



# City of Harrisonburg, Virginia

## Planning Commission Meeting

June 12, 2013

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 May 8, 2013 regular meeting.**
- 2) **New Business**

*Special Use Permit – 960 Acorn Drive (Section 10-3-97 (10))*

Public hearing to consider a request from Acorn Enterprises with representative Mike Martin for a special use permit per Section 10-3-97 (10) of the Zoning Ordinance to allow recreational and leisure time activities within the M-1, General Industrial District. The 2.578-acre property is located at 960 Acorn Drive and can be found on tax map 56-B-7.

*Special Use Permit – 632 East Market Street (Section 10-3-40 (7))*

Public hearing to consider a request from Sharon S. Welch Kessler with representative Austin L. Welch for a special use permit per Section 10-3-40 (7) to allow occupancy, other than permitted by right, of not more than four persons within the R-2, Residential District. The 8,245 square foot property is located at 632 East Market Street and can be found on tax map 33-V-5.

*Special Use Permit – The Commons (Fence Height)*

Public hearing to consider a request from The Commons II, LLC for a special use permit per Section 10-3-46 (7) of the Zoning Ordinance to allow walls and fences greater than the height otherwise permitted within the R-3, Multiple Dwelling Residential District. The applicant is specifically requesting a fence of 8-feet in height be permitted on certain sections of their property. The 9.853-acre property is located at 869 Port Republic Road and can be found on tax map 92-F-8.

*Alley Closing – D&B Investors, LLC (Adjacent to 25-C-10, 11, 13, & 14)*

Consider a request from D&B Investors, LLC to close a public alley that is approximately 10-feet wide and 164 feet in length and includes 1,675 +/- square feet. The alley right-of-way is located off of and perpendicular to West Water Street and is adjacent to tax maps 25-C-10, 11, 13, & 14.

*Rezoning – D&B Investors, LLC and Hess and Allen Properties, LLC (B-1)*

Public hearing to consider a rezoning request from D&B Investors, LLC for two parcels zoned M-1, General Industrial District and an adjacent undeveloped public alley that D&B Investors, LLC has requested be closed and a rezoning request from Hess and Allen Properties, LLC and Stephan and Allyson Hess for two parcels zoned B-1C. All four properties totaling 65,344 +/- sq. ft., including the undeveloped public alley, would be rezoned to the B-1, Central Business District. The properties are located at 139, 147, and 155 West Water Street and 164 West Bruce Street and can be found on tax maps 25-C-8, 9, 10, & 14. The undeveloped public alley right-of-way is located off of and perpendicular to West Water Street and is adjacent to tax maps 25-C-10, 11, 13, & 14.

Staff will be available Monday July 8, 2013 at 4:30 p.m. for those interested in going on a field trip to view the sites for the July 10, 2013 agenda.

*Special Use Permit – D&B Investors, LLC and Hess and Allen Properties, LLC, and Stephan and Allyson Hess (Section 10-3-85 (8))*

Public hearing to consider a request from D&B Investors, LLC, Hess and Allen Properties, LLC, and Stephan and Allyson Hess for a special use permit per Section 10-3-85 (8) of the Zoning Ordinance to allow parking lots and parking garages as principle uses within the B-1, Central Business District. The properties total 65,344 +/- sq. ft. and are located at 139, 147, and 155 West Water Street and 164 West Bruce Street and can be found on tax maps 25-C-8, 9, 10, & 14. The property also includes an undeveloped public alley right-of-way that D&B Investors, LLC has requested be closed and is located off of and perpendicular to West Water Street and is adjacent to tax maps 25-C-10, 11, 13, & 14.

*Rezoning – Collicello North R-7 Development*

Public hearing to consider a request from Kin Group, LLC to rezone 17 parcels and portions of undeveloped public street and alley right-of-way that will soon be in their ownership totaling 127,195 +/- sq. ft. from R-2, Residential District and M-1 General Industrial District to R-7, Medium Density Mixed Residential Planned Community. The planned development will provide at least 35 dwelling units and would permit any of allowable non-residential uses. The properties are bounded by Virginia Avenue, 5<sup>th</sup> Street, portions of undeveloped Collicello Street, and Edom Road and can be found on tax maps 40-H-1 through 8 and 11 through 16, 40-I-14, 15, and 16, and portions of undeveloped 6<sup>th</sup> Street right-of-way, undeveloped portions of Collicello Street right-of-way, adjacent undeveloped alleys, and other public street right-of-way near Edom Road all of which is illustrated on tax map sheet 40.

- 3) Unfinished Business**
- 4) Public Input**
- 5) Report of secretary and committees**  
*Proactive Zoning*
- 6) Other Matters**
- 7) Adjournment**

**MINUTES OF HARRISONBURG PLANNING COMMISSION**

**May 8, 2013**

The Harrisonburg Planning Commission held its regular meeting on Wednesday, May 8, 2013 at 7:00 p.m. in the City Council Chambers, 409 South Main Street.

Members present: Richard Baugh, Gil Colman, MuAwia Da'Mes, Judith Dilts, Deb Fitzgerald, Jefferson Heatwole, and Henry Way.

Members absent: None

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

Chair Fitzgerald called the meeting to order and determined there was a quorum with all members in attendance. She then asked if there were any corrections, comments or a motion regarding the minutes from the February 13, 2013 Planning Commission meeting.

Mr. Heatwole moved to approve the minutes as presented from the February 13, 2013 regular Planning Commission meeting.

Dr. Dilts seconded the motion.

All members voted in favor of approving the February 2013 minutes (7-0).

**New Business**

***Alley Closing – Ridgeway Mennonite Church (Adjacent to 27-L-8, 8A, and 16 Through 20)***

Chair Fitzgerald read the request and asked staff to review.

Mr. Fletcher said the applicant is requesting to close two portions of undeveloped public alley right-of-ways. The first area includes a 12-foot in width section totaling 2,897 square feet located parallel and between Franklin Street and Hawkins Street. The second area includes a 10-foot in width section totaling 1,773 square feet located off of and perpendicular to Hawkins Street. The applicant, Ridgeway Mennonite Church, is the owner of all properties adjacent to the areas requested for closure.

As noted, the alleys are undeveloped and therefore not maintained by the City. The areas are not used for trash pick-up nor are there any public or private utilities within the right-of-way, and thus no easements would be needed if the City chooses to approve the request.

As noted by a letter submitted by a trustee of the church, the church hopes to make future building and parking lot improvements to the site. The applicant should be aware their property has two separate zoning classifications: R-2 and R-3. Any principal building built on the R-2 zoned area of their property must provide 50-foot setbacks from all property lines, while principal buildings built on the R-3 portion of their property must have 30-foot setbacks from public street right-of-way lines, 10-foot setbacks from side property lines, and 25-foot setbacks from rear property lines. Depending upon how the parking lot is improved, the church could be required to comply with parking lot landscaping requirements per Section 10-3-30.1 of the Zoning Ordinance.

The letter also requests the City consider waiving the requirement to purchase the public alleys. This decision is made by City Council.

Staff has no concerns with this request and recommends closing the paper alleys.

Chair Fitzgerald asked if there were any questions for staff.

Mr. Da'Mes asked if the alley was "on the radar" for part of the pedestrian bicycle path plan.

Mr. Fletcher replied no. On the plan to which you are referring, these alleys are listed as ones that could possibly be released or sold.

Chair Fitzgerald asked if there were any further questions. Hearing none, she said this is not a formal public hearing; however, if the applicant would like to come forward to speak or answer questions they may do so at this time.

Mr. James Shank, Trustee with Ridgeway Mennonite Church, said he would like to thank the Planning Commission Members for taking into consideration the request for the alley closings. I feel it has been very accurately reported by staff as to what our intent is with the parking area. The parking is our primary focus; we do not have a plan for whether or not we will be building. Right now all of our attention is focused on the parking area to make it a bit more convenient for our congregation.

Chair Fitzgerald asked if there were any questions for Mr. Shank. Hearing none, she asked if there was anyone else wishing to speak. Hearing none, she asked Planning Commission for discussion.

Mr. Da'Mes made a motion to recommend approving the requested alley closings for Ridgeway Mennonite Church.

Mr. Way seconded the motion to approve.

Chair Fitzgerald asked for a voice vote on the motion.

All voted in favor of the motion to recommend approval of the alley closing requests (7-0).

Chair Fitzgerald said this will move forward to City Council on June 11<sup>th</sup>.

***Preliminary Plat – The Village at Forest Hills***

Chair Fitzgerald read the request and asked staff to review.

