used downtown.

Mr. Chenault said I believe what Council is looking for is something that says if you are going to have such a facility and it adjoins an R-1 zoning district, then it has to meet a greater setback from the property line, it has to be screened, that type of regulating.

Mrs. Turner said someone did speak at the City Council hearing last night and said that he had desired to open a food cart court and he wanted to be able to use portable restrooms primarily for the people who would be the food cart vendors. Because the food cart court would not be constructing any buildings on the site, the Building Code would not address anything regarding these restroom facilities. There is no requirement that the bathrooms must be established with the use of a food cart.

Mr. Finks asked if the Health Department would need to be involved with this type of use.

Mr. Chenault replied they would within the individual food cart unit; but not exterior to it.

Mr. Fletcher said depending upon the manner that the food cart would operate they would still need to comply with grease traps and similar issues.

Mrs. Turner said I spoke with the Health Department and they were noncommittal. They said right now they do not issue any type of permits for portable restrooms and they have never been approached by someone requesting regulations for placing one permanently. So they do not really know if their regulations should cover that, there is some regulation that discusses a portable, storage and haul facility. These types of things usually receive a license for a locality and I do not know if the City has any of this type of permit.

Mr. Chenault said JMU has several permits for the portable haul facilities.

Dr. Dilts asked what other municipalities do regarding this issue.

Mr. Fletcher said that is a good question and we have started looking into that.

Mrs. Turner said I have spoken with at least three other localities within the past few days; Winchester, Roanoke, and Rockingham County. Winchester and Roanoke simply do not address it at all and it has not been something they had to address. Rockingham County said they do not allow people to do it and it is odd because it is somewhat of a cross between some things that the Health Department tells them and what the County Zoning tells them. However, they do not have anything in writing that is a regulation.

Mr. Fletcher said I think a little further investigation into what other localities do is necessary and is definitely something that staff would do.

Mr. Chenault said the gentleman that is proposing this use and facility came here from Portland, Oregon and apparently it is a rather larger use there. He did not know if there were regulations on restroom facilities or not. Perhaps we should look into Portland's regulations.

Mr. Fletcher said Asheville, North Carolina is dealing with almost the same situation and they have decided to wait and see what happens.

Mrs. Turner said I have briefly reviewed things from Portland, and their regulations are so entirely different from ours that it is somewhat hard to even get a grip on what and where in the ordinance this type of information is. I also have some forwarded information from San Antonio, Texas I can review. I forgot to mention, I did talk to Richmond and they do not have anything that would address this. They are talking about it because they have food carts that convene in certain places throughout the week and they feel the restroom facilities may come up.

Mr. Finks said if we tell this person to go ahead and do this and then problems arise and we retract it, we would look like the bad guy.

Mrs. Turner said this person was told by City Council last night that if he wanted to establish it now, before any regulations went into place he could do so. He would just become nonconforming. If it is a big problem, the City Attorney said he could address it through the nuisance ordinance.

Mr. Chenault said the nuisance ordinance is a very onerous and time consuming process.

Mr. Finks said I have never seen the food carts in New York City needing a portable restroom facility.

Mr. Chenault said the rationale for these is that it is more for the employees of the food cart court than for the general public.

Dr. Dilts said if you are a restaurant opening in a building, you are required to have a restroom. Yet these people get to put their cart somewhere and keep it there for an extended period of time and they do not have the same monetary outlay and the building restaurant.

Mrs. Turner said the other thing that has brought up the portable restroom facilities, and this was mentioned at the Council meeting last night as well, is the Farmers Market. The Farmers Market would like restrooms for the vendors and customers. When they are open on Tuesday it is not a big issue because the Municipal Building is open for restrooms. However, on Saturday the building is closed. Last year the Farmers Market had a portable bathroom dropped off before the Saturday market opened and picked-up later. They have decided it could be a cost savings to them if they just left the facility there; in fact, it sat on a trailer in the parking lot all winter. They would like to just leave it there in the parking lot. They were told "no" by the Managers Office when they asked if they could have it in the parking lot; they could not have it permanently located in the City parking lot from March through November. They continued to ask and at the same time we were entering into all this discussion with the food cart person so they both coincided with each other. The Farmers Market began to ask if they could place this on a private property adjacent to the City property. They were finally given permission to place the facility on City property this year, and it is somewhat on a trial basis. If someone complains to the Managers Office or to a Councilmember it may be subject to removal. We have some control over this because it is on City property and our property does not have to follow the Zoning Ordinance. But there are other types of uses, a produce stand, a flea market, or some other type of market use that would not be required to have bathrooms and might want something like this.

Mrs. Fitzgerald said it almost sounds like the City is reaching a tipping point with a collection of activities that are beginning to accelerate downtown, where public bathrooms might be sooner rather than later.

Mr. Chenault said I have not heard anyone complain about there not being bathrooms any place downtown. This has just come up with these situations. I believe there are bathroom facilities at the Court House.

Mrs. Turner said it is my understanding that they are not open all the time. If you have a function there they have some type of automated locking and unlocking mechanism so you can have them open during the time of your event.

Mr. Chenault said of course the library is open and people use that. I am downtown most every Saturday and Sunday and the people milling around usually have a destination they are headed to that has a bathroom.

Dr. Dilts said if you think about the cities that have a vibrant downtown and are destination places; there is usually always a public restroom. Maybe that is something the City needs to think about at this point, given the Downtown Renaissance and various activities that are going on in our downtown.

Mrs. Turner said that HDR does have a public restroom that is open during the times they are open; they are open on Saturday and Sunday as well.

Mr. Fletcher said if I can direct this conversation back to the question at hand, which is about portable restroom facilities; staff will aim to bring you information next month with some type of standards; nothing formal for public hearing, just something for Planning Commission to react to. We will be looking at this as a by right use with some type of regulating control.

Dr. Dilts asked if you could include aesthetic standards.

Mr. Fletcher replied yes, certainly. Perhaps standards like screening or not within general public view would be considered.

Planning Commission agreed that staff should bring information to them next month for them to review.

Mr. Fletcher said I have two other items. Next month we have a street and alley closing which is related to the alley closing you reviewed in May of this year, near Collicello Street. This is related to that same project. There will also be a special use permit request to amend an existing telecommunications SUP.

Lastly, our timing for Planning Commission; we have already advertised for next month that we will be touring at the usual 4:30 time on Monday, August 6<sup>th</sup>. But please think about the tour times again and whether Mondays at 4:30 is the right time for everyone. I cannot think of the last time when we had more than one or two Planning Commissioners come to the tour.

**Other Matters**

None.

**Adjournment**

The meeting was adjourned at 7:45 p.m.

**MINUTES OF HARRISONBURG PLANNING COMMISSION**  
**August 8, 2012**

The Harrisonburg Planning Commission held its regular meeting on Wednesday, August 8, 2012, at 7:00 p.m. in the City Council Chambers, 409 South Main Street.

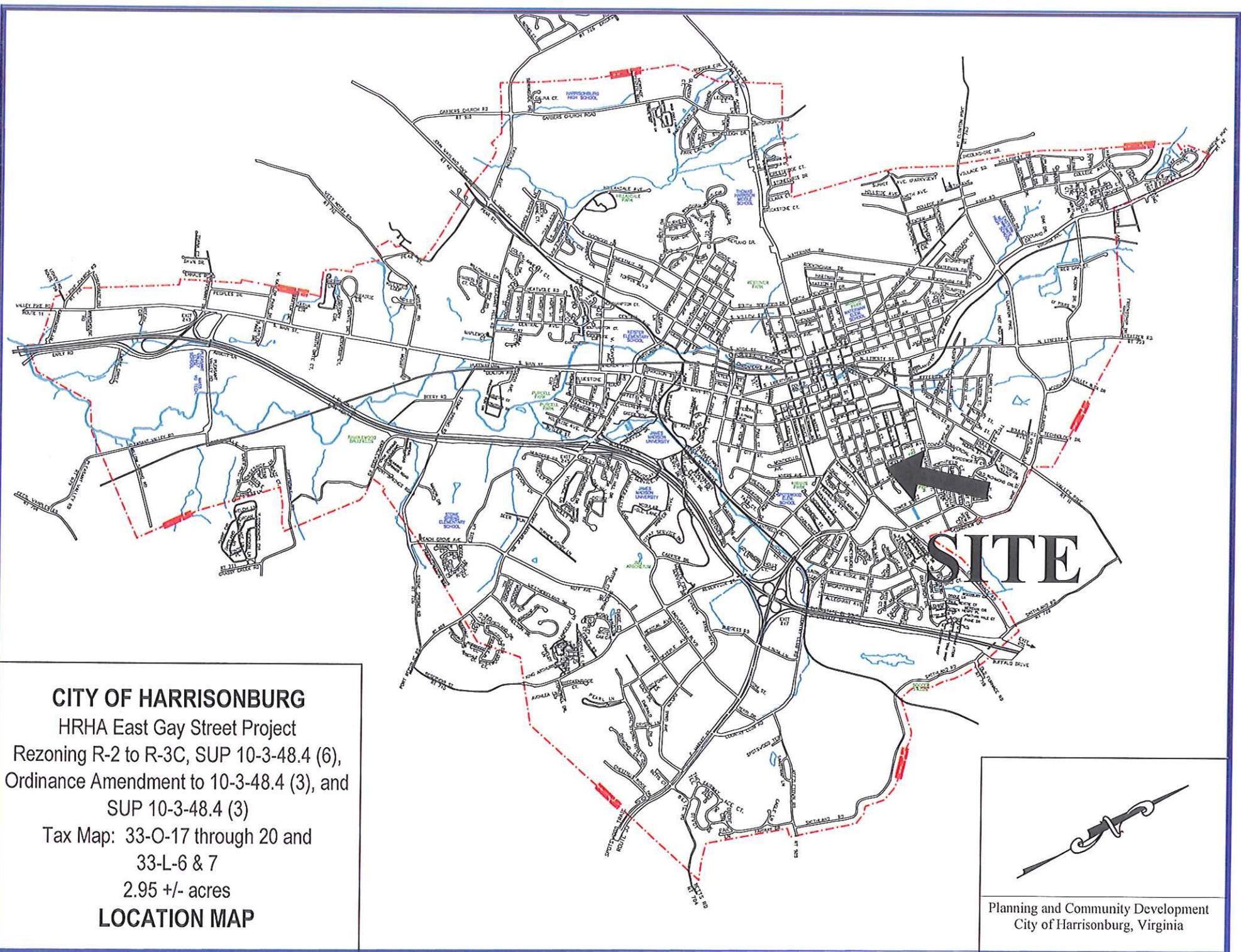
Members present: Charles Chenault, Deb Fitzgerald, and Henry Way.

Members absent: Judith Dilts, MuAwia Da'Mes, Alan Finks, and Bill Jones.

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

The August 8, 2012 regular meeting of the Harrisonburg Planning Commission was not convened for lack of a quorum.

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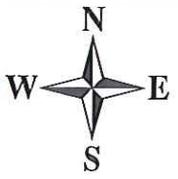
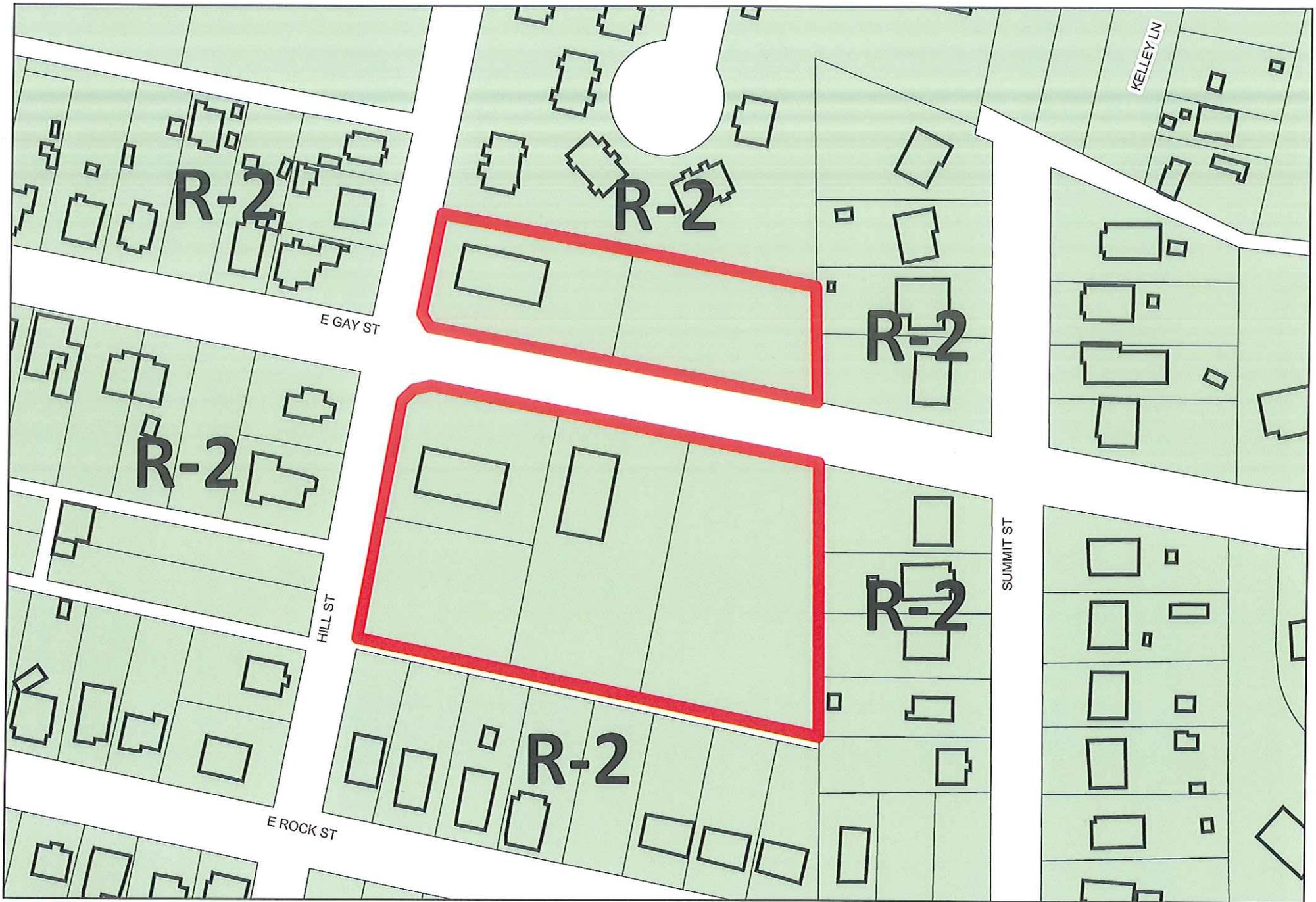
**CITY OF HARRISONBURG**

HRHA East Gay Street Project  
Rezoning R-2 to R-3C, SUP 10-3-48.4 (6),  
Ordinance Amendment to 10-3-48.4 (3), and  
SUP 10-3-48.4 (3)  
Tax Map: 33-O-17 through 20 and  
33-L-6 & 7  
2.95 +/- acres

**LOCATION MAP**



Planning and Community Development  
City of Harrisonburg, Virginia



**HRHA East Gay Street Project  
Rezoning (R-2 to R-3C), SUP (10-3-48.4 (6)),  
Ordinance Amendment to 10-3-48.4 (3), and SUP (10-3-48.4 (3))**



# City of Harrisonburg, Virginia

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

The following staff report contains the evaluation for all four applications regarding HRHA's East Gay Street Project.