Mrs. Banks said the Comprehensive Plan designates this area as Low Density Residential and Medium Density Residential. The Low Density designation states that these areas consist of single family detached dwellings with a maximum density of 1 to 4 units per acre. Low density sections are found mainly in and around well established neighborhoods and are designed to maintain the existing character of neighborhoods and to provide traditional areas for home ownership. The Medium Density Residential 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: The Village at Forest Hills townhomes; zoned R-4

North: Single-family dwellings; zoned R-1

East: Forest Hills Manor and University Fields Apartments; zoned R-4

South: Convenience Stores and vacant land; zoned B-2C

West: Harrington Heights townhomes; zoned R-4 and Gas service stations; zoned B-2

The property owners of the Village at Forest Hills, a student housing complex located along the private street Village Lane, are requesting to preliminarily subdivide a 6.11 +/- acre common area parcel into two lots. The proposed subdivision requires Planning Commission approval because it is greater than five acres in size and further requires City Council approval because a variance from the Subdivision Ordinance Section 10-2-42 (c) is needed to allow lots to not have public street frontage. Currently, this common area does not have road frontage and is accessed only from the private street.

At this time the applicants would like to subdivide the common area parcel into two lots as they are preparing to re-finance the property and would like for the rear common area portion (the area closest to Port Republic Road) to not be part of the new loan. As well, they are in discussions with property owners along Port Republic Road whom would like to purchase portions of the rear common area lot and include it as part of a potential development along Port Republic Road at some point in the future.

To completely understand staff's position on this request, a brief history of this area should be explained. The Village at Forest Hills was part of a larger master planned development within Rockingham County called Harrington Heights. Harrington Heights was proposed to be made up of the townhomes, single-family dwellings (along Greenbriar Drive), apartments, a retail component located at the corner of Port Republic Road and Devon Lane and common area. When the City annexed this area in 1983 it was given the zoning designation of R-4, Planned Unit Residential District; this district most closely matched the development and the zoning classification in the County. Through the years, parcels have been sold off from the original acreage and rezonings have occurred. Greenbriar Drive homeowners requested a rezoning to R-1, Single Family Residential Conditional and the corner of Devon Lane and Port Republic Road is now zoned B-2C, General Business District Conditional.

A requirement of the R-4 zoning classification is that there is designated open green space area of at least fifteen (15) percent of any plan of development. The subject 6.11 +/- acre common area is the open green space for the R-4 development. Simply subdividing this area into two lots is not of concern to staff, so long as the area is left open and undeveloped as it was always intended for on the master plan. However, the applicants desire to possibly sell a portion of the common area for development at a future date does give staff concern that the fifteen percent open green space requirement would no longer be met. Therefore, the applicant has included a note on the Preliminary Plat that states: "*The subject property and resultant lots cannot be used for anything other than open, green space for the Village Lane development, unless the properties are involved in a future master plan amendment*". This same note shall also be on the final plat.

During the review of the Preliminary Plat it was also noted that there is an existing, eight inch water main that travels along Village Lane to serve the development. This main is not within a public waterline easement; as well, Village Lane is not a public street. Therefore, the City desires an easement be established over the waterline. The applicants have added a note to the Preliminary Plat indicating that the water main would be surveyed during the Final Plat process and a 20-foot easement, centered on the water main and hydrant, would be provided.

Other than the requirement of Section 10-2-42 (c), the plat meets all the requirements of the Subdivision Ordinance. This property has never had public street frontage and would continue to

be accessed and function in the same manner after subdividing. Therefore, staff supports a favorable recommendation to approve the Preliminary Plat with a variance to allow the lots to not have public street frontage.

Chair Fitzgerald asked if there were any questions for staff.

Dr. Dilts asked if the current total of 6.11 acres was more than the required fifteen percent for the open green space.

Mr. Fletcher said yes, there is a significant amount of green space here and it counted towards much of the development described earlier in the presentation. The idea is that you cannot keep carving away at that green space. Once the property owners subdivide this, and possibly sells a portion in the future, then they will significantly reduce this green space and would need to prove to us that they can continue to meet the fifteen percent requirement of the overall area.

Mr. Colman asked if the fifteen percent related to the entire plan or only what is zoned R-4.

Mrs. Banks replied only the area zoned R-4.

Chair Fitzgerald asked if there were any further questions. Hearing none, she 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. Dick Blackwell, Blackwell Engineering, said I feel staff has explained this very well. If you have any questions for me I would be happy to answer them at this time.

Hearing no questions, Chair Fitzgerald asked the Planning Commission for discussion or a motion on the request.

Dr. Dilts moved to recommend approval of the preliminary plat, with the requested variance.

Mr. Jefferson seconded the motion.

Chair Fitzgerald called for a voice vote on the motion.

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

Chair Fitzgerald said this will also go before City Council on June 11<sup>th</sup>.

***Special Use Permit – Maryland Avenue (J.D. Land, LLC) 10-3-40(7)***

Chair Fitzgerald read the request and asked staff for their review.

Mrs. Banks said 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: Duplex dwelling units; zoned R-2

North: Across railroad right-of-way, single-family homes; zoned R-2 and apartments; zoned R-3C

East: Across Blacks Run, undeveloped lot owned by C & W Railroad; zoned M-1

South: Across Blacks Run, undeveloped lots owned by C & W Railroad; zoned M-1 and R-3 and City of Harrisonburg fire station; zoned R-3

West: Across Maryland Avenue, railroad right-of-way and undeveloped lots owned by C & W Railroad; zoned R-2

The applicant is requesting a special use permit (SUP) per Section 10-3-40 (7) of the Zoning Ordinance to allow occupancy other than permitted by right within the R-2, Residential District. JD Land, LLC is specifically requesting to be allowed to rent to three unrelated persons per three bedroom duplex unit at the subject property, which has three duplex structures. If approved, up to eighteen unrelated persons could reside in the three duplex structures on the site.

By right, occupancy regulations within the R-2 zoning district allows owner occupied dwellings to include rental of space of not more than two additional boarders. Nonowner occupied dwellings may include rental of space of not more than one additional boarder. Therefore, a family (or individual) could own and reside in a house and have two unrelated persons residing with them or a family (or individual) could lease a house and have one unrelated person residing with them. The applicant does not reside at the subject property, and currently leases the properties under these regulations. Only by SUP in the R-2 district can the occupancy be increased up to four unrelated persons.

A requirement of the requested SUP is that one parking space per tenant be provided on site. With this request each parcel must provide the appropriate number of spaces on that individual lot. The applicant's engineer has submitted a site plan showing that spaces are provided as required on each individual parcel.

The Comprehensive Plan designates this as Neighborhood Residential, which means 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. Because this particular development is bounded by the rail road, apartments, Blacks Run, and the Fire Department it is somewhat isolated from any neighborhood and staff does not feel it is setting a precedent for density for the nearby neighborhoods.

Staff recommends in favor of the requested Special Use Permit for three unrelated persons per dwelling unit.

Chair Fitzgerald asked if staff had given any consideration to the additional traffic that may occur or the close proximity to the elementary school across the street with children walking or riding a bike to school.

Mrs. Banks said no, staff had not looked at that issue.

Mr. Da'Mes asked if there was sidewalk on Maryland Avenue.

Mrs. Banks said there is sidewalk along the south side of Maryland Avenue.

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

Mr. Dick Blackwell, Blackwell Engineering, said that staff has explained this quite well; this is a rather isolated area. The way this is set-up now is that two unrelated persons can live in a unit, or a family and one unrelated. The owner has had a number of siblings and a friend in units, but would prefer to have it allowing three unrelated persons by right. Honestly the traffic probably would not

be much different than it is now, because of leasing to family members and one unrelated in the past. There is room to establish the additional parking. Being in an unusual and isolated area, it seemed like a reasonable request to ask for. I would be happy to answer any questions you have.

Mr. Da'Mes said with the proximity to James Madison University (JMU) and the increase in density, it may change the demographics of who the dwellings are being rented to. It would give someone the opportunity for student housing. There is a single family housing neighborhood nearby and for me it is not a question of traffic, but the demographics of possibly having students in the neighborhood now.

Mr. Fletcher said staff believes it is already student housing. It was built for student rental and that demographic is not going to change.

Chair Fitzgerald asked if there were any further questions for Mr. Blackwell. Hearing none, she asked if there was anyone else wishing to speak in favor of the request. Hearing none, she asked if there was anyone wishing to speak in opposition to this proposal. Hearing none, she closed the public hearing and asked for discussion.

Mr. Colman said the question I have is whether we are setting a precedent on this. I live up the street and there is a lot of traffic here and a lot of students that live in those houses there. The area is changing from ten years ago and would increasing the density here be setting a precedent for the other side of the railroad.

Mr. Fletcher said for staff this is our threshold; this is the line we are comfortable with. This is a very circumstantial situation based upon where it is located, how it is zoned and what is located around it.

Mr. Colman asked if there are any other properties nearby with this special use applied.

Mr. Fletcher said the closest to this would probably be on West Market Street; staff recommended denial of the special use believing it was part of a neighborhood, but it was ultimately approved.

Mrs. Turner said Roosevelt Square, although not a special use permit is probably the closest thing like this in this area.

Mrs. Banks said Roosevelt Square actually is by special use permit for portions of the development. Several units were constructed after the occupancy change in the ordinance and the owner received a SUP in order to have four unrelated persons in the new units. With this request the owner is asking for only three unrelated persons in each unit.

Mr. Way asked if there had been any contact with staff from persons within the neighborhood.

Mrs. Banks replied no.

Mr. Way said staff's contention is that the rail road is more of the barrier for the limits of density, rather than the creek.

Mr. Fletcher replied yes. It is an entirely different dynamic with these R-2 parcels. They are their own little island surrounded by Blacks Run, the rail road, and a large industrial parcel.

Mr. Da'Mes asked if any consideration given to possibly putting up a physical barrier; perhaps a solid fence along the rail road side.

Mrs. Banks replied no, there is a slope up to the rail road. It is not an easy crossing, not to say people do not do it, I am sure they walk along the tracks at times.

Chair Fitzgerald said staff does not feel traffic is an issue.

Mr. Fletcher said no we do not.

Chair Fitzgerald said staff is not worried about children walking to and from school in this area or that the neighborhood is going to be harmed by this SUP.

Mr. Fletcher said if you stand behind our philosophy, the answer is no. We only make the recommendation, not the decision.

Mr. Colman said what about the potential for rezoning; once you have the higher density is there not the desire to move to an R-3 development.

Mr. Fletcher said that would probably be a tough argument to make with staff.

Mr. Baugh said I believe it was shared with us on the site visit that the applicant originally proposed an R-3 with proffers of occupancy. That really does become spot zoning if you allowed this as an R-3 development.

Mr. Fletcher said that is what happened when the applicant first spoke to us. They were interested in rezoning to R-3 only for the occupancy levels. We suggested that the chances of approval might be better with the special use request rather than a rezoning to R-3. The applicant elected the SUP route; something staff feels more comfortable with.

Chair Fitzgerald said I was skeptical on the site tour Monday and I am less skeptical tonight.

Mrs. Banks said this is a special use permit request so if there is a particular condition that Planning Commission feels may work with this request you could recommend it.

Mr. Fletcher said we have language within a different staff report tonight, that might be appropriate for this if Planning Commission so chooses. It reads: "if in the opinion of Planning Commission or City Council the special use permit implementation becomes a nuisance it may be recalled for further review, which may include additional conditions or revocation of the permit".

Mr. Baugh said I like that. I have very much the same concerns that have been expressed here tonight; but I feel I have ended up where staff is. If you were ever going to consider doing this, this might be the location for one. I would even say I am not really too concerned with the density, traffic, school stuff because you could have families in these units right now that would actually have more people and vehicles than what is being requested. I guess if I were going to make the argument against this, my argument would be that generally we have not favored the increase in density. There is a clear private interest in approving this, I am not sure that there is any public interest being served with this. I understand this helps the property owner and that the standard is not really going to hurt anything; but, is there any benefit to the community by doing this. Are we just increasing density at a time when we said we have some concerns about increasing density elsewhere?

Mr. Way said staff says it is mostly student rentals at the moment. Currently, there is only one way to get to JMU campus and that is coming out Maryland Avenue and turning onto Main Street. There are no other ways to campus from here.

Mrs. Banks said that is correct. There is only one entrance into this development; unless you walk along the rail road tracks, which we do not promote.

Mr. Way said that is my concern with the increase in density. If there were other ways or better ways onto campus from here, I would be more excited about this. As it stands, it is not that well connected.

Mrs. Banks said do not forget that these could be students from Blue Ridge Community College, Eastern Mennonite University, or Bridgewater College; not just JMU.

Mr. Baugh said it also comes back to the fact that you could fill this up with families and have more people living there than you would have with this SUP.

Dr. Dilts moved to recommend approval of the special use permit for JD Land, LLC to have up to three unrelated individual in each dwelling unit.

Mr. Da'Mes asked if the condition previously read by staff could be added to the motion.

Dr. Dilts agreed to add the specific condition read by Mr. Fletcher earlier in the discussion.

Mr. Da'Mes seconded the motion.

Chair Fitzgerald called for a voice vote on the motion with the condition.

All voted in favor of the motion to recommend approval with the condition (7-0).

Chair Fitzgerald said this will go before City Council on June 11<sup>th</sup> with a favorable recommendation.

***Rezoning – Whitesel Brothers, Inc. (Erickson Avenue) R-1 to B-2***

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

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

- Site: Whitesel Brothers, Inc. storage building and vacant lands; zoned R-1
- North: Across Erickson Avenue, Garbers Church of the Brethren; zoned R-1
- East: Across Garbers Church Road, First Assembly of God Church; zoned B-2
- South: Whitesel Brothers, Inc. Dealership; zoned B-1 (County)
- West: Vacant land; zoned R-1

The applicant is requesting to rezone three parcels, of approximately 3.79 acres, from R-1, Single Family Residential District to B-2, General Business District. The parcels are located along the southwestern corner of Garbers Church Road and Erickson Avenue; directly adjacent to the City and Rockingham County boundary. As spelled out in the letter submitted with the application, Whitesel Brothers, Inc. would use the property for retail display, sales and service of agricultural, lawn and garden and dairy equipment, parts and related accessories. However, if approved, any use permitted by right within the B-2 zoning would be allowed on the parcels.

In 2009, Whitesel Brothers purchased the corner property, identified as tax parcel 114-B-1, from the City of Harrisonburg; the City had acquired the parcel as part of the Erickson Avenue/Stone Spring Road improvement project. Prior to selling the parcel the City demolished the single-family dwelling on the site and retained the necessary right-of-way and easements needed for the

improvement project. Whitesel Brothers later acquired the land at 1455 Erickson Avenue; giving them ownership of the entire southwestern corner.

During the 2011 Comprehensive Plan update, the applicant suggested a change in their land use designation from Low Density Mixed Residential to Commercial, which they contended matched what the use of the property was, and matched the County use and its land use designation of Commercial. Planning Commission and staff discussed this and thought it made sense to change not just this parcel, but the entire Low Density Mixed Residential designation along the southern side of Erickson Avenue to the western City limits – all to the Commercial designation. City Council approved the 2011 update with this recommended change, thus the proposed rezoning request is conforming to the Commercial Land Use designation.

In July 2011, Whitesel Brothers applied for a Public Utilities Application to extend City water and sewer infrastructure to their facility in Rockingham County, which is the property that abuts the subject parcels. City Council approved that extension the following month.

As stated earlier, Whitesel Brothers, Inc. desires to display equipment on the parcels at this time and perhaps install a sign on one of the parcels. Staff has discussed with the applicant that displaying equipment on the grass would be fine; however all items must be located on the private property and not City right-of-way. If the applicants are interested in creating paved or gravel display areas, or construction of any buildings at this point, they would need to comply with all City regulations and reviews for any development prior to any work being done. As well, before installing any signage Whitesel Brothers would need to obtain the necessary permits.

The rezoning of these parcels conforms to the Comprehensive Plan and staff does not have any concerns with the request as presented. Staff recommends in favor of the rezoning from R-1 to B-2.

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

Mr. Mike Sechler, I am a stock holder for Whitesel Brothers and I live in Rockingham County. As stated earlier, Whitesel Brothers did purchase and demolish the house along Erickson Avenue. We did acquire the corner property from the City. Right now we do have equipment parked on these properties in the grass, and that is the main objective for us at this time. More visibility as we get a four lane highway in this area. Our business continues to grow; Whitesel Brothers Inc. recently merged with James River Equipment.

Chair Fitzgerald asked if there were any questions for the applicant. Hearing none, she asked if there was anyone wishing to speak in favor of the request. Hearing none, she asked if there was anyone wishing to speak in opposition of the request. Hearing none, she closed the public hearing and asked Planning Commission for discussion or a motion.

Mr. Da'Mes asked if the one remaining lot along Erickson Avenue, to the west and zoned R-1, has there been any comment or feedback from that property owner.

Mr. Baugh said it is just a small portion of a lot in the County.

Mr. Fletcher said that is correct.

Mr. Baugh said that parcel is also shown as commercial within the Land Use Guide.

Mr. Fletcher replied yes.