## STAFF REPORT September 12, 2012

### HRHA EAST GAY STREET PROJECT

#### GENERAL INFORMATION

- Applicant:** Franklin Heights, LLC
- Tax Map:** 33-O-17 through 20 and 33-L-6 & 7
- Acreage:** 2.95 +/- acres
- Location:** Along East Gay Street and Hill Street (existing addresses include 610 East Gay Street, 374 Hill Street, and 631 East Gay Street)
- Requests:** Public hearings to consider the following: 1) a rezoning from R-2, Residential District to R-3C, Medium Density Residential District Conditional, 2) a special use permit per Section 10-3-48.4 (6) to allow for multiple family dwelling units within the proposed R-3, Medium Density Residential District, 3) a Zoning Ordinance amendment to Section 10-3-48.4 (3) to allow for reduced parking by special use permit for any use permitted in the R-3, Medium Density Residential District, and 4) a special use permit per Section 10-3-48.4 (3) (as proposed for modification) to allow for reduced parking for multiple family dwelling units in the R-3, Medium Density Residential District.

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

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

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

- Site:** Twelve non-conforming multi-family residential units within three buildings, zoned R-2
- North:** Multiple duplex units fronting Hill Street, Lincoln Circle, and Kelley Street, zoned R-2
- East:** Detached single family homes and duplex units fronting Summit Street, zoned R-2
- South:** Detached single family homes fronting East Rock Street, zoned R-2
- West:** Across Hill Street, detached single family homes fronting Hill Street and East Gay Street, zoned R-2

## EVALUATION

The applicant is hoping to gain permission to build 29, one-bedroom multi-family units on 2.95 +/- acres of property with frontage along the northern and southern sides of East Gay Street and the eastern side of Hill Street. The subject property is currently zoned R-2, Residential District and is improved with three, non-conforming four-unit multi-family buildings for a total of 12 units.

The R-2 district does not permit multi-family units; therefore, the property owner is requesting to rezone the property from R-2, Residential District to R-3C, Medium Density Residential District Conditional. As most are aware, the R-3, Medium Density Residential District does not permit multi-family development by-right, but rather by special use permit (SUP) per Section 10-3-48.4 (6). Simultaneously with the rezoning application, the applicant is requesting the SUP to allow multi-family development within the R-3 district. Although there are other zoning districts that permit multi-family development by-right, staff suggested the applicant pursue the R-3 rezoning and SUP approach believing that if the City desired to allow more multi-family in this area of the City, such zoning would be a better fit for this neighborhood than an R-4 or R-5 zoning classification.

As part of the rezoning, the applicant has proffered the following:

1. The number of occupants in the new units shall be limited to one person per unit or two persons per unit if the occupants are married.
2. The number of units is limited to 10 units on the north side of Gay Street and 31 units on the south side of Gay Street. All new units will be one bedroom units.

If the above described applications are approved, the property owner can build the planned 29 multi-family units, but it does not give them the ability to construct the exact layout they desire. The applicant would like to provide less parking than is required by the Zoning Ordinance, but because such a provision does not exist for this type of use in the R-3 district, the applicant is requesting to amend the Zoning Ordinance Section 10-3-48.4 (3), which currently allows reduced parking areas only for professional offices by SUP. The applicant is simply proposing to amend this section to permit all uses in the R-3, Medium Density Residential District the ability to apply for reduced parking areas. Concurrently with the Zoning Ordinance amendment, the applicant is requesting the SUP per Section 10-3-48.4 (3) (as proposed for modification) to permit fewer than the required number of parking spaces. An existing stipulation of this SUP, which will remain in place if the amendment is approved, requires that an amount of open space equal to the amount of space that would have been used for parking be left available in the event that City Council determines more parking is needed in the future.

Before describing the details of the planned development, it is prudent to understand the history of the existing development and to be aware of how previous requests to build more multi-family on this property have been handled.

The subject property has been zoned R-2 since at least 1963 at which time property owners could build single family dwellings or two, three, or four family dwellings. In other words, properties could contain detached single family homes, duplexes, or three or four-unit multi-family (apartment) buildings. Seven thousand square feet of lot area was needed for single family dwellings and 4,000 square feet of lot area per unit for each duplex unit or multi-family unit was required. These regulations remained in place until 1987 when the City amended the Zoning Ordinance limiting R-2 development to detached single family homes with at least 7,000 square feet of lot area and duplexes with at least 11,000 square feet of lot area. The City provided a two-year window of opportunity to

build under the previous regulations by allowing property owners to obtain building permits until 1989.

It was during this transition period that the previous owners (the Forkovitches) obtained the building permits and built the existing three, four-unit, three-bedroom multi-family buildings. Essentially, as soon as the units were finished in 1989, they were non-conforming. Although the Forkovitches' comprehensive site plan demonstrated they were planning to construct five more four-unit buildings (eight buildings in total comprising of 32 units) they did not obtain the building permits in time. In 1991, the Forkovitches applied to the Board of Zoning Appeals (BZA) for a variance to the expiration of time to allow four-unit dwellings as was permitted prior to the 1987 Zoning Ordinance amendment. The BZA denied the request.

In 2001, the Forkovitches requested to rezone the property from R-2 to R-3C. In short, they proffered to develop what they had originally planned to build: five more four-unit apartment buildings. They also proffered to only allow a family or up to three individuals per unit. Staff recommended denial of the rezoning stating the proposed use was incompatible with the majority of the neighborhood and that it was not conforming to the Comprehensive Plan. Planning Commission unanimously recommended denial. The request was never heard by City Council as the applicants eventually withdrew the request.

Then, in 2004, the same property owners tried to rezone the property again from R-2 to R-3C. For this request they proffered in addition to the existing multi-family buildings to construct not more than 16 duplex units (eight buildings) and to limit occupancy to not more than a family or two individuals. Staff again recommended denial of the request because it was not conforming to the Comprehensive Plan, because of the zoning of the surrounding neighborhood, and because the rezoning would have made the existing units conforming to the Zoning Ordinance. Planning Commission recommended denial with a 4-3 vote. Once again the request was not heard at City Council because the applicants ultimately withdrew the request. (Note: The unit density in each of the earlier rezoning requests was less than the applicant's current proposal.)

The current requests are from Franklin Heights, LLC (an entity owned by Harrisonburg Redevelopment and Housing Authority (HRHA)), which has owned the subject property since December 2010. As mentioned earlier, they are requesting four separate applications. The first two applications include rezoning six parcels, totaling 2.95 +/- acres from R-2 to R-3C (see proffers above) while simultaneously applying for a SUP per Section 10-3-48.4 (6) to allow for the construction of 29, one-bedroom multi-family units and to bring the existing 12 multi-family units into conformance with the Zoning Ordinance. If these two requests are approved, the applicant must vacate all internal lot lines on both sides of the street to achieve their desired density. To view the layout of this plan of development see Sheet Number C2-02 of their submitted plans.

The parcel on the northern side of East Gay Street would have 10 units—four existing three-bedroom units and six new one-bedroom units. Under the R-3 lot area requirements, this would be one unit less than the permitted maximum density. The parcel on the southern side of East Gay Street would have 31 units—eight existing three-bedroom units and 23 new one-bedroom units—maximizing this parcel's density under the R-3 requirements. The development would also incorporate a 1,000 square foot community center building including space for group meetings, activity space, and an office area for individuals providing support services to those that live in the development. The planned development of 29 new units and the community center building will be one story and, as described by the applicants, is intended as "permanent supportive housing" and is designed to address the needs of "medical vulnerable persons with disabilities encountering housing instability." For further

information and details regarding this type of housing, carefully read the applicant's submitted narrative and additional attachments.

In sum, 78 parking spaces are required for the existing and planned units and the layout as shown on Sheet Number C2-02 demonstrates that all parking spaces can be provided. Sidewalk will be constructed along all street frontages and alongside the units and parking areas. A public transit bus stop location is already established along the subject property on the northern side of East Gay Street. As part of the proposed development, a bus shelter will be built for the transit stop. As shown on the submitted plans, in several locations the sidewalk along the street frontage is partially on public street right-of-way (ROW) and partially on the subject property. In addition, the sidewalk specifically shown on the northern side of East Gay Street reveals utility poles are currently in the direct path of the planned sidewalk. So long as the property owner dedicates public easements for the placement and use of the sidewalk, City staff is comfortable with the sidewalk being partially on private property and is also comfortable with the sidewalk along the northern side of East Gay Street either meandering around the utility poles or being constructed further from the public street. A note on the plan of development states their intent to provide the necessary easements.

As of September 1<sup>st</sup>, the City's new parking lot landscaping regulations have been in effect. The applicants have been aware of these new provisions and it appears they could accommodate those new regulations. Beyond the required parking lot landscaping regulations, the applicants have also provided detail of additional landscaping planned for the development (see Sheet Number C6-01). Staff appreciates the applicant's intent to provide additional landscaping and believes their landscaping would be aesthetically pleasing for the neighborhood and lessen the overall visual impact of such a development.

Sheet Number C4-01 demonstrates the preliminary layout for water and sewer infrastructure. If the plan of development is approved, the site must meet the requirements of the Design and Construction Standards Manual. Upon a citizen request, included within the packet of information are two letters written to this nearby citizen, upon their request, who had concerns regarding sanitary sewer infrastructure within this neighborhood. The first letter was provided in 2004 and the second letter was recently provided in August 2012.

As noted above, if the applicant is successful in rezoning the property and receiving approval of the SUP to build 29 multi-family units, given that the individuals who would occupy these units would rely on public transportation or may not own a vehicle, the property owner would like to provide less parking than is required by the Zoning Ordinance. To do this, the applicant is proposing to amend the R-3, Medium Density Residential District's list of special uses Section 10-3-48.4 (3) as shown below:

- (3) Reducing required parking areas to permit fewer than the required number of parking spaces for any use, ~~professional offices permitted in residential districts~~, provided that an amount of open space equal to the amount of space that would have been used for the required number of parking spaces is left available for parking in the event that, at the discretion of the city council, it is needed at some time in the future. Open space used for this purpose shall be so noted in the deed and shall not be used to meet any conflicting requirements of the zoning ordinance.

Concurrently with the Zoning Ordinance amendment, the property owner is requesting the SUP to permit fewer than the required number of parking spaces. As shown in the existing ordinance language, the amount of space that would have been used for parking shall remain as open space and

this space shall not be used to meet any conflicting requirements of the Zoning Ordinance. If approved, rather than supplying 78 parking spaces, they would provide 49 parking spaces. This would be a 37 percent reduction in what is required for the development as a whole.

If this SUP is approved, the development would basically meet the required parking for the existing three-bedroom units, which is 30 spaces (2.5 spaces per unit), and then provide four spaces for the community center building, which also meets the required minimum. The reduction would be applied by providing one space for every two units of their new, one-bedroom units, which is 15 parking spaces rather than providing the required 44 spaces (1.5 spaces per unit). If they are permitted to reduce their parking areas, the design of the site would not change, except for the fact that more open space and landscaping would be provided.

If approved, and regardless of the design that is built, the applicant should be aware of a couple of things. First, when they are ready to submit their subdivision request to vacate the internal lot lines, per the combination of requirements within Sections 10-2-41, 45, 66, and 67 of the Subdivision Ordinance, this subdivision would trigger requirements to dedicate public street ROW and to build required street improvements, if necessary. The standard 50-foot of street ROW width is already in place for East Gay Street. Hill Street, however, is only 40-feet in ROW width meaning ROW and street improvements would be required for this street. Nonetheless, City staff has already evaluated this situation and has determined that additional street ROW would not be necessary nor would additional street improvements be necessary, other than sidewalk construction. At this time, City staff believes Hill Street would not warrant significant street improvements given its current and foreseeable use. Because of this situation, the property owners will be required to submit a preliminary plat and, to build their plan as shown, they must request variances to the above described Subdivision Ordinance sections. City staff would be prepared to support such requests noting (per Section 10-2-41 (a) (1)) that the proposed alternative for the function of the street would better balance the needs of pedestrians and vehicles and better achieve the goals of the Comprehensive Plan.

Secondly, from an engineering site design point of view, the proposed project is very similar to the original Forkovitch East Subdivision project from 1989. Those plans and calculations implied compliance with the Virginia Erosion and Sediment Control Program Minimum Standard (MS-19), which addresses management of stormwater runoff increases caused by development. Engineering staff visited the site and reviewed these calculations and concluded the previous calculations were improperly formulated, and the proposed detention facility from the previous plans was never properly constructed. As a result, the City is not able to accept that the existing site conditions have adequately addressed stormwater runoff from the previous construction. Therefore, for the purpose of showing compliance with MS-19, the City will require the new plans and calculations to consider the pre-developed condition—the site conditions prior to any development (pre-1989)—and the post-development condition being the combination of the previous and currently proposed improvements. These considerations would be for meeting the water quantity provisions. Compliance with water quality requirements can be evaluated based on pre-developed conditions being what exists at the site today.

As part of the review as to whether the SUP for multi-family development should be approved in the R-3 district, the Zoning Ordinance outlines several conditions within Section 10-3-48.6 (e) to utilize as measures of evaluation for such development proposals. As noted by the applicant's submitted narrative, they are contending these conditions have been met. Although arguments can be made the development could meet some of the conditions, staff does not entirely agree.

While the subject property has 12 existing multi-family units and multi-family units exist around and off of the cul-de-sac of East Gay Street, which is over a block away from the subject property, all of these units are non-conforming. Plus, there is no property planned for multi-family development, or townhouse development, within a quarter-mile of the subject site. In addition, although the units would be one-story, the scale of the buildings and the density of the development is not compatible with the surrounding single family home and duplex neighborhood.

Staff appreciates the applicant's and the applicant's engineer's openness, and their willingness to accommodate as many of staff's suggestions as possible. If approved, staff believes the units could be attractive and well built, but we believe the design and feel of the development is more of an institutional-draw than it is a design consistent with single family and duplex neighborhoods. The subject property, and most of the surrounding neighborhood has been designated Neighborhood Residential since at least 1991. This Comprehensive Plan land use designation is most closely associated with R-1 and R-2 type development. From a development perspective, the existing neighborhood has maintained the vision called for by the Comprehensive Plan.

It should be known the Comprehensive Plan also specifies the importance of providing affordable housing and to partner with HRHA in their endeavor to address these needs. Specifically, Goal 4 of the Plan states: To meet the current and future needs of residents for affordable housing. Related objectives of the Plan to achieve this goal state: To partner with HRHA to address community housing needs throughout the region (serving the elderly, disabled, homeless, low/moderate income families, etc.), and to support the development and adoption of a Ten Year Plan to end chronic homelessness in the City of Harrisonburg, as part of the goal to end chronic homelessness and help to move families and individuals into permanent housing (Objectives 4.2 and 4.5, respectively). However, staff does not believe this goal and these objectives outweigh the many other goals and objectives of the Comprehensive Plan to warrant rezoning this property and approving a SUP to make way for this development at this location.

Given the history of how the Zoning Ordinance was amended to prevent multi-family development within the R-2 district, how the subject property was developed, the actions and opinions of staff and Planning Commission on past proposals, and the long-term plan for this neighborhood to remain a single family and duplex neighborhood, staff recommends denial of the rezoning from R-2 to R-3C and denial of the SUP for multi-family development. If it is desired to approve the rezoning and the SUP, staff recommends the following conditions be attached to the SUP:

1. The site shall be developed in substantial conformance to the submitted plan per this application, except as changes would allow if subsequent special use permits are approved.
2. The landscaping plan shall be implemented as shown, except where conflicts arise between the design that accommodates all of the required parking areas and the design that allows for reduced parking areas.