Mr. Way moved to recommend approval of the rezoning request.

Dr. Dilts seconded the motion.

Chair Fitzgerald called for a voice vote on the motion.

All voted in favor of the motion to recommend approval of the rezoning request (7-0).

Chair Fitzgerald said this will move forward to City Council on June 11<sup>th</sup> with a favorable recommendation.

***Rezoning – HRHA Commerce Village; Special Use Permit – HRHA Commerce Village Multi-Family Dwellings; Special Use Permit – HRHA Commerce Village Reduced Parking***

Chair Fitzgerald read the requests and asked staff to review.

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

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

- Site: Undeveloped parcels, zoned R-3C (small portion, zoned B-2C)
- North: Pleasant View, Inc., zoned B-2, and across Commerce Drive Park Crest Townhomes, zoned R-4
- East: Across Commerce Drive, Park Crest Townhomes, zoned R-4
- South: Vacant parcel, zoned B-2C, and across East Washington Street, the Lucy F. Simms Continuing Education Center, zoned R-2
- West: Montibello Packaging Inc., zoned M-1

Harrisonburg Redevelopment and Housing Authority (HRHA) is requesting approval of three separate applications (a rezoning and two different special use permits) with the intent to build a 30, one-bedroom apartment complex that would provide 60 percent of the minimum amount of required parking spaces. The project site includes a total of 2.067 acres of property located along Commerce Drive.

The proposed development is very similar to the multi-family complex that HRHA proposed to build along East Gay and Hill Streets reviewed by Planning Commission in September 2012. HRHA ultimately withdrew those requests from consideration after staff and the Commission recommended denial of their applications. The main difference between the subject site and the location from last summer is the subject property already has zoning approval to build 29 multi-family units. The reasoning for the current requests is rather complicated, so before explaining the site specifics of the proposed development, the subject property's current zoning and the details of why the applicant is requesting the rezoning and the special use permits (SUPs) should be completely understood.

In August 2004, HRHA successfully rezoned four, B-2 zoned parcels (tax maps 41-Q-4, 4A, 6, and 7) totaling 2.555 +/- acres with very specific proffers, one of which included the development would be built substantially conforming to the site layout. Although the original plan was to construct only a multi-family complex, after being tabled by Planning Commission and going through a couple of design revisions, HRHA ultimately reduced the number of residential units and

proffered a commercial and multi-family development layout. (The existing proffer statement and proffered site layout sheets are included within the packet).

The corner parcel made up of tax maps 41-Q-4 and 4A, was rezoned to B-2C with all business uses being restricted to 2,000 square feet in size and no such business could operate vehicle repair or sales, general service or repair shops, or warehousing and other storage facilities. The proffered statement also indicated the applicant would apply to the Board of Zoning Appeals (BZA) to obtain a variance for the commercial buildings to have a 15-foot setback from East Washington Street and Commerce Drive. (In October 2004, subsequent to the rezoning, HRHA applied to the BZA for the reduced setback variance. The Board denied their request; therefore, buildings must comply with the required 30-foot setback from public street right-of-way lines.)

During the same rezoning, tax maps 41-Q-6 and 7 were rezoned to R-3C, Multiple Dwelling Residential District Conditional (now often referred to by staff as the “old R-3”). Along with proffering to construct the development substantially as shown on the submitted layout, HRHA also proffered that: not less than 10 percent of the total residential area would be devoted to open space, a fence would be erected between the residential property and the adjacent commercial and industrially zoned lots, and not more than two unrelated persons per dwelling unit would be permitted. The proffered site layout was approved demonstrating 30 multi-family units; but unfortunately, the site was a little over 200 square feet short of the required 90,000 square feet of lot area needed to build 30 units. This oversight, however, was not realized until a few months ago when HRHA began inquiring about bringing their proffered plan of development to fruition. Since 2004, both the applicant and the City believed a 30-unit multi-family complex would be constructed, but since the underlying density requirements supersede any proffered density, the development can only contain 29 units. During the recent review of the site and before they decided to apply for the applications herein described, staff also realized that a separate error had been made in 2004 as the proffered plan of development demonstrated more than 12 units per building, which is controlled by the R-3 zoning district and cannot be superseded by a proffered plan of development.

Since HRHA owns the adjacent property, at first pass, it appears they could easily resolve this matter by performing a minor subdivision and adding the lot area needed to be able to construct the 30<sup>th</sup> unit; however, it is not that simple. Since the adjacent lot is zoned B-2C, any added area of that property cannot be counted toward residential density requirements, thus that area must be rezoned to a comparable district—in this case R-3. Further complicating the matter, the conditional residential property is zoned the “old R-3” (the R-3, *Multiple Dwelling Residential District*), and as of August 14, 2010, no property can be rezoned to that district because the City adopted the “new R-3” (the R-3, *Medium Density Residential District*). The “new R-3” does not permit multi-family development by right, therefore to build a 30<sup>th</sup> unit, not only would the area have to be rezoned, the area also requires an approved special use permit to allow the construction of multi-family development.

When this situation was understood, and in expecting that 30 units was always intended at the site, staff advised HRHA they could perform a minor subdivision adding the amount of property they needed to have at least the minimum 90,000 square feet of lot area, while also proposing rezoning the newly added area along with the rest of the residentially zoned property to the new R-3 and applying for the necessary SUP. (Rezoning the whole site rather than simply rezoning the small amount of additional property “cleans-up” the property’s zoning so that it is not complicated to understand exactly how the property can be developed. The minor subdivision, as discussed, has

already been reviewed and approved by staff. It is possible the subdivision may be recorded before Planning Commission's or City Council's public hearing.)

In light of their situation, HRHA is now requesting to rezone two parcels (tax maps 41-Q-6 and 7) totaling 2.061 acres from R-3C, Multiple Dwelling Residential District Conditional and 261 +/- square feet of tax map 41-Q-4 from B-2C, General Business District Conditional all to R-3, Medium Density Residential District. Concurrently with this request, they are requesting a SUP per Section 10-3-48.4 (6) to allow multi-family units of up to 12 units per building. HRHA is also taking this opportunity to simultaneously request an additional SUP per Section 10-3-48.4 (3) to allow for reduced parking areas to permit fewer than the minimally required number of parking spaces. (The Commission may recall that HRHA requested the same reduced parking area SUP at the East Gay and Hill Streets location and both staff and the Commission recommended for its approval.)

The proposed rezoning and the SUP to allow multi-family development allows them to construct what the existing proffers allow but with the additional benefit of building the, always intended, 30<sup>th</sup> unit. To be clear, however, no proffers are associated with the proposed rezoning, thus they would not be confined to the submitted site layout. The submitted site layout is what HRHA intends to build, which is almost exactly the same as the property's existing proffered layout except that they show the unit make-up being distributed among three buildings rather than two. Sidewalk will be required to be constructed along the property's entire frontage and they intend to provide a transit bus shelter.

With regard to the SUP to allow for reduced parking areas, the permit requires 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 City Council deems more parking is necessary in the future. The permit also requires the same information be added to the deed to the property. As noted by the applicant's submitted document titled "Zoning and Special Uses Narrative," the units are intended as "permanent supportive housing" for "persons with disabilities that are medically vulnerable and are currently in an unstable housing situation" and, as they also indicated, do not believe this site necessitates the minimum number of spaces required by the Zoning Ordinance. Thirty, one-bedroom units would require 45 parking spaces; however, the applicant is proposing to provide 27 spaces, which is 60 percent of the required minimum amount. This is roughly the same ratio that was proposed and supported by staff and the Commission at the East Gay and Hill Street location. Staff believes this SUP is justifiable given the intent of the development. The City may attach conditions on the approval of any SUP and staff recommends the following conditions be attached to this request:

- The site shall provide not less than 60 percent of the required minimum amount of parking spaces.
- If, in the opinion of Planning Commission or City Council, the implementation of this special use permit becomes a nuisance, the permit can be recalled for further review, which could lead to the need for additional conditions, restrictions, or the revocation of the permit.

The number of bedrooms per unit for multi-family complexes determines the minimum amount of required parking spaces; thus, the first suggested condition allows for flexibility in design in case the property owner later decides to provide more than one bedroom per unit. The second suggested condition ensures that the permit could be revoked if problems arise in the future.

With regard to both special use permits, staff recommends the following be applied to their favor:

- The special use permits shall be valid for five years from the date of approval by City Council.

Section 10-3-130 (c) of the Zoning Ordinance states that SUPs shall be established, or any construction authorized shall be commenced and diligently pursued, within such time as the City Council may have specified, or if no such time has been specified, then within 12 months from the date of approval.

In closing, staff recommends approving rezoning the subject areas to R-3, Medium Density Residential District and approving the SUP to allow multi-family units within the R-3 District and approving the SUP to allow reduced parking with the conditions as suggested above, and as described, to grant approval for both SUPs to be established within five years.

Chair Fitzgerald asked if there were any questions for staff.

Mr. Way asked if a condition could be applied that would basically require a transit stop.

Mr. Fletcher said it probably could be done; but, it does put the applicant in somewhat of a bind as a requirement of saying they had to have such and what if the Transportation Department really does not want it there. The Transportation Department may not want to make this an official bus stop, with a bus shelter; it may mean having to readjust existing routes to make this work. There is an existing bus stop and shelter near the intersection of East Washington Street and Commerce Drive; however it is across the street.

Mr. Colman said there is no sidewalk on that side of the street to get to the intersection and, as you mentioned, the shelter is across East Washington Street.

Mr. Fletcher said it will be required that sidewalk be constructed along the property's frontage on Commerce Drive. Given the fact that the bus stop and shelter may not be where shown, perhaps we should discuss whether or not they should construct sidewalk to the intersection. I question if that could legally be conditioned as part of the application. It would be off-site; therefore I do not know if it could legally be conditioned as part of the SUP.

Mr. Da'Mes said they could offer it.

Mr. Fletcher said yes, but we would not have a way to enforce it.

Mr. Way asked if Planning Commission was allowed to require trees.

Mr. Fletcher said the landscaping regulations are going to require street trees where necessary. As to whether or not you could require trees to be planted along the street in front of the building – might be a stretch.

Mrs. Turner said perhaps you could make it correlate with the buildings that have twelve units each in relation to the density component and the scale of that type of development. I think that perhaps it would be relevant if you wanted to look at something like that.

Mr. Fletcher described to Planning Commission where the landscaping regulations would require landscaping on the site.

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

Michael Wong, Executive Director of the Harrisonburg Redevelopment Housing Authority (HRHA), said thank you for the opportunity to present our Commerce Village proposal. This proposal is very similar to our proposal from last year along East Gay Street and Hill Street. This is a permanent support housing initiative and its primary focus is to address the homeless population in our local area. It is housing specific for individuals with disabilities in an unstable housing status and considered medical vulnerable. In January of this year, HRHA did the annual point-in-time count, something we have done since 2003, and within this particular classification of people with disabilities, unstable housing, medical vulnerable, we identified forty individuals in shelters and seven unsheltered individuals. These are all unaccompanied adults and seventeen of these individuals were veterans. This is a significant increase in our homeless population in our local area; previously we averaged only three to six homeless veterans.

Permanent support housing is an evidence-based best practice that has been identified through the Department of Housing and Urban Development as one of the primary strategies to reduce homelessness. It is a key element within our ten-year plan to end homelessness in our community; it is one of our top objectives to achieve. Hopefully, with this proposal moving forward we can start working on this initiative. The State of Virginia has set aside permanent support housing funds and establishing a trust fund in order to build housing similar to this.

Permanent support housing is a philosophy of housing first; you get individuals into a stable housing situation and wrap services around them to help them maintain their housing. The primary services that we will be offering are case management and counseling on site, and support services as needed. We will be providing the support services through the Harrisonburg Rockingham Community Service Board and the Valley Associates for Independent Living; both partners within our local area.

I would like to briefly touch on some of the concerns that were voiced last year in regard to housing and the housing project. We heard concerns from the community about the lack of orientation for tenants, lack of rules being provided to tenants, units not being maintained by tenants, reaching the tipping point for this type of housing within the Northeast Community, and reduced property values. To clarify, this proposed housing at Commerce Village is a qualified housing project; that means you have to meet certain eligibility standards to be accepted. Housing orientation and in-service training with regard to the housing is provided on multiple different levels. Program staff meets with tenants at three different programs to hopefully ensure that they have a good understanding of requirements. Tenants have an extensive lease and a handbook that helps guide them with all the expectations and rules. All participants are required to work or do community service, unless they are considered elderly or disabled. We provide weekly inspections of dwellings until we feel the tenant has a handle on maintaining their housing; then it is moved to a monthly inspection, and finally an annual inspection if it is felt they have achieved that level of skilled behavior. Each participant is required to complete a five-year housing plan which identifies steps to self sufficiency.

All of our residents have significant challenges. The reasons why we are working with them is that they were formerly in shelters and we bring them directly into our housing units. These individuals have high instability in housing. We have had a certain level of success in regard to stabilizing individuals who go on to achieve a level of self sufficiency.

An HRHA report from February shows that in our Franklin Heights housing, we have 89 households that are eligible to participate in the Family Self Sufficiency Program. This includes

111 adults; 66 of which are currently employed, working 20 hours or greater, 12 are enrolled in school, and 52 have an established escrow account. That means they are earning more money than when they first came to us; they can now put some of that money aside towards their five-year plan.

There was a lot of concern about the tipping point of subsidized individuals in the Northeast Community and I just wanted to say that discrimination by income type is illegal in seven states in the US. That means we cannot judge a person as to income or how their housing is being paid. In the Commonwealth for 2013, a bill was forwarded to the General Assembly to make it illegal to restrict housing for people who pay with non-traditional funds. This bill is currently being studied. There has never been any study, that we can identify, that shows evidence that subsidized housing impacts property values. In fact, most studies show that affordable, subsidized housing has enhanced economics within the local community.

In our community we have identified 860 plus units of subsidized housing. In the Northeast and Northwest are the largest numbers of units; the Northeast has 200 units. So they are spread out within our community.

In closing, permanent support housing is a cost effective way for a community to be able to address homelessness. Our proposal is not just an HRHA proposal, it is a proposal in partnership driven process with homeless service providers, different shelters in the area, the Community Service Board, and the Association for Independent Living. If you have any questions for me, I would be happy to answer them at this time.

Chair Fitzgerald asked if there was anyone else wishing to speak in favor of the request.

Mr. John Neal, President of Gay and Neal, Inc., and engineer for this project said first I would like to thank Mr. Fletcher for the explanation that he gave regarding this process. As you know we went through this process last year which brought about several concerns, I think Mr. Wong has addressed those tonight. Gay and Neal went about trying to find a better location for this project and we came up with this Commerce Village site. We evaluated all the alternatives and this particular property stood out for a couple of reasons; the existing zoning and the proffered plan that was existing, the topography that was there, the availability of transit, and finally this is more in a multifamily neighborhood than the project at East Gay and Hill Streets. We feel we have been able to resolve most all of the issues that came up during our discussions with staff and move forward with a good project. We look forward to moving on with this project with your blessing and favorable recommendation if we could. I am also available to answer any questions you may have.

Mr. Way said I have some questions about safety and accessibility. You have said that many of the tenants are likely not to be driving and are likely to use transit or walking. Could you speak a bit about the accessibility and safety aspects for pedestrians in connection to the transit, especially if the transit could not be located on site?

Mr. Neal said staff did touch on this and we would really like to have the transit stop on site, because not only are our residents not driving, they may have significant mobility challenges. We will be placing sidewalk along the entire frontage of the property. It has come to my attention that we may want to think about how we can extend sidewalk along that corner property, HRHA does own it. It makes good sense that if we cannot get a transit stop in front of our site, then we need to have a good, accessible route to the transit stop.

Mr. Way said perhaps we should think about a street crossing at East Washington Street and Commerce Drive.

Mr. Neal said we would certainly work with Public Works to make certain that if we need a crosswalk, we provide adequate signage and flashing signals if necessary.

Mr. Way said the reason I had brought up the idea of trees earlier, is another way to increase the safety of a sidewalk is to have trees along the right-of-way and the sidewalk on the property side of the site. I am just thinking about pedestrian friendly walkways in an area that is currently not pedestrian friendly.

Mr. Neal agreed. From a landscaping point we will work within the City's regulations and take this into consideration too. We do have enough property within the common green area in the front of the building that would allow us to potentially pull the sidewalk back in from the road. We would work with the City on that within their standards.

Hearing no further questions, Chair Fitzgerald asked if there was anyone else wishing to speak in favor of the request.

Rose Gibson, with Valley Associates for Independent Living (VAIL), said I just want to speak briefly about VAIL. We provide an array of services for individuals with disabilities all throughout Planning District Six, which includes the City of Harrisonburg. This past year we have served over 100 individuals with disabilities in the City limits. We have assisted with enrolling in Medicaid waiver services, assisted with allowing them to remain in their homes and helping them access community based living as opposed to institutional based living. We have provided a significant amount of information and referral for individuals with disabilities to connect them to valuable services to ensure their independence within the community.