Although staff is not recommending in favor of the rezoning or the SUP for the multi-family development, staff is recommending approval of the ordinance amendment to allow all uses within the R-3, Medium Density Residential District the ability to request reduced parking areas. Staff is also recommending approval of the corresponding SUP to allow fewer than the required number of parking spaces. Staff believes offering a SUP option for such situations is good zoning practice and this is just one example of when there could be factors such as the intended occupancy of the units that would justify a reduction in parking requirements. Plus, in this particular situation, about 10 percent more

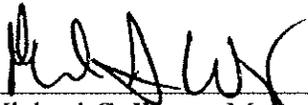
open space would be provided, which is on top of the 56 percent they would already be providing. Having so much open space is more aesthetically pleasing for a single family and duplex neighborhood and reducing the parking areas helps in not overwhelming the neighborhood with so much pavement.

**FRANKLIN HEIGHTS, LLC**  
**Rezoning Proffers**

Franklin Heights, LLC, hereby proffers that the development of the subject property on this application shall be in strict accordance with the conditions set forth in this submission:

1. The number of occupants in the new units shall be limited to one person per unit or to two persons per unit if the occupants are married.
2. The number of units is limited to 10 units on the north side of Gay Street and 31 units on the south side of Gay Street. All new units will be one bedroom units.

**FRANKLIN HEIGHTS, LLC**

By:   
Michael G. Wong, Manager

This combination of requests for rezoning, an ordinance amendment and special use permits is to allow for an increased density, multi-family units, and a corresponding reduction in parking requirements for 29 proposed units in the R-2 district. In addition, the rezoning request and the special use request related to the existing non-conforming R-2 units will bring them into compliance with the R-3 zoning ordinance for all purposes.

The rezoning to R-3 allows the applicant to apply for a special use permit to allow multiple family dwellings and to allow the existing units to become conforming. Section 10-3-48.6(e) of the City Ordinance specifies certain conditions to be met for this special use. While the request does not adjoin, be across the street from or be in close proximity to multi-family housing that is conforming (there are multi-family nonconforming uses in the area), the request does adjoin Franklin Heights on the north which consists of 17 existing HRHA duplexes, 12 existing HRHA multi-family units to the west and 2 existing HRHA duplex units to the east. The request is also in close proximity to housing (Gay Street Extended) that is similar in occupancy to the proffered occupancy of the new units.

The site will be served by bus, paratransit, pedestrian and a bicycle rack which will be constructed with the new units. Of critical importance is the proximity to the City's current public transportation hub. By accessing the hub, it reduces the need for riders to change bus routes and allows for a more efficient use of public transportation. The proposed location is highly suitable for this project. It is ideally located due to its close proximity to the City's downtown, faith-based institutions, and community-based services. Program participants are within walking distances to needed supportive services (see Attachment A). As noted above, the circumstances of many of those living in the proposed units do not require traditional motorized transportation.

The design of the new units is for single occupancy of 450 square feet to 500 square feet of a cottage style with covered front porches and rear patios as shown on the plans which demonstrates that the proposed development's design is compatible with adjacent existing single-family, duplex and townhouse development. Compatibility is achieved through architectural design, site planning, landscaping and/or other measures that ensure that views from adjacent single-family, duplex and townhouse development and public streets are not dominated by large buildings, mechanical/electrical and utility equipment, service/refuse functions and parking lots or garages. The units will be Earthcraft certified, meaning that the project will be focused on using recycled materials and creating an energy efficiency that can result in a savings of up to 30 percent for heating and cooling costs.

The development is designed to accommodate buildings and parking areas with minimal impact on steep slopes, floodplains and existing stormwater facilities (see staff report). Units will be stepped where necessary and clustered where possible to create small courtyards so public streets will not be dominated by large buildings. Tree-lined sidewalks will be built along both sides of E. Gay Street through the development and individual unit trash cans will be used rather than a central dumpster.

HRHA owns the subject property through Franklin Heights, LLC, which allows for the funding of this project to go to unit costs rather than having to use part of it for land purchase. This will allow for more aesthetically pleasing and sustainable units. The proffered occupancy of the new one-bedroom units

will in fact be less than that currently allowed in the R-2 zoning classification. The project is also in close proximity to the HRHA main offices for ease of administration and there will be an on-site community center managed by HRHA with laundry facilities and group meeting and activity space. The location also assists in reducing the facility's operating costs due to its proximity to property currently owned by the Authority and its locations to the agency's administrative office.

Permanent supportive housing is nationally recognized as a "best practice" that is an effective solution to address the needs of medical vulnerable persons with disabilities encountering housing instability (The State of Permanent Supportive Housing in the Commonwealth, Virginia Coalition to End Homelessness 2010). In 2011, Governor McDonnell presented the first Virginia housing plan and established the goal of increasing units of permanent supportive housing in the Commonwealth by 15% in FY 2012 and 20% FY 2013. In 2012, the Governor's budget for FY 2012 and 2013 included 1.5 million dollars to assist communities in developing permanent supportive housing. In 2011, the City of Harrisonburg and Rockingham County adopted the Ten Year Plan to End Homelessness with development of permanent supportive housing being listed as a priority goal. Currently there are no permanent supportive housing options available in our community.

Permanent supportive housing uses a housing first philosophy in which housing is provided in conjunction with case management and support services to assist tenants in maintaining their self sufficiency and independence. Case management, health screenings, and peer support services will be provided to all program participants. Additional supportive services will be provided on an individualized basis with services being accessed through the Harrisonburg Rockingham Community Services Board, Valley Association of Independent Living, Harrisonburg Community Health Center and other community based service providers as appropriate. Prioritization of housing services will be dedicated to individuals with disabilities, are considered medically vulnerable and are currently homeless or living in an unstable housing situation. There will be an office in the community center for use by staff. Building design will incorporate crime prevention through environmental design principals and installation of security cameras is planned. Property management services will be provided by the Authority.

In the Northeast community, HRHA currently owns and manages 97 subsidized housing units. 68 of the units were built in the 1950's, 4 units were acquired in 2005 and 25 units in 2010. Currently there are 297 subsidized units in the Northeast quadrant, 271 in the Northwest quadrant, 112 in the Southwest quadrant and 180 in the Southeast quadrant with a total of 860 subsidized units in the City (Citywide Analysis Demographic and Housing Trends Harrisonburg Virginia 2011, S. Patz and Associates).

The request for reduction in the number of parking spaces for the new units from 44 spaces to 15 spaces requires an ordinance amendment to Section 10-3-48.4(3) of the City Ordinance as follows: "Reducing required parking areas to permit fewer than the required number of parking spaces for any use provided that an amount of open space equal to the amount of space that would have been used for the required number of parking spaces is left available for parking in the event that, at the discretion of the city council, it is needed at some time in the future. Open space used for this purpose shall be so noted in the deed and shall not be used to meet any conflicting requirements of the zoning ordinance." The

Authority currently owns and manages the 120 unit Lineweaver apartment complex for elderly and persons with disabilities. Presently, the apartment is fully leased up and is using only 40 of the 60 parking spaces on site. This demonstrates the fact the actual number of parking spaces required in this type of facility are rarely used. Also, the elderly and disabled tenant profile explained above supports the reduction in parking spaces because they are unlikely to own cars and are more likely to use public transit and specialized transit. This ordinance amendment is consistent with similar ordinance provisions for reducing parking requirements for the B-2 and M-1 zoning districts. The applicant follows with the special use permit application to reduce the number of spaces from 44 to 15. The rationale for the parking space reduction is noted above.

Attachment A  
 East Gay Street Project  
 (Permanent Supportive Housing)  
 Public Hearing Data  
 Zoning and Special Use Requests on September 12, 2012

Question: Why are the proposed sites (610 East Gay Street, 374 Hill Street, 631 East Gay Street) the best location for this project?

Response: Because of the proximity to the supportive services needed to benefit the residents of this project.

Supportive Service	Distance from Site
Harrisonburg Rockingham Social Services District & Social Security Administration	.58 Miles
Harrisonburg Rockingham Community Services Board	1.01 Miles
Massanutten Regional Library	1.03 Miles
Harrisonburg Municipal Building	1.11 Miles
Blue Ridge Community College (Harrisonburg Campus)	.69 Miles
Virginia Employment Commission	2.03 Miles
Harrisonburg Redevelopment and Housing Authority (Property Owner/Manager)	.21 Miles
Rockingham County Court House Complex	.84 Miles
Harrisonburg Downtown Post Office	.80 Miles
Lucy F. Simms Community Center	.26 Miles
Harrisonburg Fire and Rescue Services	.45 Miles
Ralph Sampson Park	.28 Miles
Harrisonburg Public Transportation Hub	.50 Miles
Clover Leaf Shopping Center (Includes Grocery, Fast Food, Pharmacy)	.93 Miles
Harrisonburg Rockingham Free Clinic	.90 Miles
Veterans Administration Out Patient Clinic	1.00 Miles
Blue Ridge Legal Services	.91 Miles
Community Resource Center	.57 Miles
Salvation Army Thrift Store	.42 Miles
Churches/Synagogues/Mosques (including: Muhlenberg Lutheran, John Wesley UMC, First Presbyterian, Blessed Sacrament, Beth El, Asbury Methodist, Islamic Center of Shenandoah Valley)	.20 - 1.07 Miles

Subsidized Apartment Properties\*  
Harrisonburg, Virginia  
Updated Summer 2012

Quadrant Location	Date Built	Number of Units	Subsidy Program
<b>Northeast –</b> Franklin Heights, LLC (Harrison Heights and Scattered Sites) Harris Gardens/Vine Street	1950's/2008-2011	97	Section 8
	1974	<u>200</u>	Section 8/236
		NE Quadrant Total 297	
<b>Northwest –</b> Heritage Haven (VMRC) Lineweaver Annex Lineweaver South	2009	150	Section 8
	1993	60	LIHTC/Section 8 (60%)
	1979-1980	<u>61</u>	Section 8/Senior
		NW Quadrant Total 271	
<b>Southwest –</b> Mosby Heights/W Mosby Rd..	1980/2004	SW Quadrant Total 112	Section 8
<b>Southeast –</b> Chestnut Ridge/Rt. 33 East Franklin Heights, LLC (Franklin Heights)	1998-99	148	LIHTC (60%)
	1950's/2010-2011	<u>32</u>	Section 8
		SE Quadrant Total 180	
		Citywide Total 860	

Notes:

1. 297 of the 860 Units of subsidized housing (35%) were built in the NE Quadrant of the City of Harrisonburg, between 1950 and 1990. 25 of the 97 units owned by Franklin Heights, LLC in the NE Quadrant were built by a private developer, as investment property between 1985 and 1990, and converted to subsidized housing when purchased in 2010.
2. 563 of the 860 Units of subsidized housing (65%) were built in the other 3 Quadrants (NW, SW, SE) of the City of Harrisonburg, between 1950 and 2009.

\*Some information was obtained from the housing study, Citywide Analysis Demographic and Housing Trends Harrisonburg, Virginia, dated Fall, 2011, by S. Patz and Associates, Inc., Potomac Falls, Virginia

Match Sheet 1

Scale: 1" = 50'  
November 30, 2010



Curve 1  
Chord Bearing  
N55°54'41"E  
Chord 36.35  
Radius 25.00  
Arc 39.27

20' storm sewer easement  
D.B. 969/218

45' drainage & utility easement  
D.B. 969/218

S79°05'29"E  
110.50'

20' sanitary sewer easement  
D.B. 969/218

S79°05'29"E  
120.00'

S79°05'29"E  
116.11'

East Gay Street  
(50' wide)

S79°05'29"E  
155.95'

N10°54'51"E  
96.50'

Hill Street  
(40' wide)

N10°54'51"E  
113.04'

curb & gutter

Lot 2  
T.M. 33-0-20  
18,328 sq.ft.

2 story apartment building

Lot 1  
T.M. 33-0-19  
15,426 sq.ft.

Lot 6  
T.M. 33-0-18  
28,420 sq.ft.

Lot 5  
T.M. 33-0-17  
33,301 sq.ft.

Lot 16

Lot 15

T.M. 33-0-15  
Michael S. Sites  
Jeffery D. Sites

Lot 14

T.M. 33-0-14  
James K. Forkovitch

Lot 13

T.M. 33-0-13  
Thelma Jean Earman  
D.B. 978/744

**INGRAM - HAGEN & CO., P.L.C.**

Surveyors - Engineers - Planners

140 OLD BRIDGEWATER ROAD  
MOUNT CRAWFORD, VIRGINIA 22841  
Telephone (540) 828-2778

Job #23108A Sheet 2 of 3

Recorded On: 2010-Dec-22, As: 35573

**Title Survey of Nine Lots  
Standing in the name of  
Forkovitch Family II, LLC,  
Forkovitch Family III, LLC and  
Forkovitch Family IV, LLC  
City of Harrisonburg, Virginia**

IPS - Iron Pin set  
IPF - Iron Pin found  
PPF - Iron Pipe found  
PT - Point by pole  
sanmh - sanitary manhole  
stmh - stormwater manhole  
oh - building overhang  
ou - overhead utility  
di - storm water inlet  
em - electric meters  
wm - water meters  
gas - gas meter  
hp - heat pump

Note:  
Tax Map Parcels 33-L-5, 33-O-16, 33-X-4  
Owner: Forkovitch Family IV, LLC  
See D.B. 2583/411 for Title Reference.  
See D.B. 533/692 for Plat Reference.  
F.E.M.A. Flood Zone X.  
Zone: R-2

Note:  
For Parcels 33-L-6,7 and 33-O-17,18,19,20;  
a 10' easement is provided along side and  
rear lot lines for utility and drainage.

Note: Survey based on a current field survey.  
A current title report was not provided for this survey.