In addition to these services, VAIL provides independent living skills training – such as cooking, cleaning, budgeting, grocery shopping, and other skills that are needed for people to support themselves. We provide support for individuals applying for public assistance programs and other community based resources that may be needed. Vail counsels individuals that may have had life changing events so that they can make the most well informed decisions for themselves.

Every year we conduct a survey with the individuals that we serve and housing continues to be in the top five of the issues we have identified as needed. Personally, I help people in the community find housing that is both affordable for their incomes and accessible to their needs and I can attest to the struggles that people are going through to find housing that meets their needs. Clearly, with the people that we serve there is an identified need that we need more housing for people specifically with disabilities and with some of the barriers that Mr. Wong discussed earlier.

This housing plan that HRHA has proposed I believe would provide a lot of support for this population. In general, we very strongly support any creation for affordable and accessible housing, specifically for people with disabilities. We would be glad to partner with HRHA in providing services for the individuals to ensure their independence in the community. Thank you.

Chair Fitzgerald asked if there was anyone else wishing to speak in favor of the request.

Lacey Whitmore, Executive Director for the Harrisonburg Rockingham Community Services Board (CSB), said our main offices are located at 1241 North Main Street and we are one of the partners with HRHA on this project. For 41 years we have been the designated local agency responsible, as a part of local government, to provide services to a range of disabilities, mental illness, intellectual disability, and those with substance abuse. Our goal is to always provide services and support to individuals who need and want them in order to be productive citizens within our community. On

behalf of the individuals we serve, which is annually about 3,300 persons, I can tell you that there is a need for this type of housing in our locality. The most recent survey that was done State wide of all CSB consumers showed that 61 percent said yes they had the housing they could afford, the remainder was no, they did not. Locally, we are doing somewhat better; 70 percent said they had the housing they could afford. I like to think that one of the reasons for this outcome is because of the partnership of community service agencies and human resource providers that work together in a true partnership.

This is a time tested, well researched model of having this type of supportive housing for these individuals and I would say from our perspective it is very much a need. We would be looking forward to working with HRHA and the other partners in terms of making this another community success and add our support to the concept. Thank you.

Chair Fitzgerald asked if there was anyone else wishing to speak in favor of the request.

Nancy Hopkins-Garrison, Executive Director of Pleasant View Inc., said we share a boundary with the proposed project; we are located at 151 Commerce Drive. We primarily serve adults that have developmental disabilities; but a variety of disabilities as well. We serve about 125 people in day support, including employment opportunities, we help people find jobs. We serve 95 people in residential services throughout Harrisonburg and Rockingham County.

We are very supportive of this project being right beside of us and we are hoping we can work co-operatively with the City and HRHA as we serve people who have disabilities. Our hope would be that some of the persons from this facility could walk to our day support building, which is right next door, to get either day support or employment support. We also hope that perhaps some of the people that we serve would be able to find housing in this facility too. Housing for people with disabilities and low income housing is quite an issue and we are very excited to have this addressed. Thank you.

Chair Fitzgerald asked if there was anyone else wishing to speak in favor of the request. Hearing none, she asked if there was anyone wishing to speak in opposition of the request. Hearing none, she closed the public hearing and asked for discussion.

Mr. Baugh said let me get an opinion from staff on something. Given that we have the special use permit request that is asking for reduced parking, would it be appropriate to add a requirement that if a transit stop is not permitted, then the sidewalk would be carried to, or some other dedicated pedestrian path brought to East Washington Street.

Mr. Neal said I certainly understand the concept of trying to get to a transit stop; but Mr. Wong would be the final decision.

Mrs. Turner said I do think it would be an appropriate condition. It is part of the rationale for granting a reduction in parking spaces and I think it is a very valid consideration to make a condition along those lines.

Mr. Way said in my opinion it would be absurd not to have the sidewalk going all the way to the intersection.

Mrs. Turner said the only thing that would cause me any hesitation on it would be if, for any reason, it could not be accommodated within the right-of-way that exists and more right-of-way would be needed. HRHA does own the corner lot, but it could mean a dedication of property on a parcel that

is not involved in this request. I guess you could put something in a condition that referred to just the existing right-of-way.

Mr. Colman said it seems to me that if they are going to remove the bus shelter, then those funds could be put towards sidewalk. Additionally, there will be the need for a crossing that would have to be coordinated with Public Works; this is not an easy location for a crossing.

Mr. Fletcher said there is already a mid-block crossing and flashing lights on East Washington Street and it is something that must be approved by Public Works. As well, I believe there is fifty-feet of right-of-way in Commerce Drive, which makes me think sidewalk could be easily accommodated within the right-of-way.

Mr. Baugh said I was not necessarily going to state sidewalks; I would say sidewalks or other. They could do a pedestrian path off-street and that would be fine.

Planning Commission agreed with this idea.

Mr. Fletcher said to clarify it sounds as if there would be a condition placed on the special use for reduced parking that if the transit stop is not allowed, then sidewalk be constructed to the corner of Commerce Drive and East Washington Street and the developer work with Public Works to get a mid-block crossing.

Mr. Baugh said sidewalk or some equivalent pedestrian walk.

Dr. Dilts asked if that corner lot were to be sold, would the new developer have to put in a sidewalk.

Mr. Fletcher said regardless of how the site develops, it has to have sidewalk along the entire frontage.

Dr. Dilts said so having them design and install sidewalk along the frontage now, does not affect the sale of the parcel later. I would not want to put a restriction on their ability to sell or do something else with that lot.

Mr. Da'Mes said my thoughts are you put in a sidewalk and then a developer wants a commercial entrance from Commerce Drive and the sidewalk would be removed.

Mr. Fletcher said hopefully there will be a design where the entrance is shared for the B-2 parcel and the R-3 parcel that would align with the entrance to the townhouses across the street. It was always an intent to share an entrance between the commercial and residential.

Mr. Way said I would be happy to support this if we can get these conditions on the SUP; because I believe it is critical.

Mr. Da'Mes asked if the items needed separate motions or could we do them all together.

Chair Fitzgerald replied it can be done as one motion.

Mr. Baugh said I move to recommend approving the rezoning and special use permit requests as presented with the additional condition as discussed on the reduced parking SUP, that in the event that they are not able to get a transit stop on the property that they construct sidewalk or some equivalent pedestrian walkway out to East Washington Street.

Mr. Colman seconded the motion.

Chair Fitzgerald asked if there was any further discussion or comment on the motion. Hearing none, she asked for a voice vote on the motion.

All voted in favor of the motion to recommend approval of the rezoning and two special use permits as presented with the added condition (7-0).

Chair Fitzgerald said the motion will move forward to City Council on June 11<sup>th</sup> with a favorable recommendation.

**Unfinished Business**

None.

**Public Input**

None.