Note:  
Tax Map Parcels 33-L-6 and 33-O-17,19  
Owner: Forkovitch Family II, LLC  
See D.B. 2583/405 for Title reference.  
See D.B. 969/218 for Plat Reference.  
(Forkovitch East, Section 1)  
F.E.M.A. Flood Zone X.  
Zone: R-2

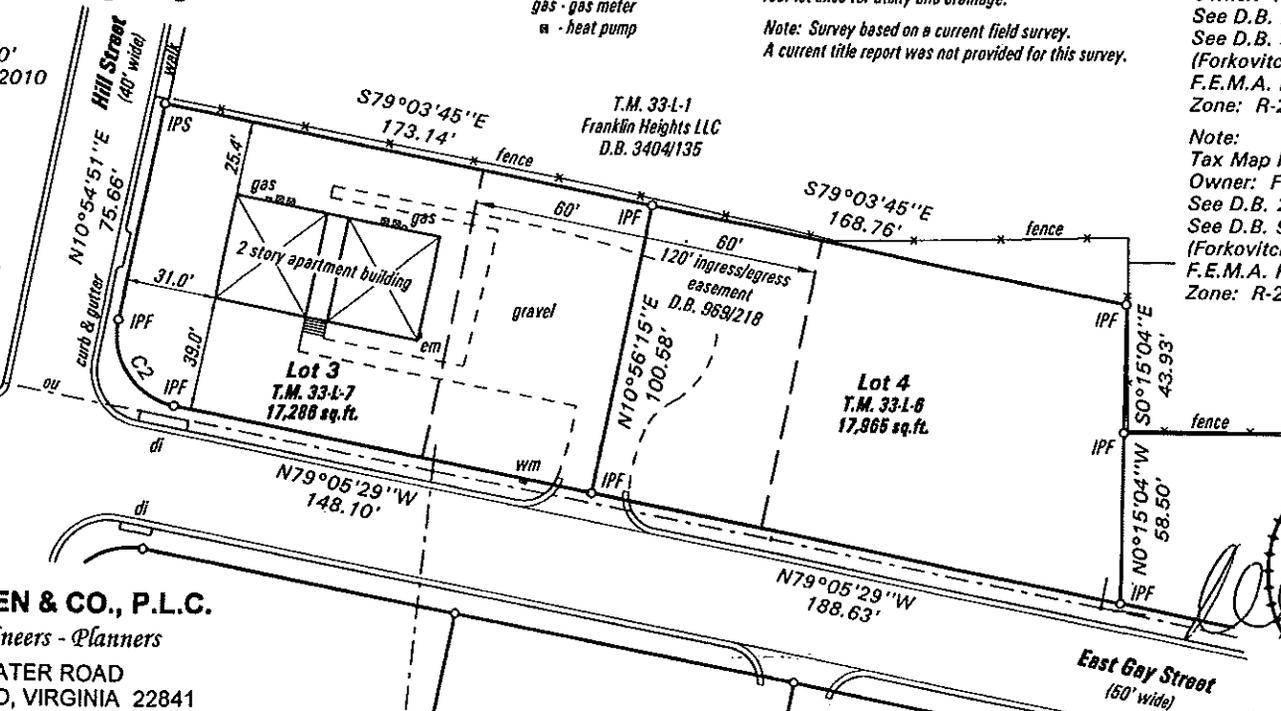
Note:  
Tax Map Parcels 33-L-7  
Owner: Forkovitch Family III, LLC  
See D.B. 2583/408 for Title reference.  
See D.B. 969/218 for Plat Reference.  
(Forkovitch East, Section 1)  
F.E.M.A. Flood Zone X.  
Zone: R-2

Note:  
Tax Map Parcels 33-O-18,20  
Owner: Forkovitch Family III, LLC  
See D.B. 2854/787 for Title reference.  
See D.B. 969/218 for Plat Reference.  
(Forkovitch East, Section 1)  
F.E.M.A. Flood Zone X.  
Zone: R-2

Scale: 1" = 50'  
November 30, 2010



Curve 2  
Chord Bearing  
N34°05'19"W  
Chord 35.36  
Radius 25.00  
Arc 39.27



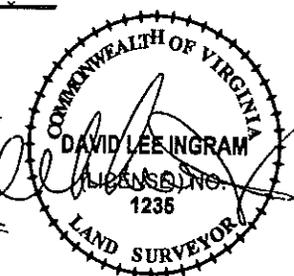
**INGRAM - HAGEN & CO., P.L.C.**

Surveyors - Engineers - Planners

140 OLD BRIDGEWATER ROAD  
MOUNT CRAWFORD, VIRGINIA 22841  
Telephone (540) 828-2778

Job #23108A Sheet 1 of 3

Match Sheet 2



This is not a true, certified copy unless the  
signature hereon is an original signing.

Application for Change of Zoning District  
City of Harrisonburg, Virginia

Section 1: Property Owner's Information

Name: Franklin Heights, LLC  
Street Address: 286 Kelley Street Email: wongway@harrisonburgva.com  
City/State/Zip: Harrisonburg, VA 22802  
Telephone (work): 540-434-7386 (home or cellular): n/a (fax): 540-432-1113

Section 2: Owner's Representative Information

Name: Stephen T. Heitz  
Street Address: 410 Neff Avenue Email: sth@littensipe.com  
City/State/Zip: Harrisonburg, VA 22801  
Telephone (work): 540-434-5353 (home or cellular): n/a (fax): 540-437-3051

Section 3: Description of Property

Location (street address): 374, 364, 631, 641, 651, 661, 650, 610 East Gay Street  
Harrisonburg, VA 22802  
Tax Map Number: Sheet: 33 Block: \*1 Lot: \*1 Total Land Area (acres or square feet): 2.955 acres  
Existing Zoning District: R2 Proposed Zoning District \*: R3  
Existing Comprehensive Plan Designation: neighborhood residential

*\*If applying for conditional rezoning, provide a letter stating proffers on separate sheet of paper*

Section 4: Application Fee

\$375.00 plus \$30.00 per acre, and if applicable, Fees for a Traffic Impact Analysis (TIA) Review (see below)

- (a) Would the development from this rezoning 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 rezoning 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.*

Section 5: Names and Addresses of Adjacent Property Owners (Use separate sheet for additional names)

North: See Attachment  
East: \_\_\_\_\_  
South: \_\_\_\_\_  
West: \_\_\_\_\_

Section 6: Certification

I certify that the information contained herein is true and accurate. Signature: By: Franklin Heights, LLC  
[Signature], Manager  
Property Owner

*See Back for Items Required for Submission*

Date Application Received: 08-07-12

Application for Special Use Permit  
City of Harrisonburg, Virginia

Fee: \$375.00 plus \$30.00 per acre

Total Paid: \$ 465.00 *AP*

Property Owner's Name: Franklin Heights, LLC

Street Address: 286 Kelley Street Email: wongway@harrisonburgva.com

City: Harrisonburg State: VA Zip: 22802

Telephone: Work 540-434-7386 Fax 540-432-1113 Mobile n/a

Owner's Representative: Stephen T. Heitz

Street Address: 410 Neff Avenue Email: sth@littensipe.com

City: Harrisonburg State: VA Zip: 22801

Telephone: Work 540-434-5353 Fax 540-437-3051 Mobile n/a

Description of Property and Request

Location (Street Address): 374, 364, 631, 641, 651, 661, 650, 610 Harrisonburg, VA 22802 East Gay Street

Tax Map Number Sheet: 33 Block: \* Lot: \* Lot Area: 2.955 acres

Existing Zoning Classification: R-2 to R-3

Special Use being requested: 10-3-48.4(6) - multiple family dwellings of up to twelve (12) units per building under conditions set forth in subsession 10-3-48.6(e) and such other conditions deemed necessary by city council.

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

See Attachment.

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

North: See Attachment

South: \_\_\_\_\_

East: \_\_\_\_\_

West: \_\_\_\_\_

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

Franklin Heights LLC

Signature: By: [Signature], manager

Property Owner

ITEMS REQUIRED FOR SUBMISSION

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

- Fees Paid
- Property Located on Tax Map
- \_\_\_\_\_
- \_\_\_\_\_

\* L-7-, L-6, O-17, O-18, O-19, O-20.

Date Application Received: 08-07-12

**Application for Ordinance Amendment  
City of Harrisonburg, Virginia**

Fee: \$375.00

Total Paid: \$ 375.00 <sup>AF</sup>

Applicant's Name: Franklin Heights, LLC

Street Address: 286 Kelley Street Email: wongway@harrisonburgrha.com

City: Harrisonburg State: VA Zip: 22802

Telephone: Work 540-434-7386 Fax 530-432-1113 Mobile n/a

Applicant's Representative: Stephen T. Heitz

Street Address: 410 Neff Avenue Email: sth@littensipe.com

City: Harrisonburg State: VA Zip: 22801

Telephone: Work 540-434-5353 Fax 540-437-3051 Mobile n/a

**Description of Amendment**

Zoning Ordinance Section: 10-3-48.4(3)

Proposed Text: See Attachment

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

Signature: By: Franklin Heights, LLC  
[Signature], manager  
*Applicant Signature*

**ITEMS REQUIRED FOR SUBMISSION**

- Completed Application
- Ordinance Text
- Letter of description

- Fees Paid
- 
-

**DRAFT**

ORDINANCE AMENDING AND RE-ENACTING SECTION

10-3-48.4

OF THE

CODE OF ORDINANCES

CITY OF HARRISONBURG, VIRGINIA

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

**That Section 10-3-48.4 Uses Permitted Only by Special Use Permit shall be amended by  
modifying the text within subsection (3) as shown:**

- (3) Reducing required parking areas to permit fewer than the required number of parking spaces for any use, ~~professional offices permitted in residential districts~~; provided that an amount of open space equal to the amount of space that would have been used for the required number of parking spaces is left available for parking in the event that, at the discretion of the city council, it is needed at some time in the future. Open space used for this purpose shall be so noted in the deed and shall not be used to meet any conflicting requirements of the zoning ordinance.

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

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

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

ATTESTE:

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

Date Application Received: 08-07-12

Application for Special Use Permit  
City of Harrisonburg, Virginia

Fee: \$375.00 plus \$30.00 per acre

Total Paid: \$ 465.00 AF

Property Owner's Name: Franklin Heights, LLC

Street Address: 286 Kelley Street Email: wongway@harrisonburgva.com

City: Harrisonburg State: VA Zip: 22802

Telephone: Work 540-434-7386 Fax 540-432-1113 Mobile n/a

Owner's Representative: Stephen T. Heitz

Street Address: 410 Neff Avenue Email: sth@littensipe.com

City: Harrisonburg State: VA Zip: 22801

Telephone: Work 540-434-5353 Fax 540-437-3051 Mobile n/a

Description of Property and Request

Location (Street Address): 374, 364, 631, 641, 651, 661, 650, 610 Harrisonburg, VA 22802 East Gay Street

Tax Map Number Sheet: 33 Block: \* Lot: \* Lot Area: 2.955 acres

Existing Zoning Classification: R-2 to R-3

Special Use being requested: 10-3-48.4 (3). See Attachment.

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

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

North: See Attachment

South: \_\_\_\_\_

East: \_\_\_\_\_

West: \_\_\_\_\_

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

Signature: By: [Signature], manager  
Property Owner

ITEMS REQUIRED FOR SUBMISSION

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

- Fees Paid
- Property Located on Tax Map
- \_\_\_\_\_
- \_\_\_\_\_

\* L-7-, L-6, 0-17, 0-18, 0-19, 0-20

## Attachment

**North:** Franklin Heights, LLC, 286 Kelley Street, Harrisonburg, VA 22802

**East:** Franklin Heights, LLC, 286 Kelley Street, Harrisonburg, VA 22802  
John D. & Susan L. Stahl, 409 Summit Street, Harrisonburg, VA 22802  
Michael S. & Jeffrey D. Sites, 1381 North Liberty Street, Harrisonburg, VA 22802  
James K. Forkovitch, 3235 Oak Ridge Road, Mt. Crawford, VA 22841  
Thelma Jean Earman, 345 Summit Street, Harrisonburg, VA 22802  
Barbara H. Knicely, P. O. Box 328, Canon City, CO 81215

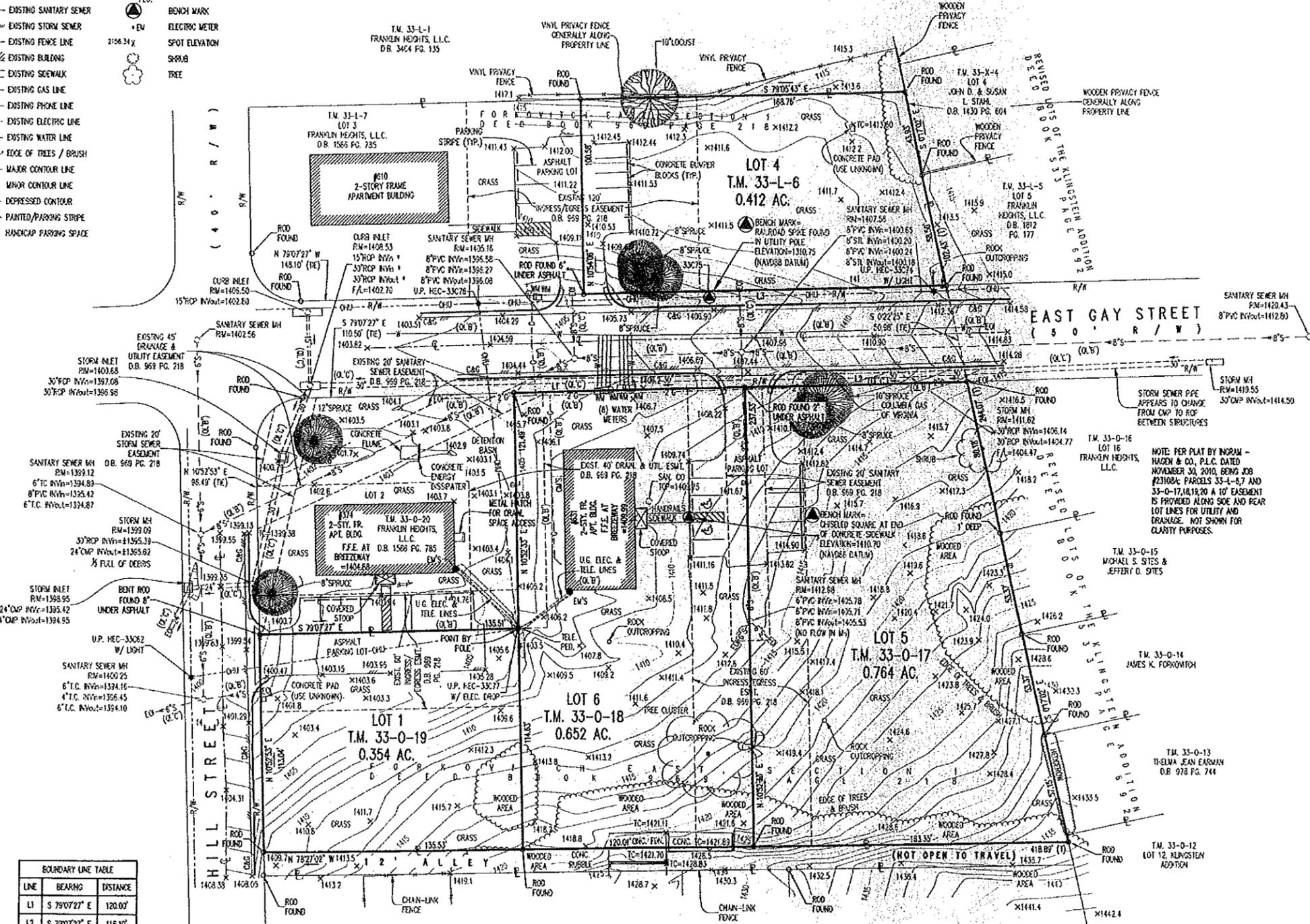
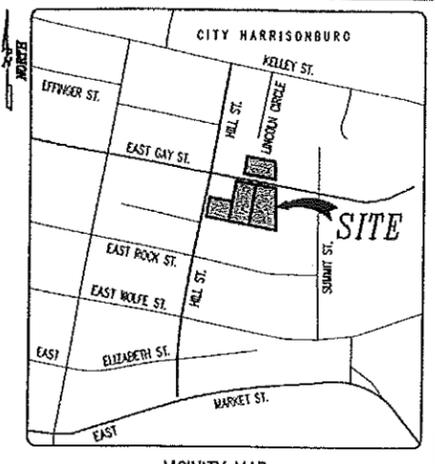
**South:** Alfred J. & Carl P. Landes, 2068 Indian Trail Road, Keezletown, VA 22832  
Charlotte W. DePoy Life Estate, 650 East Rock Street, Harrisonburg, VA 22802  
Franklin Heights LLC, 286 Kelley Street, Harrisonburg, VA 22802  
Michael S. & Jeffrey D. Sites, 1381 North Liberty Street, Harrisonburg, VA 22802  
Victor M. Mercado Mendez & Jose Milagros Mendez, 640 East Rock St., Harrisonburg, VA 22802  
Secretary of Housing and Urban Development, 3900 Wisconsin Ave., NW, Washington, DC 20016  
Jorge E. Govin Alvarez & Samuel Govin Perez, 620 East Rock St., Harrisonburg, VA 22802  
Guadalupe D. Zelaya-Hernandez, 610 East Rock Street, Harrisonburg, VA 22802  
C. Eldon & Sharyl J. Kurtz, 555 East Wolfe St., Harrisonburg, VA 22802

**West:** Elizabeth Williams Hoover, 335 Hill Street, Harrisonburg, VA 22802  
Charles E. Byrd, Sr. & Evelyn Byrd, 462 East Rock St., Harrisonburg, VA 22802  
Ryan C. & Amanda J. Zale, 375 Hill Street, Harrisonburg, VA 22801  
Barbara L. Dean, 331 Monger Hill Road, Elkton, VA 22827  
Glenn Stroop, 415 Hill Street, Harrisonburg, VA 22802  
Franklin Heights, LLC, 286 Kelley Street, Harrisonburg, VA 22802

**LEGEND:**

—	PROPERTY LINE	○	PROPERTY CORNER
—P	ADJOINING PROPERTY LINE	○LP	LIGHT POLE
R/W	ROAD/STREET RIGHT-OF-WAY	●	UTILITY POLE
—C	CENTERLINE	●	UTILITY POLE W/ LIGHT
---	EXISTING EASEMENT	○	MANHOLE
---	EXISTING CURB	→	D/W NRE
---	EXISTING CURB & GUTTER	○O	SEWER CLEAN OUT
---	EXISTING EDGE OF PAVEMENT	□	WATER METER
---	OVERHEAD UTILITY LINE	□	TELE. FEDESTAL
---	EXISTING SANITARY SEWER	○	BENCH MARK
---	EXISTING STORM SEWER	○	ELECTRIC METER
---	EXISTING FENCE LINE	○	SPOT ELEVATION
---	EXISTING BUILDING	○	SHRUB
---	EXISTING SIDEWALK	○	TREE
---	EXISTING GAS LINE		
---	EXISTING PHONE LINE		
---	EXISTING ELECTRIC LINE		
---	EXISTING WATER LINE		
---	EDGE OF TREES / BUSH		
---	MAJOR CONTOUR LINE		
---	MINOR CONTOUR LINE		
---	DEPRESSED CONTOUR		
---	PAINTED/PARKING STRIPE		
---	HANDICAP PARKING SPACE		

**TOPOGRAPHIC & BOUNDARY SURVEY OF TAX MAP  
PARCELS 33-L-6, 33-O-17, 33-O-18 & 33-O-19 of  
FORKOVITCH EAST, SECTION 1  
SITUATED ALONG  
EAST GAY STREET & HILL STREET  
CITY OF HARRISONBURG  
ROCKINGHAM COUNTY, VIRGINIA**



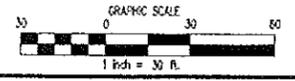
- NOTES:**
- THIS SURVEY WAS PREPARED FOR: COMMUNITY HOUSING PARTNERS
  - CURRENT OWNER(S): FRANKLIN HEIGHTS, LLC.
  - LEGAL REFERENCE(S) INST. NO. 2010-00005573; D.B. 2583 PG. 405; D.B. 2554 PG. 787; D.B. 969 PG. 218.
  - TAX PARCEL NO(S): 33-L-6, 33-O-17, 33-O-18 & 33-O-19
  - THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND THEREFORE MAY NOT INDICATE ALL ENCUMBRANCES AND EASEMENTS THAT MAY AFFECT THE SUBJECT PROPERTY.
  - THIS TOPOGRAPHIC SURVEY WAS COMPLETED UNDER THE DIRECT AND RESPONSIBLE CHARGE OF RALPH O. CLEMENTS, L.S. INC. #1894, FROM AN ACRUAL GROUND SURVEY MADE UNDER MY SUPERVISION AND ORIGINAL FIELD DATA WAS OBTAINED ON JULY 6, 2012, AND THAT THIS PLAN, MAP OR DIGITAL GEOGRAPHICAL DATA USING METADATA MEETS MINIMUM ACCURACY STANDARDS UNLESS OTHERWISE NOTED.
  - ELEVATIONS AS SHOWN HEREON, ARE BASED ON NAVD 88 VERTICAL DATUM. HORIZONTAL DATUM, AS SHOWN HEREON, IS BASED ON GRID NORTH, VIRGINIA STATE PLANE COORDINATE SYSTEM, NORTH ZONE, NAD83.
  - CONTOUR INTERVAL=1 FT.
  - THIS PLAN IS BASED ON AN ACRUAL FIELD SURVEY, USING MONUMENTS FOUND TO EXIST AND THEREFORE MAY NOT CONFORM TO PREVIOUS DEEDS OR PLATS OF RECORD.
  - THE SUBJECT PROPERTY DOES NOT LIE WITHIN A FEMA DESIGNATED 100-YEAR FLOOD HAZARD ZONE. THE SUBJECT PROPERTIES LIES WITHIN "UNSHADDED ZONE X - OTHER AREAS", AS DEFINED BY FEMA. & AS SHOWN ON FEMA MAP NO. 511050400, EFFECTIVE DATE OF FEBRUARY 8, 2008. THIS DETERMINATION HAS BEEN MADE BY GRAPHIC METHODS ONLY. NO ELEVATION STUDY HAS BEEN PERFORMED AS A PART OF THIS PROJECT.
  - SUBJECT PROPERTIES ARE SERVED BY PUBLIC WATER, SEWER AND STREETS

**BOUNDARY LINE TABLE**

LINE	BEARING	DISTANCE
L1	S 79°07'27" E	120.07'
L2	S 79°07'27" E	116.10'
L3	N 79°07'27" W	188.63'

**ABBREVIATIONS:**

AC=ADDRESS	EA=DIAMETER	F/L=FLOWLINE	N/A=NOT APPLICABLE	R/W=RIGHT-OF-WAY	(TYP)=TYPICAL
APPROX=APPROXIMATE	DR=DRAINAGE	FR=FRAME	NAVD=NORTH AMERICAN DATUM	SAN=SANITARY	UG=UNDERGROUND
APT=APARTMENT	E/E=ELECTRIC	FT=FOOT/FEET	NAV80=NORTH AMERICAN VERTICAL DATUM	ST=STREET	U.P.=UTILITY POLE
BLDG=BUILDING	ELEV=ELEVATION	INC=INCORPORATED	NO. #=NUMBER	STD=STANDARD	U.S.=UNITED STATES
C&G=CURB AND GUTTER	CON=CONCRETE	INVS=INVERT IN	CON=CONCRETE	STR=STEEL	VA=VIRGINIA
CO=CONSTRUCTION INSTITUTE	CONC=CONCRETE	INVS=INVERT OUT	CONC=CONCRETE	STO=STORY	W/W=WITH
CONC=CONCRETE	CONC=CONCRETE	LD=LANDSCAPE	CONC=CONCRETE	(T)=TOTAL DISTANCE	W/M=WITH WATER METER
CO=SEWER CLEAN OUT	CONC=CONCRETE	L.C.=LANDSCAPE COMPANY	CONC=CONCRETE	T.C.=TERRA COTTA PIPE	W=WITHOUT
CM=CORRUGATED METAL PIPE	CONC=CONCRETE	L.L.=LIMITED LIABILITY COMPANY	CONC=CONCRETE	TO-TOP OF CURB / CONCRETE	WATER METER
D.B.=DEED BOOK	CONC=CONCRETE	L.L.P.=LIMITED LIABILITY PARTNERSHIP	CONC=CONCRETE	TEL=TELEPHONE	AT=AT
D.E.=DRAINAGE EASEMENT	CONC=CONCRETE	L.P.=LIGHT POLE / LAMP POST	CONC=CONCRETE	TEL.FE=TELEPHONE FEDESTAL	±=PLUS OR MINUS
	CONC=CONCRETE	L.S.=LAND SURVEYOR	CONC=CONCRETE	T.M.=TAX MAP PARCEL	
	CONC=CONCRETE	REG.=REGISTERED	CONC=CONCRETE		



**GAY AND NEEL, INC.**  
20 YEARS ENGINEERING & LANDSCAPE ARCHITECTURE & SURVEYING

1260 Redford Street  
Christiansburg, Virginia 24073

City of Harrisonburg  
Rockingham County, Virginia

Sited Along  
East Gay Street & Hill Street

Topographic & Boundary Survey of Tax Map Parcels  
33-L-6, 33-O-17, 33-O-18 & 33-O-19  
Of Forkovitch East, Section 1

Ralph O. Clements  
L.S. No. 1694  
Professional Seal  
07/06/12

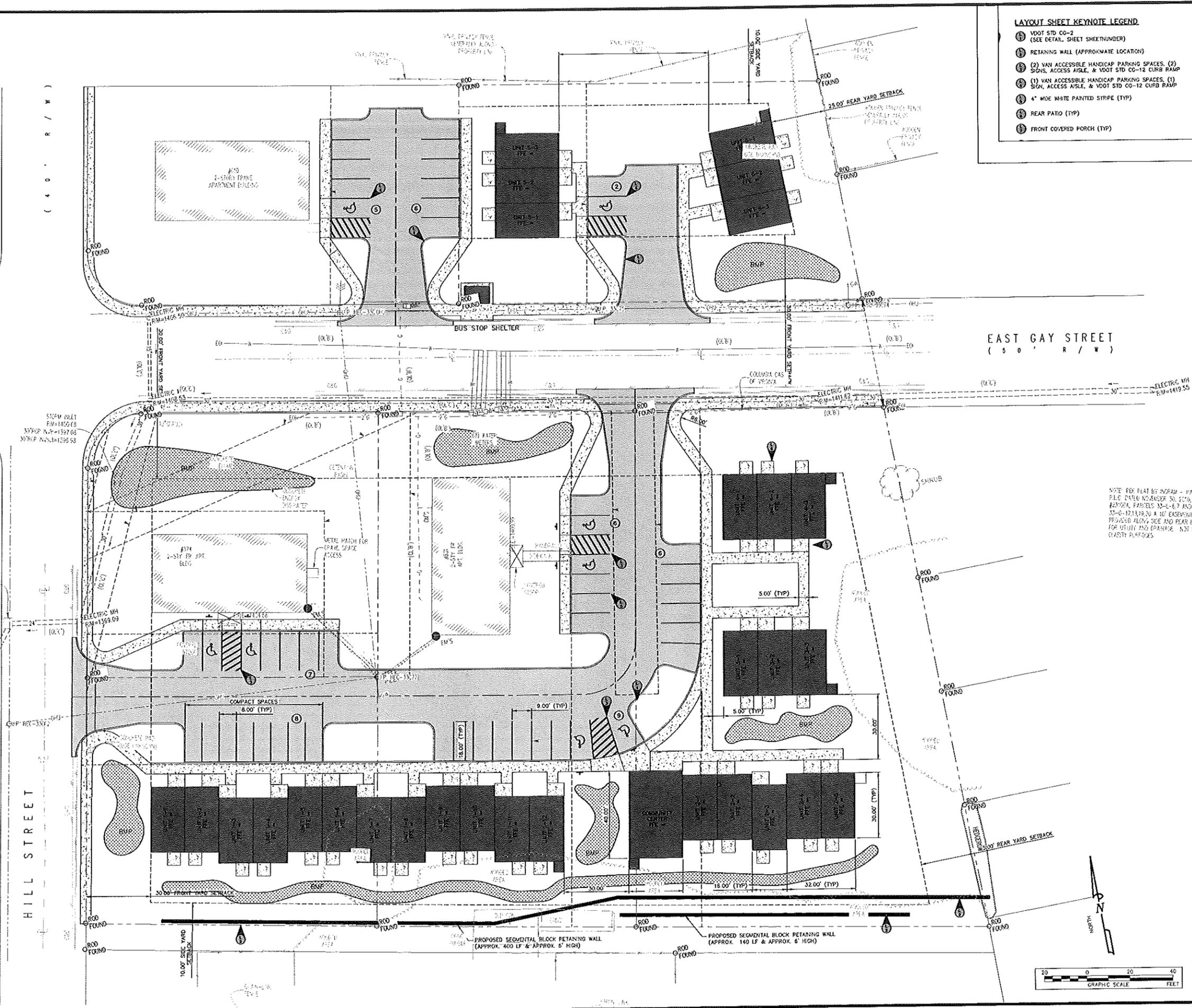
PROJECT TEAM	PM	ROC	Re
TECH	KJD		
CREW	SCL/MJD		
DATE	2/27/12	DATE	07/06/12
SCALE	AS SHOWN	SCALE	AS SHOWN

1 OF 1





X:\Drawing\2012\ENGINEERING\Drawings\2012\_08\_01\_C2\_Site\_Layout\_Plan\2012\_08\_01\_C2\_Site\_Layout\_Plan.dwg  
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 08/01/2012 11:07 AM, Steven, Civil/PE, W11



- LAYOUT SHEET KEYNOTE LEGEND**
- ① VDOT STD CG-2 (SEE DETAIL SHEET SHEETNUMBER)
  - ② RETAINING WALL (APPROXIMATE LOCATION)
  - ③ VAN ACCESSIBLE HANDICAP PARKING SPACES, (2) SIGNS, ACCESS AISLE, & VDOT STD CG-12 CURB RAMP
  - ④ VAN ACCESSIBLE HANDICAP PARKING SPACES, (1) SIGN, ACCESS AISLE, & VDOT STD CG-12 CURB RAMP
  - ⑤ 4" WIDE WHITE PAINTED STRIPE (TYP)
  - ⑥ REAR PATIO (TYP)
  - ⑦ FRONT COVERED PORCH (TYP)

**GAY AND NEEL, INC.**  
 ENGINEERING & LANDSCAPE ARCHITECTURE & SURVEYING

1260 Bedford Street  
 Christiansburg, Virginia 24073

Phone: (540) 381-6011  
 Fax: (540) 381-2773  
 Email: info@gayandneel.com  
 Web: www.gayandneel.com

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**HARRISONBURG REDEVELOPMENT  
 AND HOUSING AUTHORITY:  
 EAST GAY STREET PROJECT**