**Report of secretary and committees**

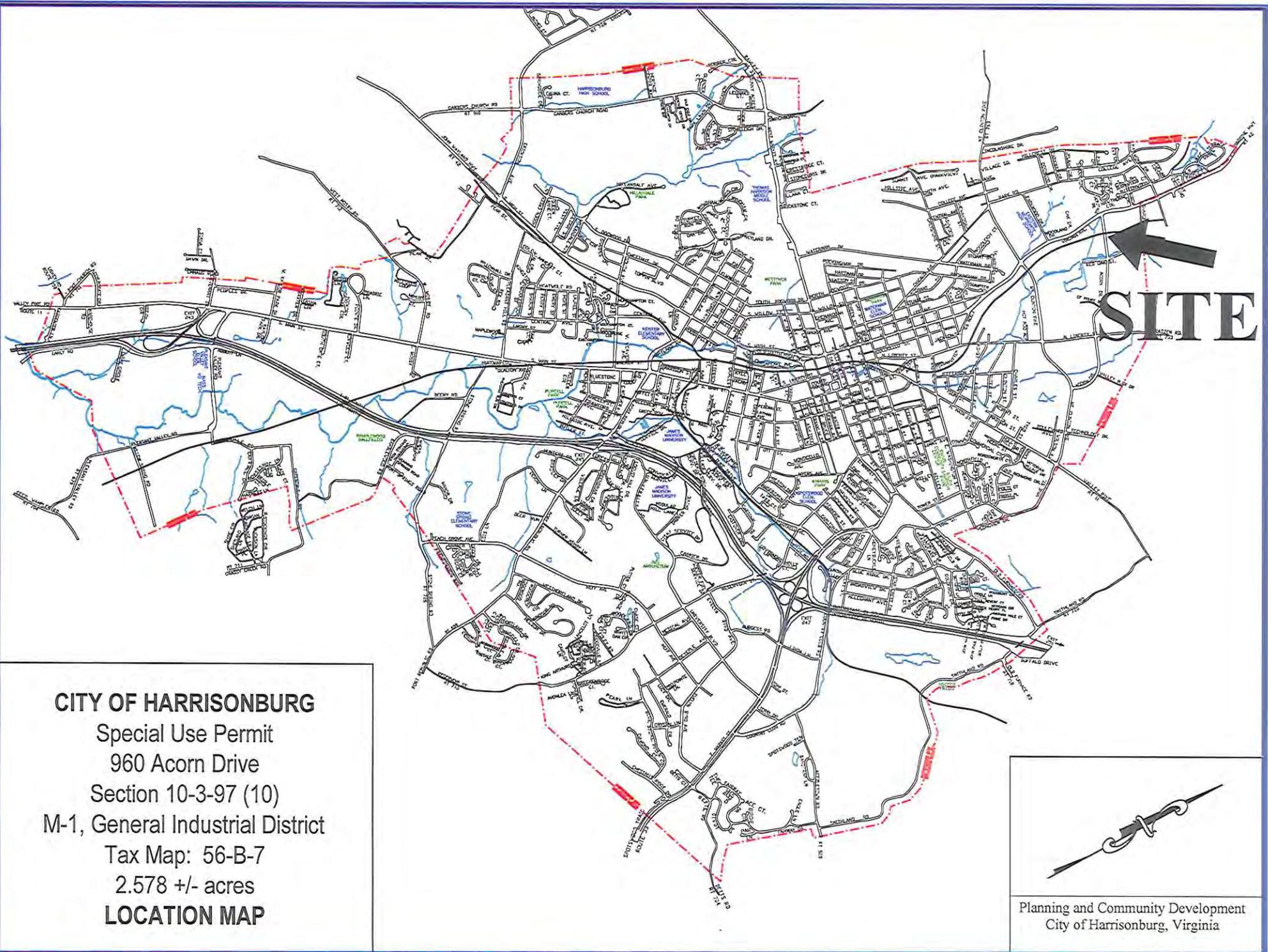
Mrs. Banks said we have a lot of catching up to do. In February the zoning inspections visited the Jefferson Street area where they found 21 violations consisting of inoperable vehicles and discarded materials. This is always a big area for proactive inspections. In March the Forest Hills & JMU area was inspected where they found one violation, an inoperable vehicle. Lastly, in April they were in the South Main Street area of the City where all five of the violations they found were sign violations. In May the inspectors will be in the Hillandale area of the City for inspections.

**Other Matters**

Mr. Fletcher said we have another big agenda next month. There are three special use permit requests, a rezoning with a special use permit – this is the parking lot associated with the Cassco rezoning. There is also an alley closing associated with that request. Lastly, the tabled application for the Collicello North project is coming back; it is a master plan community rezoning request. I also hope to get the telecommunication information to you as well.

**Adjournment**

The meeting was adjourned at 9:00 p.m.



**CITY OF HARRISONBURG**

Special Use Permit

960 Acorn Drive

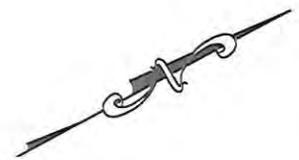
Section 10-3-97 (10)

M-1, General Industrial District

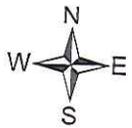
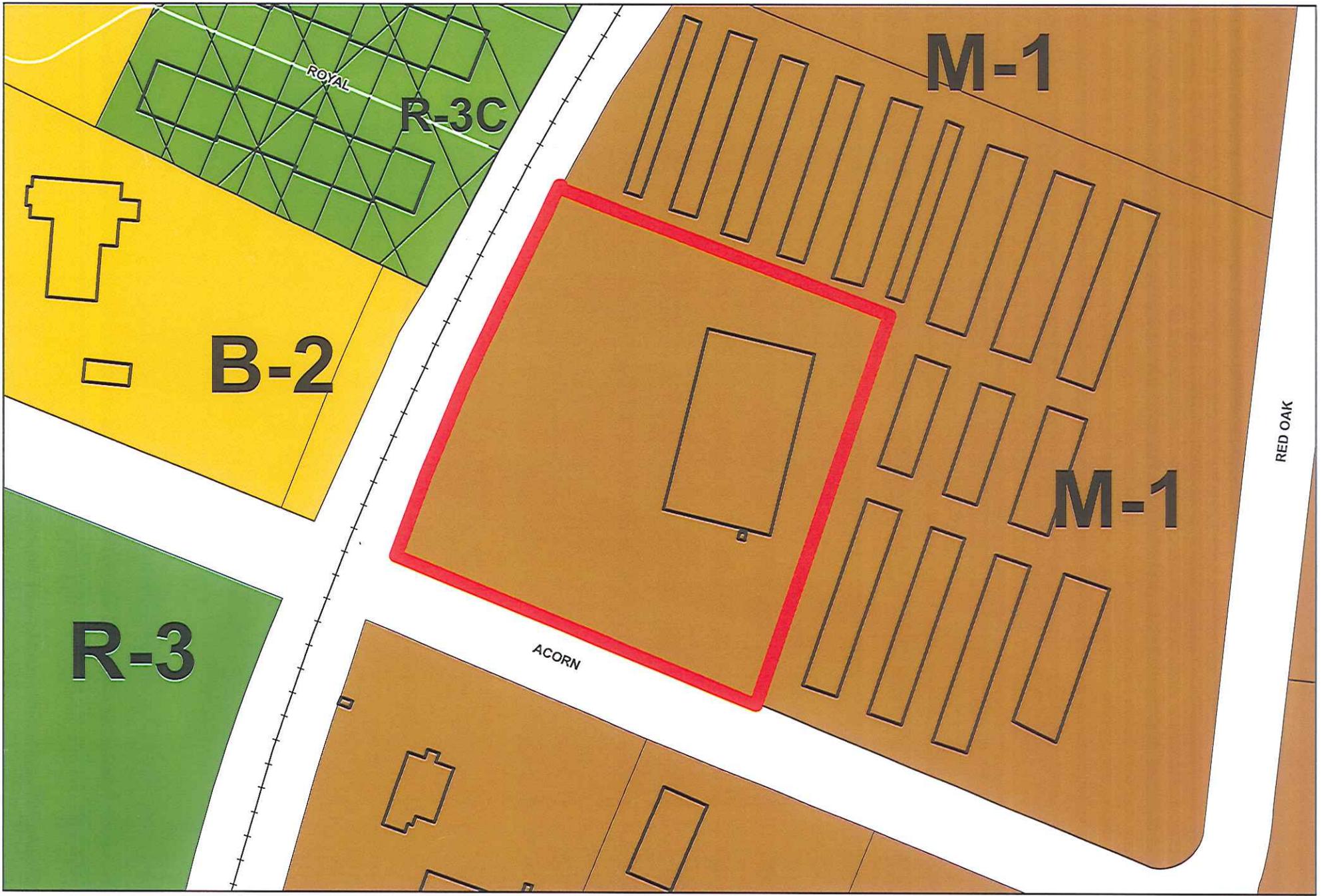
Tax Map: 56-B-7

2.578 +/- acres

**LOCATION MAP**



Planning and Community Development  
City of Harrisonburg, Virginia



# SUP -960 Acorn Drive

## 10-3-97(10) Recreational & Leisure Activities



# City of Harrisonburg, Virginia

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

## STAFF REPORT

June 12, 2013

### SPECIAL USE PERMIT – 960 ACORN DRIVE (10-3-97 (10))

#### GENERAL INFORMATION

**Applicant:** Acorn Enterprises, Inc. with representative Mike Martin  
**Tax Map:** 56-B-7  
**Acreage:** 112,297 +/- square feet  
**Location:** 960 Acorn Drive  
**Request:** Public hearing to consider a special use permit per Section 10-3-97 (10) of the Zoning Ordinance to allow recreational and leisure time activities in the M-1, General Industrial District.

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

The Comprehensive Plan designates this area as General Industrial. This designation states that these areas are composed of land and structures used for light and general manufacturing, wholesaling, warehousing, high-technology, research and development and related activities.

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

**Site:** Vacant warehouse building; zoned M-1  
**North:** Acorn Enterprises & Acorn Mini-Storage; zoned M-1  
**East:** Acorn Enterprises & Acorn Mini-Storage; zoned M-1  
**South:** Across Acorn Drive, auto machine shop and businesses; zoned M-1  
**West:** Across C&W Rail Road, Valley Church of Christ; zoned B-2 and Regency Park Townhomes; zoned R-3C

#### EVALUATION

Mike Martin, the applicant, is requesting a special use permit per Section 10-3-97 (10) of the Zoning Ordinance to allow recreational and leisure time activities within the M-1, General Industrial District at 960 Acorn Drive. If approved, Next Level Athletic Development, LLC, a sports performance training facility for athletes, would utilize the property.