**PRELIMINARY**  
 NOT FOR CONSTRUCTION

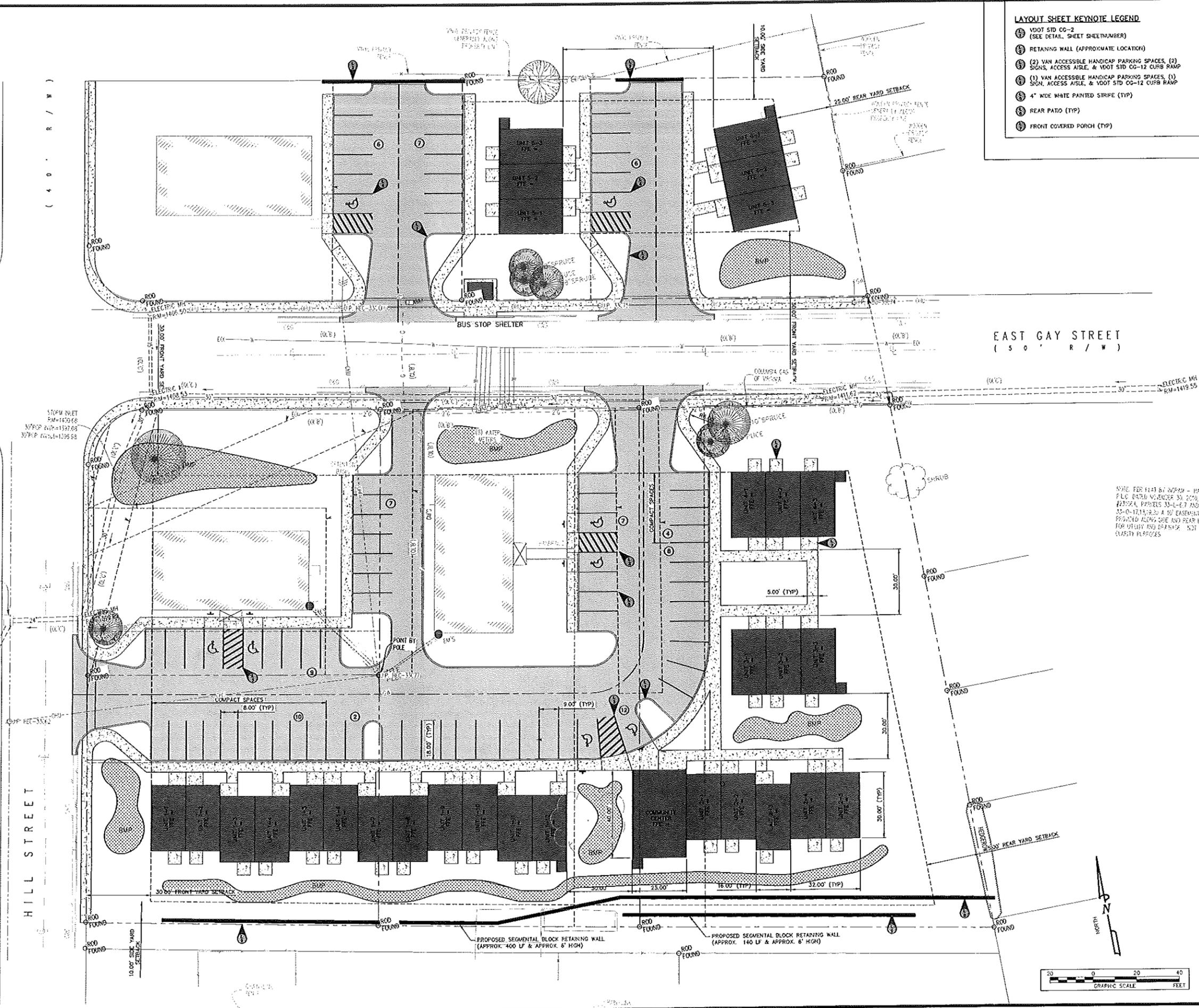
**REVISIONS**

NO.	COMMENTS	DATE
1	PER HARRISONBURG COMMENT LETTER RECEIVED 08/01/12	08/02/2012

**PROJECT TEAM**

PREPARED BY	JOHN T. NEEL, PE
DESIGNED BY	JANET MILLER ASLA
DESIGNED BY	SJS
ISSUE DATE	07 AUG 2012
GNJ JOB NO.	2357.0
SHEET TITLE	SITE LAYOUT AND DIMENSION PLAN - REDUCED PARKING OPTION
SHEET NUMBER	C2-01

X:\Drawings\2012\ENR\HARRISON\HARRISON\2012\02\_Site\_Lay\_Plan.dwg  
 02-02\_Site\_Lay\_Plan.dwg  
 08/08/2012 17:56:40 P.M. Sunmkr, ChaeP@Vn.com



- LAYOUT SHEET KEYNOTE LEGEND**
- ① VDOT STD CG-2 (SEE DETAIL, SHEET SHEETNUMBER)
  - ② RETAINING WALL (APPROXIMATE LOCATION)
  - ③ (2) VAN ACCESSIBLE HANDICAP PARKING SPACES, (2) SIGNS, ACCESS AISLE, & VDOT STD CG-12 CURB RAMP
  - ④ (1) VAN ACCESSIBLE HANDICAP PARKING SPACES, (1) SIGN, ACCESS AISLE, & VDOT STD CG-12 CURB RAMP
  - ⑤ 4' WIDE WHITE PAINTED STRIPE (TYP)
  - ⑥ REAR PATIO (TYP)
  - ⑦ FRONT COVERED PORCH (TYP)

**GAY AND NEEL, INC.**  
 ENGINEERING • LANDSCAPE ARCHITECTURE • SURVEYING  
 1260 Stafford Street  
 Christiansburg, Virginia 24073  
 Phone: (540) 381-6011  
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**HARRISONBURG REDEVELOPMENT  
 AND HOUSING AUTHORITY:  
 EAST GAY STREET PROJECT**

**PRELIMINARY**  
 NOT FOR CONSTRUCTION

**REVISIONS**

NO.	COMMENTS	DATE
1	PER HARRISONBURG COMMENT LETTER RECEIVED 8/29/12	08/29/12

**PROJECT TEAM**

PR	JOHN T. NEEL, PE
RS	JANET MILLER ASLA
DESIGN	SJS

**ISSUE DATE**  
07 AUG 2012

**GHI JOB NO.**  
2357.0

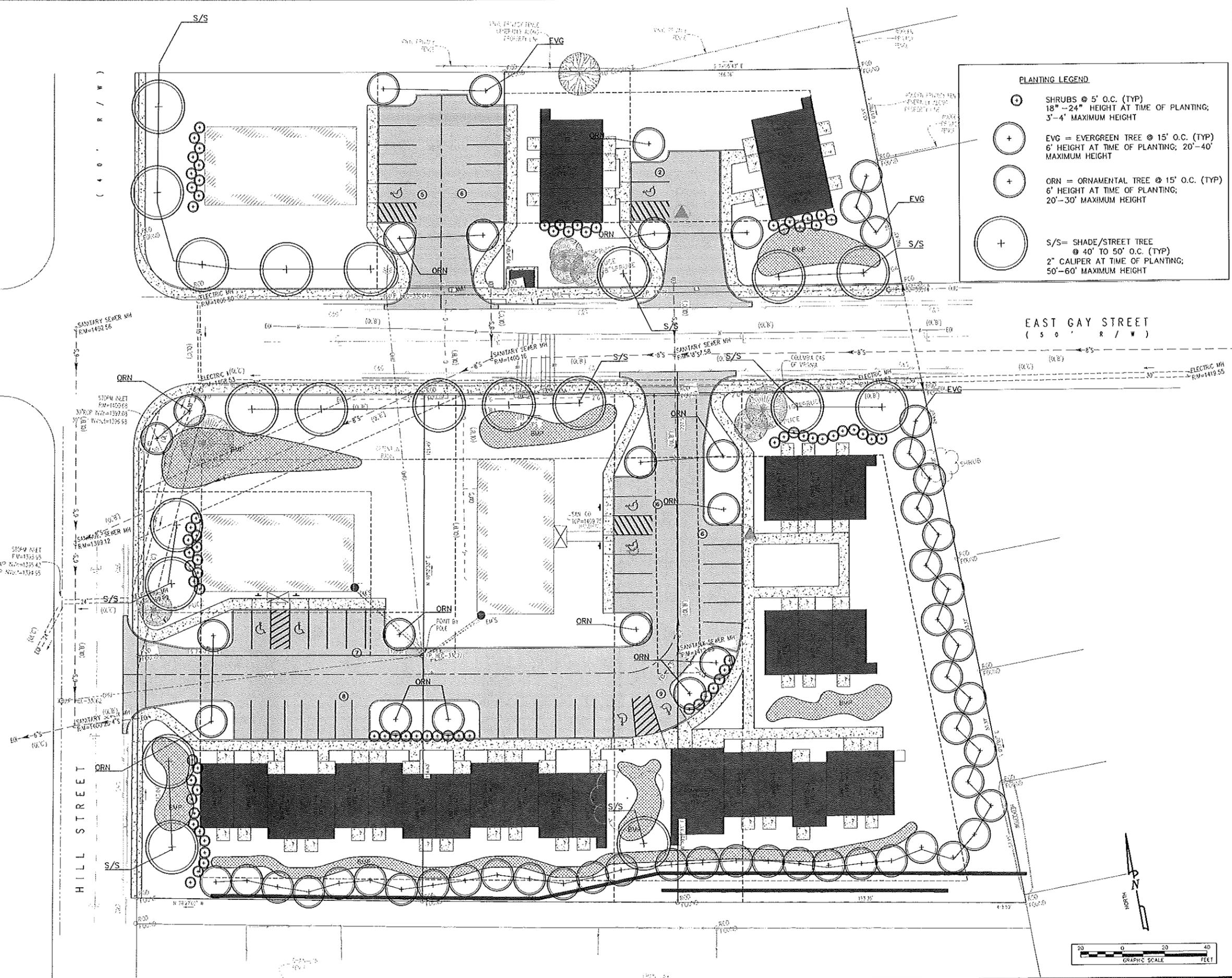
**SHEET TITLE**  
SITE LAYOUT AND DIMENSION PLAN - FULL PARKING OPTION

**SHEET NUMBER**  
C2-02



NOTE: PER 441 BY ORDER - HARRISONBURG, VA. P.L.C. DATED NOVEMBER 30, 2009, EX. 22309A, PARCELS 33-1-6.7 AND 33-0-12.13, 2.3, A 10' EASEMENT IS REQUESTED ALONG ONE AND REAR LOT FOR UTILITY AND EASEMENT. SEE SITE CLARITY REFERENCES.





**PLANTING LEGEND**

- SHRUBS @ 5' O.C. (TYP)  
 18" - 24" HEIGHT AT TIME OF PLANTING;  
 3' - 4' MAXIMUM HEIGHT
- EVG = EVERGREEN TREE @ 15' O.C. (TYP)  
 6' HEIGHT AT TIME OF PLANTING; 20' - 40'  
 MAXIMUM HEIGHT
- ORN = ORNAMENTAL TREE @ 15' O.C. (TYP)  
 6' HEIGHT AT TIME OF PLANTING;  
 20' - 30' MAXIMUM HEIGHT
- S/S = SHADE/STREET TREE  
 @ 40' TO 50' O.C. (TYP)  
 2" CALIPER AT TIME OF PLANTING;  
 50' - 60' MAXIMUM HEIGHT

**GAY AND NEEL, INC.**  
 ENGINEERING • LANDSCAPE ARCHITECTURE • SURVEYING  
 1250 Radford Street  
 Christiansburg, Virginia 24073  
 Phone: (540) 381-6611  
 Fax: (540) 381-2773  
 Email: info@gayandneel.com  
 Web: www.gayandneel.com

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**HARRISONBURG REDEVELOPMENT  
 AND HOUSING AUTHORITY:  
 EAST GAY STREET PROJECT**

REVISIONS		
NO.	COMMENTS	DATE
1	PER HARRISONBURG COMMENT LETTER RECEIVED 8/2/12	08/29/12

PROJECT TEAM	
PE	JOHN T. NEEL, PE
PW	JANET MILLER ASLA
DESIGN	SJS
ISSUE DATE	07 AUG 2012
GH/JOB NO.	2357.0
SHEET TITLE	LANDSCAPE PLAN
SHEET NUMBER	C6-01

COMMUNITY  
DESIGN  
STUDIO







# City of Harrisonburg Virginia

Water and Sewer Operations Center

2155 Beery Road

Harrisonburg, Virginia 22801

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



October 7, 2004

Mr. Alan Gould  
410 Summit Street  
Harrisonburg, VA, 22801

Dear Mr. Gould:

You have requested information pertaining to the performance of the sanitary sewer system within the area of your residence and within the area of the proposed Forkovitch rezoning at Hill Street and Gay Street. The minutes from the February 6, 2001 and September 8, 2004 Planning Commission meetings provided details to the relationship of the requested information and the proposed rezoning.

Six inch pipe is substandard to current city standards and increases maintenance requirements substantially. The referenced area is provided sanitary sewer service through approximately 1600 feet of 6-inch city pipe between Hill Street and Broad Street. There have incurred a significant number of hydraulic failures in the lower 850 feet; however, no failures have been observed in city pipe after the city had made repairs in June and July, 2003. The remaining sections of pipe have incurred several hydraulic failures in the past five years. Three events occurred in the city main (09/28/03, 10/13/03, and 01/21/04) and three events were homeowner issues (06/20/00, 03/03/04, and 03/16/04).

In summary, this area is regarded by the Public Utilities Department as "high maintenance". The six (6) inch pipe size is one underlying reason. Problems are typical of the six miles of six inch pipe that are located city-wide. This particular maintenance issue is further antagonized by extreme grease deposits from upstream. These deposits are difficult to regulate and they are not typical of residential patterns. The Utilities Department combats this issue with bi-monthly preventative cleaning activities.

I hope this information is satisfactory to your request.

Sincerely,

Mr. Ed Roach  
Public Utilities Department

M:\Admin\word6\clerk\04OCT\Gould.doc



## City of Harrisonburg, Virginia

Water and Sewer Operations Center

2155 Beery Road

Harrisonburg, Virginia 22801

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



August 24, 2012

Mr. Allan Gould  
410 Summit Street  
Harrisonburg, VA 22802

Dear Mr. Gould,

I am writing you with two purposes. First, I would like to apologize for my miscommunication in responding to your request for an update to the letter you received from this Department in October 2004. It was not my intention to refuse providing you a letter, but I cannot provide you with the same letter content as was provided previously. I am happy to provide this letter as documentation of the current status of the sanitary sewer system in your neighborhood, which is my second purpose for this letter. I hope this fulfills your request.

I recognize your concerns over the potential development of the lots in and around 641, 650 and 651 E Gay Street. As I have discussed with you over the telephone, I am working with the engineer for the proposed development to evaluate the capacity of both the water and sewer systems to accommodate this growth. City design standards prohibit any development where the water and sewer infrastructure could not support it. In evaluating the development, I have chosen to study the capacity of four sewer line segments immediately downstream of Hill Street. This study is on-going. Regarding maintenance, our records indicate that these line segments are 6" clay and have experienced only a few public main blockages. Our department has responded to nearly 50% more private lateral blockages than blockages in the public main. Accordingly, the sanitary sewer mains in question do not appear to be in poor condition. Some of the sewer lines in your neighborhood have been identified to exhibit a need for routine scheduled cleaning. This is not an isolated issue, as there are several other areas in the City where we perform this service. The Department is working towards developing a public education program about the negative impacts of placing inappropriate materials into the sanitary sewer system. It is our desire that this approach will minimize our scheduled cleanings.

I hope that this letter helps to clarify the status of the sanitary sewer system in your neighborhood. If you have questions or would like to discuss this further, please feel free to contact me at our office.

Cordially,

David H. Gray, PE  
Public Utilities Engineering Superintendent

***ELIZA WILLIAMS HOOVER***  
***Attorney & Counselor at Law***  
***335 Hill St***  
***Harrisonburg, VA 22802***  
***540-434-4231; cell 540-421-1477***

September 5, 2012

Adam Fletcher  
City Planner

Dear Adam,

RE: Proposed spot rezoning from R-2 to R-3 in Northeast Harrisonburg.

Please include in your material for the members of the Planning Commission the following:

1. Map showing location of HRHA owned and Section 8 subsidized units in Harrisonburg
2. Enlarged map showing Northeast area subsidized units
3. Community Handout entitled "Information on the Proposed Rezoning in Northeast Harrisonburg".
4. 2004 document entitled "Concerns about the Requested Rezoning at Gay & Hill Street

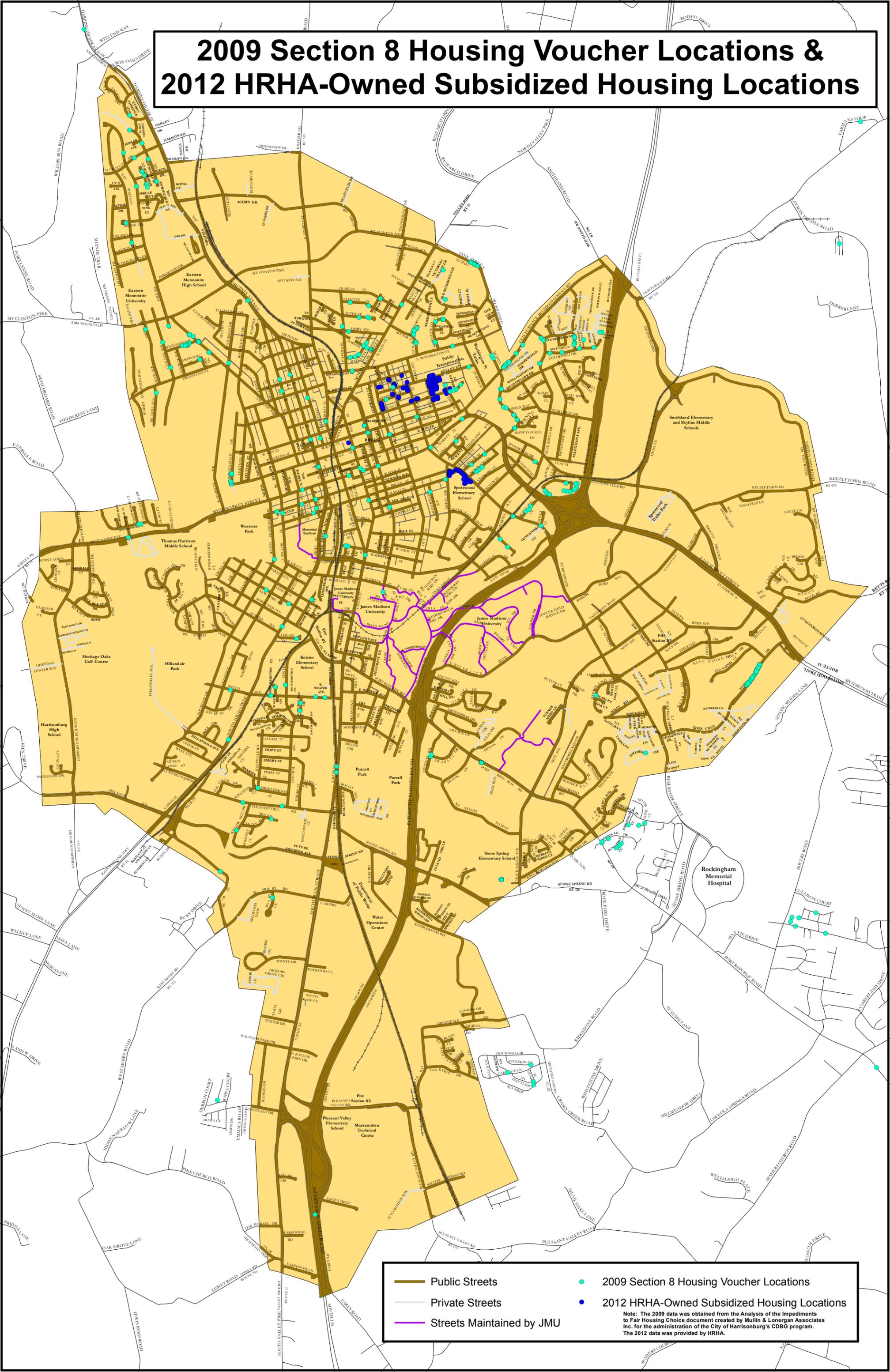
Thank you for your assistance.

Sincerely,

(signed)

Eliza Williams Hoover

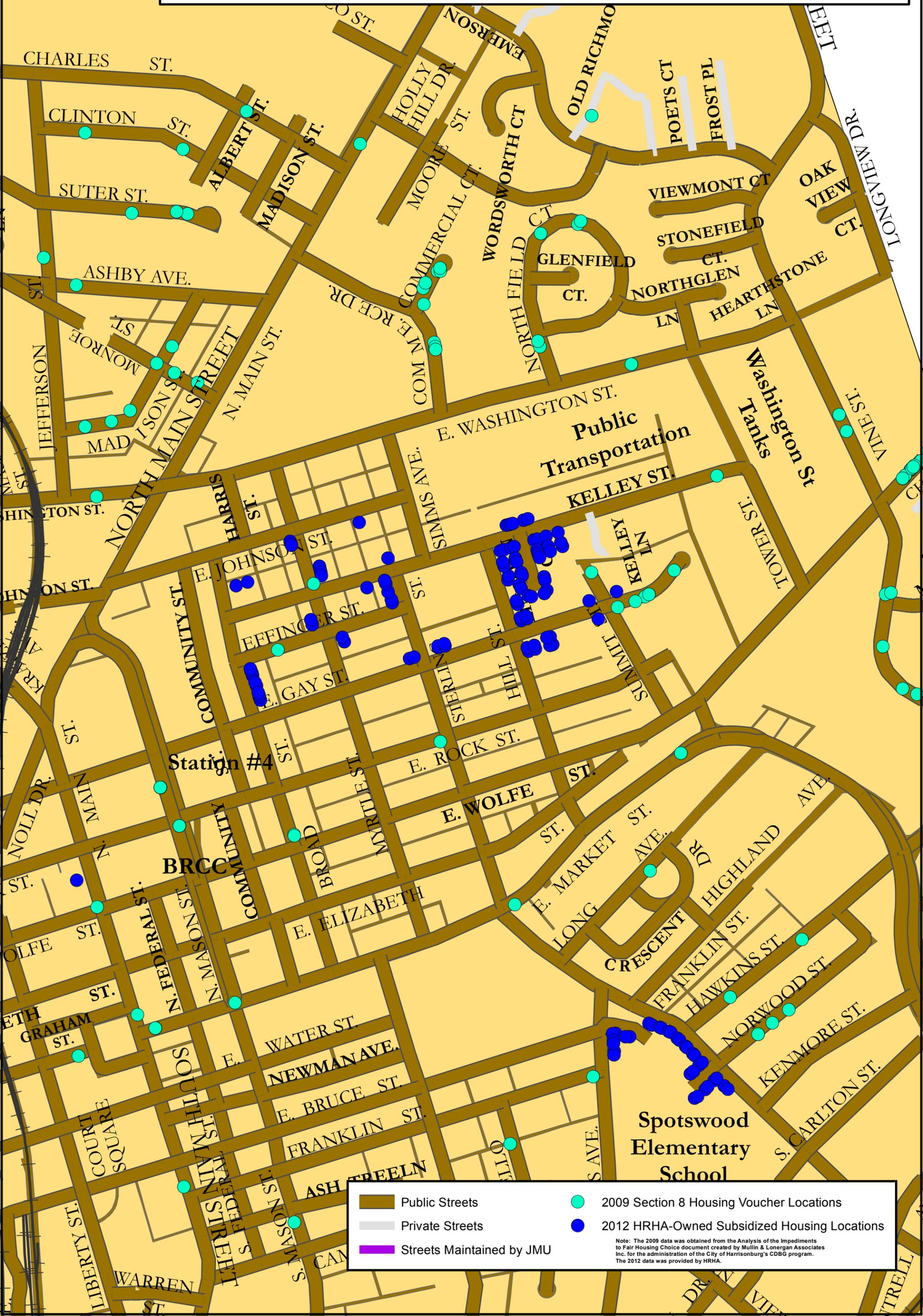
# 2009 Section 8 Housing Voucher Locations & 2012 HRHA-Owned Subsidized Housing Locations



 Public Streets	 2009 Section 8 Housing Voucher Locations
 Private Streets	 2012 HRHA-Owned Subsidized Housing Locations
 Streets Maintained by JMU	

Note: The 2009 data was obtained from the Analysis of the Impediments to Fair Housing Choice document created by Mullin & Lonergan Associates Inc. for the Administration of the City of Harrisonburg's CDBG program. The 2012 data was provided by HRHA.

# 2009 Section 8 Housing Voucher Locations & 2012 HRHA-Owned Subsidized Housing Locations



	Public Streets		2009 Section 8 Housing Voucher Locations
	Private Streets		2012 HRHA-Owned Subsidized Housing Locations
	Streets Maintained by JMU	<small>Note: The 2009 data was obtained from the Analysis of the Impediments to Fair Housing Choice document created by Mullin &amp; Lonergan Associates Inc. for the administration of the City of Harrisonburg's CDBG program. The 2012 data was provided by HRHA.</small>	

## ***INFORMATION ON THE PROPOSED REZONING IN NORTHEAST HARRISONBURG***

The Harrisonburg Housing Authority is requesting spot rezoning at the corner of Gay & Hill St. to increase density from R-2 (single family and duplex) to R-3 (multifamily) in order to build an additional 29 subsidized units. Although we wholeheartedly support the community's efforts to eliminate homelessness, we strongly oppose the location of another HRHA owned subsidized housing project in the Northeast community.

Harrisonburg's Comprehensive Plan and Zoning Map define Northeast as a residential community of single family and duplex homes (R-2). The proposed project directly contradicts the City's vision for Northeast.

There are a number of multiple family buildings in Northeast which were in place before the R-2 zoning. These multiple family units diminish the Northeast as a single family residential community. The Housing Authority's request would further negatively impact the residential character of this neighborhood.

In addition to building 29 new units, the Authority's proposal requests that the present non-conforming buildings at the corner of Gay & Hill be rezoned to R-3, confirming their status as multiple family units in the middle of an R-2 zoned neighborhood.

There are already **ninety-seven (97)** units in the center of the Northeast residential community, including the three quadplex, multifamily buildings, at the corner of Gay & Hill (compared with the rest of the city which has 32 units at Myers & the Lineweaver Apts. downtown.) In addition Northeast has a large number of Section 8 voucher locations.

It is extremely detrimental to overload one neighborhood with a disproportionate number of subsidized housing units, especially an already challenged neighborhood such as Northeast which is struggling to stabilize and create a healthy, attractive and safe residential community.

Healthy neighborhoods have a strong proportion of good neighbors to model positive community values for those who have not had the good fortune to experience positive community living. An important goal of any subsidized housing is to educate and encourage residents in pride of property and community. There is just so much education & encouragement one already challenged neighborhood alone can foster and absorb.

The Northeast Neighborhood Association (NENA) has been working hard for the past 6 years to transform the Northeast community into a safe, attractive and healthy community and these efforts are showing results. Without diligent and consistent management, subsidized housing can contribute strongly to a downward spiral in a neighborhood

Northeast is zoned R-2 for a reason. Every encroachment on this zoning can be detrimental. Other exceptions have been made but these exceptions are on the fringes of the neighborhood where there is business activity. This spot zoning request is in the middle of the Northeast neighborhood. It would be a blight of R-3 multiple density in a sea of R-2 single-family and duplex homes.

Thank you for your interest in our Northeast neighborhood.

For further information contact Eliza Hoover, 434-4231 or Karen Thomas, President of Northeast Neighborhood Association, 434-3182

## **CONCERNS ABOUT THE REQUESTED REZONING AT GAY AND HILL STREETS**

COUNCIL HAS A RESPONSIBILITY TO KEEP THE VISION FOR OUR CITY AS SET FORTH IN OUR PLANNING

### **Request for Rezoning is in opposition to the Comprehensive Plan and Land Use Map**

**I. The zoning must not be changed. To do so would be an egregious case of spot zoning, a spot of orange (R-3) in a sea of green (R-2), making a sham of the Comprehensive Plan and the two years of energy, time and approximately \$100,000 invested in the rewriting of the Comprehensive Plan by the citizens of Harrisonburg.**

**II. The comprehensive plan labels the Northeast area as one of a few Neighborhood Conservation Areas, that is, areas with particular stresses, challenges and needs which require special efforts to develop and maintain safe and positive neighborhoods.**

Northeast is a community at risk, as designated by the Comp. Plan. The City and the community are working hard to ensure this neighborhood as a safe residential area for families and children. Old homes are being restored and new families are moving in. This investment in this stressed community must be encouraged and strengthened through strong support for its residential zoning - R-2.

Many investments by the City and others are making progress in improving the neighborhood and thus in making it a safer and more secure neighborhood for families and children.

Some Examples:

- Weed and Seed Program especially targeted at areas with high risk for drugs
- Block Grants for various projects including Roberta Webb Childcare, Simms Enhancement, ARC, etc.
- Task Force on Gang Prevention
- Simms School renovations
- Old homes being restored
- Young families with children moving into the neighborhood

The investment and general good of many must take priority over one person's investment as set forth in the Comp. Plan and the Land-use Plan. There are literally hundreds who have made investments in homes in the NE, and these investments far outweigh that of the owner in this situation. It is hoped the City's action in denying this spot rezoning will encourage others to invest in the Northeast as a good residential neighborhood, protected from inappropriate uses..

Dangerous traffic problems - narrow streets, little off-street parking on many streets cause dangerous conditions for pedestrians and especially children. Traffic uses Hill and Gay streets as short cuts creating often heavy drive-through problems in this residential area..

of their racially and economically diverse neighborhood which is working to provide a positive and safe environment for its residents. Such diversity can be a model for other communities in the City if the strengths of this neighborhood are supported. Residents are pleased that the public housing in this area will be upgraded for those families which need such housing.

**IV. Such spot rezoning would serve as a precedent, putting at risk this residential community as well as other residential neighborhoods in Harrisonburg..**

Granting this rezoning would encourage all other similarly situated owners throughout the City to apply to City Council for the same type of relief from the 1987 ordinance. This ordinance was designed to protect the interests of the greater number of Harrisonburg citizens and to maintain a vision of strong residential neighborhoods without high density, inappropriate housing..

Harrisonburg has an overabundance of R-3 zoning, which is one reason the Comp Plan lists future strategies to reduce multi-family apartments **even in R-3 zoning** by requiring such units to be by special use, not by right.

Good stewardship is keeping the long range vision for the 40,000 plus residents of Harrisonburg, as set forth in the City's planning documents

**V. Good neighbor issues**

The housing under discussion is a blight in our neighborhood.

The owner does not live in the community and has made no efforts to make these units positive additions to the community. To the contrary, the housing has been a source of major problems in the community.

Examples:

Police statistics show 132 calls to these units from 1/1/03 - 9/23/04

Major trash problems

( A screening requirement for dumpsters were passed 10 years ago. This property was grandfathered and owner has made no attempts to improve appearance of property by screen or otherwise dealing with trash.

Old hatchery on the property was to be removed '78. This building finally collapsed but the foundation remains and for many years has been a dangerous attraction for children in the neighborhood.

There has been no provision for safe places for children to play.

Many broken promises to residents of Summit and Rock street

## Some specifics of COMPREHENSIVE PLAN:

### CHAPTER 4: PLAN FRAMEWORK

\***Neighborhood Conservation Areas** - see map for specific areas (pg4-6)

-Although many are rich in historic and cultural fabric, these mature neighborhoods **face challenges to reinvestment and rehabilitation**. Some are suffering from poorly maintained, deteriorating, or vacant homes and spot conversions of single family home to apartments .....plan recommends a community based neighborhood plan be developed

### CHAPTER 6: NEIGHBORHOODS & HOUSING

Goals (pg6-8 and ff)

To strengthen existing neighborhoods and promote the development of new neighborhoods that are quiet, safe, beautiful, walkable, enhance social interaction, etc. ....

Priority focus on **Neighborhood Conversation Areas**

Limit conversion of single family houses into duplexes and apartments in residential neighborhood

Strategies call for increasing single family detached housing units and a more restrictive policy on multi-family development, such as rezoning selected undeveloped R-3 to R-2, revising R-3 to permit multifamily development by special use NOT by right in R-3, or removing multifamily residential as a permitted or special use in R-3

Objective 3.5 To consider and seek to mitigate the potential impacts of rezoning on neighborhood.....Require applicants for rezoning to prepare and submit impact analyses addressing traffic, water and sewer, visual impact, storm water run-off, impacts on vehicular, pedestrian and bicycle traffic and circulation....

### CHAPTER 14: REVITALIZATION

\*(pg14-3 and ff) **Neighborhood Conservation Areas (con't)**

**Neighborhood plans** might include such items as:

Encourage rehabilitation and renovation of older houses

Facilitate home ownership and improve quality of rental housing

Reduce pressures to convert single family houses and lots to other uses

Traffic impact analyses

Resolution of safety and security issues

Encouraging involvement of residents

\*(pg 14-5 and ff)

Goals: Same list as above repeated with some additions:

Tools to assure compliance with zoning and property maintenance codes, particularly for residential rental units.

TIME PERIOD: 01/01/03 THRU 09/23/04					
TEN CODE	DESCRIPTION	374 HILL ST.	610 E. GAY ST.	631 E. GAY ST.	TOTALS
10-09	SIMPLE ASSAULT		1		1
10-10	HARRASSMENT	1	1	1	3
10-101	FOLLOW-UP	1	9	1	11
10-102	WARRANT SERVICE		20	1	21
10-11	THREATS	1	1	1	3
10-142	SHOTS FIRED		1		1
10-144	FIREWORKS VIOLATION	1		1	2
10-16	DOMESTIC - FAMILY	1	2		3
10-17	ATTEMPT B&E	1			1
10-19	LARCENY	3	1		4
10-22	ATTEMPT SUICIDE		1		1
10-23	DRUG VIOLATIONS	1	2		3
10-24	DISORDERLY CONDUCT	13	3	6	22
10-26	TRAFFIC CRASH	1			1
10-27	HIT & RUN		1		1
10-29	VANDALISM/PROPERTY DAMAGE		4		4
10-33	SUSPICIOUS PERSON	3	2	1	6
10-34	SUSPICIOUS VEHICLE	2		1	3
10-35	SUSPICIOUS ACTIVITY		1		1
10-37	TRESPASSING		1	1	2
10-38	JUVENILE CASES	1	4	2	7
10-41	FRAUD			1	1
10-47	NOISE ORDINANCE VIOLATION	3	7		10
10-49	TRAFFIC COMPLAINT			1	1
10-493	RECKLESS DRIVING		1		1
10-50	ANIMAL COMPLAINT		1	2	3
10-52	RUNAWAY		4		4
10-53	PHONE CALL COMPLAINT	2		1	3
10-64	TOW-IN		1		1
10-69	ASSIST OTHER AGENCY		1		1
10-70	911 HANG UP			1	1
10-71	POLICE SERVICE	2	2	1	5
10-74	FOOT PATROL		1		1
	<b>GRAND TOTALS BY ADDRESS</b>	<b>37</b>	<b>72</b>	<b>23</b>	<b>132</b>



# City of Harrisonburg

## Department of Planning and Community Development

### Memorandum

To: Harrisonburg Planning Commission  
From: Adam Fletcher, City Planner  
RE: **Portable Restroom Facilities**  
Date: Friday, September 7, 2012

As was discussed during July's regular Planning Commission meeting, over the past two months staff has further researched and discussed the issue of how to address portable restroom facilities and, for discussion purposes only, has drafted text that could be added to the Zoning Ordinance to address this matter.

Remember that City Council did not like the idea that was recommend by staff and Planning Commission to allow portable restroom facilities by way of a special use permit, but rather wanted the Commission to consider establishing a common set of rules for such a use. City Council recommended looking for guidance from other localities and how they have addressed this matter in their regulations.

Attached is a table summarizing the communication staff had with a sampling of Virginia localities and localities across the nation to see how they address the use of portable restroom facilities.

Also attached is an email sent from Jason Weakly, an Environmental Health Supervisor with the Central Shenandoah Health District of the Virginia Department of Health (VDH), summarizing how such facilities are regulated by the VDH.

The following is what staff is proposing for discussion: First, we are recommending maintaining the definition as was previously proposed to be inserted into 10-3-24 with the addition of the last sentence as shown.

Portable Restroom Facilities: 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. Portable restroom facilities, as defined herein, shall be considered accessory buildings.

Then amend Section 10-3-114 Accessory buildings as shown:

- (a) *In residential districts, except portable restroom facilities, which are further restricted in this section. Accessory buildings in residential districts may be built in a rear yard, but such accessory buildings shall not occupy more than thirty (30) percent of the*

required rear yard and shall not be less than five (5) feet from any interior side or rear lot line. Detached garages in townhouse developments are excluded from these requirements (per section 10-3-113). No accessory buildings or garages may be placed within the limits of a recorded easement or required fire lane.

- (b) *In business and industrial districts and the MX-U district, except portable restroom facilities, which are further restricted in this section.* Accessory buildings ~~in business and industrial districts on sites which abut a residential district~~ shall be held to the same setbacks required of principal buildings. No accessory buildings may be placed within the limits of a recorded easement or required fire lane.
- (c) *Principal building or use required.* No accessory building shall be constructed on ~~the premises of a building site property~~ which has not been improved with a principal building or use and no accessory building shall be used unless the principal building is in use is active.
- (d) *Location in setbacks in residential districts prohibited.* No accessory building in a residential district shall be located within the existing setback between a principal building and public street.
- (e) *Responsibility of owners to confirm covenants.* It is the responsibility of the owner to confirm if any covenants exist on their property which regulate accessory buildings.
- (f) Bus shelters, as defined, are exempt from all regulations within this section except that no shelter shall be located within the limits of a recorded easement or required fire lane.
- (g) *Portable restroom facilities in residential districts.* Portable restroom facilities are not permitted as accessory to residential uses. Portable restroom facilities accessory to uses other than residential in residential districts must be setback at least thirty (30) feet from all property lines, shall be screened from general public view, and shall not be placed within the limits of a recorded easement or required fire lane.
- (h) *Portable restroom facilities in business and industrial districts and the MX-U district.* Portable restroom facilities in the B-2 and M-1 zoning districts shall be held to the same setbacks required of principal buildings. Portable restroom facilities in the B-1 and MX-U districts shall be located at least thirty (30) feet from public street right-of-ways and ten (10) feet from all side and rear property lines, except on the side or rear of a lot abutting a residential district, then at least thirty (30) feet. Portable restroom facilities in all districts shall be screened from general public view and shall not be located within the limits of a recorded easement or required fire lane.
- (i) *Portable restroom facilities used for active construction sites, emergencies, or temporary events or festivals, are exempt from all regulations within this section.*

### How Other Localities Address Portable Restroom Facilities

Virginia Localities	How does the locality address the use of portable restroom facilities?
Augusta County, Virginia	Augusta County does not encourage the use of portable restroom facilities, but they do not address it and rely on the Virginia Department of Health to regulate it.
Charlottesville, Virginia	Charlottesville does not have an ordinance that regulates the use of portable restroom facilities and they have not had enough problems with them to address the use through established regulations.
Fauquier County, Virginia	Fauquier County stated they do not allow them to be used on a permanent basis and only view them as a temporary use.
Lexington, Virginia	Lexington's code requires all portable buildings to receive a conditional use permit; however, portable restroom facilities are exempt from that process. The other portable buildings that are exempt include accessory structures in residential districts and contractors' temporary offices and storage sheds. If a food truck or food cart lot wanted to use a portable restroom facility, they would most likely regulate food trucks through a conditional use process and classify them as a portable/temporary use and then look at the use of portable restroom facilities as part of the request and condition them accordingly.
Lynchburg, Virginia	Lynchburg does not address portable restroom facilities in their code. They stated that if someone wanted to use one on a permanent basis, they would most likely convey it was not a permitted use.
Rockingham County, Virginia	Rockingham County does not have a written policy, but they communicate with property owners that portable restroom facilities are not to be used on a permanent basis. They are considering placing regulations in their code to reflect their current policy.
Richmond, Virginia	Richmond views portable restroom facilities as a temporary use. They stated they have not had anyone press the issue of using one on a permanent basis, but if that occurred, they would not look upon it positively.
Roanoke, Virginia	Roanoke does not address the use of portable restroom facilities and stated that staff could not think of a time that someone wanted to use one on a permanent basis.
Waynesboro, Virginia	Waynesboro simply interprets that portable restroom facilities are temporary uses.

Westmoreland County, Virginia	Generally, Westmoreland County allows portable restroom facilities through a zoning permit process for a period of not more than six months and depending upon the circumstances, a property could receive a onetime six month extension.
Winchester, Virginia	Winchester does not address the use of portable restroom facilities unless they are associated with the use of mobile trailers, such as those used for additional classroom space, where they are governed as part of the mobile trailer permitting process.
<b>Other State Localities</b>	
Austin, Texas	Austin does not regulate the use of portable restroom facilities except they acknowledge that they are permitted on food cart lots to meet the accessibility to a bathroom standard regulated by the Health Department. (Their Health Department originally requested to have a brick and mortar restroom but received many complaints from the food cart vendors stating such a requirement was excessive.)
Ashville, North Carolina	Ashville has not had to address the use of portable restroom facilities as a standalone issue.
Buffalo, New York	Buffalo has no regulations pertaining to portable restroom facilities.
Cleveland, Ohio	Cleveland's Building and Housing Department does not issue permits for portable restroom facilities as a standalone permit. Such facilities are part of a permit that is required for special events and festivals.
Portland, Oregon	Portland does not directly address the use of portable restroom facilities but if someone asks to locate one, they communicate that they must meet the setback regulations of the district.
Charleston, South Carolina	Charleston's zoning has nothing to do with portable restroom facilities because they do not interpret them as a use.
Charlotte, North Carolina	Portable restroom facilities are treated as accessory structures and must meet similar setbacks. Their Zoning Administrator stated they would most likely allow a permanently located portable restroom, if all setback requirements were met.

**From:** Weakley, Jason (VDH) [<mailto:Jason.Weakley@vdh.virginia.gov>]  
**Sent:** Tuesday, July 10, 2012 12:55 PM  
**To:** Stacy Turner  
**Subject:** Portable toilets

Ms. Turner,

Pleasure speaking to you earlier today. Portable toilets are considered a type of privy (per the Sewage Handling and Disposal Regulations). I have pasted some relevant sections from the Regulations below. Portable toilets are listed as normally used in association with mass gatherings, construction sites, etc. where temporary facilities are required.

**12 VAC 5-610-980. Types.**

A. Privies are divided into two categories, those that function as disposal facilities and those that function merely as holding

facilities with ultimate disposal of the contents at another facility via pump and haul.

C. Holding privies.

1. General. Due to the nature of these devices, i.e., they require routine pump and haul, special care shall be taken in selecting these devices for use. These devices are satisfactory for use at mass gatherings, transient worker populations,

construction sites, recreation areas, etc.

3. Portable privies.

a. Description. A portable privy is a type of vault privy that is generally manufactured as a single unit and is easily transported.

b. Location. Location of portable privies should be determined on a case-by-case basis under the supervision of the district or local health department.

c. Utilization. Portable privies are normally used in association with mass gatherings, construction sites, etc., where temporary facilities are required.

d. Numbers required.

(1) When portable privies are used at mass gatherings, one privy per 100 persons shall be provided as a minimum.

(2) When portable privies are used at construction sites or transient worker locations, one privy per 25 persons shall be

provided as a minimum.

e. Pumping. The containment vessel of the portable privies shall be pumped as often as necessary to prevent overflow.

It is recommended that they be pumped when 2/3 full.

Article 4.

Pump and Haul of Sewage.

**12 VAC 5-610-598. General.**

Pump and haul pertains to an unusual circumstance wherein sewage is permitted to be transported by vehicle to a point of

disposal. Pump and haul includes all facilities and appurtenances necessary to collect and store the sewage for handling by a

contractor having a valid sewage handling permit.

**12 VAC 5-610-599. Permanent pumping and hauling.**

Pumping and hauling on a permanent basis is prohibited unless done under the auspices and supervision of a government

entity as provided for in 12 VAC 5-610-599.3 (see subdivision 2 of 12 VAC 5-610-410 for exception). Pumping and hauling for

over one year shall be considered as a permanent pumping and hauling operation.

*Printing Date: July 19, 2000*

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**12 VAC 5-610-599.1. Emergency pumping and hauling.**

When serious malfunctioning of an existing sewage disposal system, sewerage system or treatment works occurs, pumping

and hauling may be authorized for a definite time period until the malfunctioning system can be reconstructed or repaired.

**12 VAC 5-610-599.2. Temporary pumping and hauling.**

Temporary pumping and hauling may be permitted under the following conditions:

1. It must be demonstrated that the temporary pumping and hauling of sewage is not the usual practice in order to permit premature and unplanned real estate or commercial development in an area where sewerage facilities do not exist;

2. Construction of an approved sewerage system or treatment works is actively in progress with personnel and machinery at work in the particular area. Bonding, cash escrow or other assurances shall be required to guarantee completion of the sewerage system and/or treatment works ;

3. The completion of the sewerage system or treatment works is assured and a completion date within the definition of temporary pumping and hauling has been set; and

4. Any and all delays from the anticipated completion date shall be reported immediately by the holder of the pump and haul permit to the district or local health department. Delays not resulting from circumstances beyond the control of the holder of the pump and haul permit shall be grounds for revocation of the pump and haul permit.

**12 VAC 5-610-599.3. Permanent pump and haul.**

Permanent pumping and hauling of sewage may be permitted under the following conditions:

1. That the government entity enter into a contract with the department setting forth that the government entity will provide pump and haul services, either directly or through a private contractor holding a sewage handling permit, to the home(s), commercial establishment(s) or occupied structure(s) for the period the occupied structure is utilized or until connection can be made to an approved sewerage facility;
2. Upon completion of the contract between the department and the government entity, the commissioner shall issue a single pump and haul permit to the government entity. A separate construction permit shall be issued to the government entity for each sewage storage facility. The sewage storage facility(s) shall be designed and constructed in accordance with Article 7 (12 VAC 5-610-990 et seq.) of Part V of this chapter; and
3. When the government entity provides the sewage pump and haul services, it shall conform to the conditions contained in 12 VAC 5-610-380 and Article 8 (12 VAC 5-610-1020 et seq.) of Part V of this chapter.

Thank you,  
Jason Weakley  
Environmental Health Supervisor  
Central Shenandoah Health District  
540-332-7830 ext. 348  
fax: 540-332-9501  
[Jason.Weakley@vdh.virginia.gov](mailto:Jason.Weakley@vdh.virginia.gov)

# August 2012 Proactive-Zoning Report

For the month of August 2012 the proactive-zoning program targeted the **Smithland Road** section of the city. During the proactive inspections a total of two violations were found. The violations consisted of inoperable vehicles.

MONTH	SECTOR	4 <sup>th</sup> CYCLE VIOLATIONS	CORRECTED	1 <sup>st</sup> CYCLE	2 <sup>nd</sup> CYCLE	3 <sup>rd</sup> 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	29	80	45	63
June 2012	Exit 243	1	1	10	0	1
July 2012	Fairway Hills	2	2	1	0	0
August 2012	Smithland Rd.	2	n/a	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 September 2012 will be directed towards the enforcement of the Zoning Ordinance in the **N. Main St.** section of the City.