In December 2012 a special use permit was approved for Next Level Athletic Development, LLC at its present location – 1559 Red Oak Street. The applicant described his business as a facility offering training on an individual basis or in small groups, by appointment only; not a commercial open gym. As part of the approval for the Red Oak Street site, a modification was granted from the City Building Official to operate the facility with just one restroom; however, occupancy was restricted to no more

than 15 persons, and a time limit was placed on the modification. The business has grown substantially in the past year and the applicant would like to expand to a larger building in order to better serve clients, as well as open an indoor soccer facility.

Currently located on the site is a 9,500 (+/-) square foot warehouse building. The applicant has stated a desire to construct a 2,000 square foot training area inside the building, with separate interior and exterior entry doors, and an approximate 100-foot by 60-foot soccer field in a separate area of the building. The applicant would continue to operate his business by the same "appointment only" basis, as well as offer community adult and youth indoor soccer leagues throughout the fall and winter. A change of use permit would be required if the SUP is approved for the use. The applicant has been working with the Building Inspection Division regarding code requirements and necessary permits.

The property is approximately 2.578-acres and, along with the building on site, there is a gravel area for parking in front and paved areas along the east side and the rear of the building. At present, no parking spaces are marked with striping or parking blocks. Staff has informed the applicant that parking would be calculated on the total occupancy and all required spaces would need to be clearly delineated prior to occupancy of the building.

In 2004 the same special use permit was requested for a paint ball facility at this location. That request was unanimously approved; however, it was never established at the site and the SUP expired after two years.

Staff believes this is a good use of an otherwise vacant building and supports this request with the following condition:

1. The permit shall be applicable only for the use, or a substantially similar use, as requested in this application.

Adam Fletcher  
City Planner  
Department of Planning and Community Development  
409 South Main St  
Harrisonburg, VA 22801

Dear Adam Fletcher:

As owner of Next Level Athletic Development, LLC, I am seeking a special use permit for property located at 960 Acorn Drive. Currently the property is designated as M1 and I am seeking a special use permit as per Section 10-3-97 (10) of the City's Zoning Ordinance.

I presently own and operate Next Level Athletic Development, LLC and am located at 1559 Red Oak St in a M1 designated area. I train several high school and collegiate athletes as well as adult general fitness clients. I also serve as the Strength and Conditioning coach at Eastern Mennonite University. The training I provide is based on each athlete's specific needs, but generally includes strength training, speed and agility training, and cardiovascular training as well as nutritional advice and written workout plans. My business has grown substantially in the past year and I would like to expand to a larger building in order to better serve my clients as well as open an indoor soccer facility.

The building for which I'm requesting a special use permit is located at 960 Acorn Drive. It is currently used as a storage warehouse for Friendship Industries. The building itself is an open space of approximately 9,500 square feet, with approximately 21 foot high ceilings, 3 large garage doors, 2 existing handicap accessible bathrooms and an ample amount of potential parking. In addition, it is in very good condition which makes it all the more appealing. Finally, it's located less than a ¼ mile from my existing facility which will allow me to offer essentially the same convenient location to my clients.

I intend to use the property to continue to offer the same private, appointment based sports performance and personal training I currently offer as well as offer community adult and youth indoor soccer leagues throughout the fall and winter. In part of the new building, I will offer individual, small group, and team training to middle school, high school, and collegiate athletes consisting of speed, agility, and fitness training as well as strength training. Specific equipment that I will bring to the facility will include strength training equipment such as squat

racks, barbells, and dumbbells. It will also include speed and agility equipment such as weight sleds, plyometric boxes, and resistance bands. Finally, some general condition equipment such as 1-2 tractor tires, climbing ropes, and sledgehammers (to hit the tires) will also be included. All of this equipment will be kept inside the building. This training will take place inside of a 2,000 sq foot training area that I will have constructed inside the building. This training area will have a separate entry door on both the exterior and interior of the building, so that it may be locked when not in use, even if the remainder of the building is in use.

I will also offer individual and small group training to the general public consisting of similar training to the athletes, but also consisting of general fitness training for those individuals with a desire to lose weight and develop a healthy lifestyle.

The indoor soccer field will be 100 feet long x 58'10" wide and consist of standard dasher boards (similar to what you see in ice hockey rinks), a turf field and safety netting to keep soccer balls from leaving the playing area. I will primarily use this field for youth and adult indoor soccer leagues, but I will also use it to train my clients as well. I envision having a series of 8 week long soccer leagues throughout the fall-spring season with separate divisions for youth, high school, adult, male, female, co-ed etc...At most, the youth games will be played with 7 players on the field for one team at a time (14 total for both teams) and for adults the games will likely be 5 versus 5.

At the present time, I envision my hours of operation to be no earlier than 6:00AM and no later than 11:00 PM based on my current training schedule as well as the times other local recreation leagues have their games.

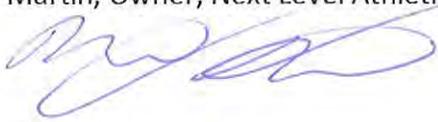
There is also a possibility I will be able to offer my field space for team and group rentals as well as offer such activities as youth soccer clinics throughout the winter. This largely depends on how full the soccer leagues are.

I also train numerous high school and collegiate baseball players, so at some point if my business growth warrants it, I would like to use my turf field as an indoor pitching facility for video analysis, pitching lessons, and as a place for my baseball players to get some off-season throwing done.

Finally, this will not be a commercial gym and will not be open for individuals to come and go as they please. As stated previously, it will be an appointment based training facility. Also, the total square footage of the building, 9,500 sq feet, subtracted from my 2,000 sq foot training facility, 5,900 sq foot field and bathrooms will not allow a lot of space for spectators, so I don't envision having large crowds in the building.

Sincerely:

Mike Martin, Owner, Next Level Athletic Development, LLC

A handwritten signature in blue ink, appearing to read "Mike Martin", is written below the typed name. The signature is fluid and cursive.

Date Application Received: 05-07-13

### Application for Special Use Permit City of Harrisonburg, Virginia

Fee: \$375.00 plus \$30.00 per acre

Total Paid: \$ 465.00 <sup>AF</sup>  
Need \$30 more to make

Property Owner's Name: Acorn Enterprises

Street Address: 950 Acorn Drive Email: juice@lee-and-associ.com

City: Harrisonburg State: VA Zip: 22802

Telephone: Work 540-437-3708 Fax \_\_\_\_\_ Mobile \_\_\_\_\_

Owner's Representative: \_\_\_\_\_

Street Address: 950 Acorn Drive Email: \_\_\_\_\_

City: Harrisonburg State: VA Zip: 22802

Telephone: Work \_\_\_\_\_ Fax \_\_\_\_\_ Mobile 540-478-7616

#### Description of Property and Request

Location (Street Address): 960 Acorn Drive, Harrisonburg, VA 22802

Tax Map Number Sheet: 56 Block: B Lot: 7 Lot Area: 2,578 acre

Existing Zoning Classification: M1

Special Use being requested: Mixed use group: B use and Assembly use  
10-3-97(10) Recreational & Leisure Time Activities

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

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

North: Acorn Enterprises

South: Rodamer's Landscape 961 Acorn Drive (Brimm Automotive Machine Shop

East: Acorn Enterprises <sup>971</sup>

West: none <sup>Acorn</sup>

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

Signature: [Signature] Agent for Acorn  
Property Owner

#### ITEMS REQUIRED FOR SUBMISSION

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

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

Flaming Facilities  
 Female - 110/140 = 65  
 Male - 110/125 = 125  
 Assume balance of males and females  
 Building Population by Flaming  
 Fixtures = 130 Total for Building



LOCATION MAP -- ACORN DRIVE



SEASE & ASSOCIATES, P.C.  
 AN ARCHITECTURAL  
 SERVICES CORPORATION  
 500 WEST AVE. SUITE 410  
 HARRISONBURG, VIRGINIA 22801  
 PHONE (540) 439-2118  
 FAX (540) 439-2119

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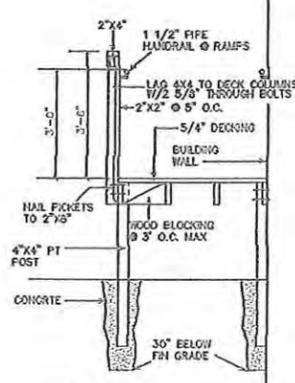


CONSULTANTS:

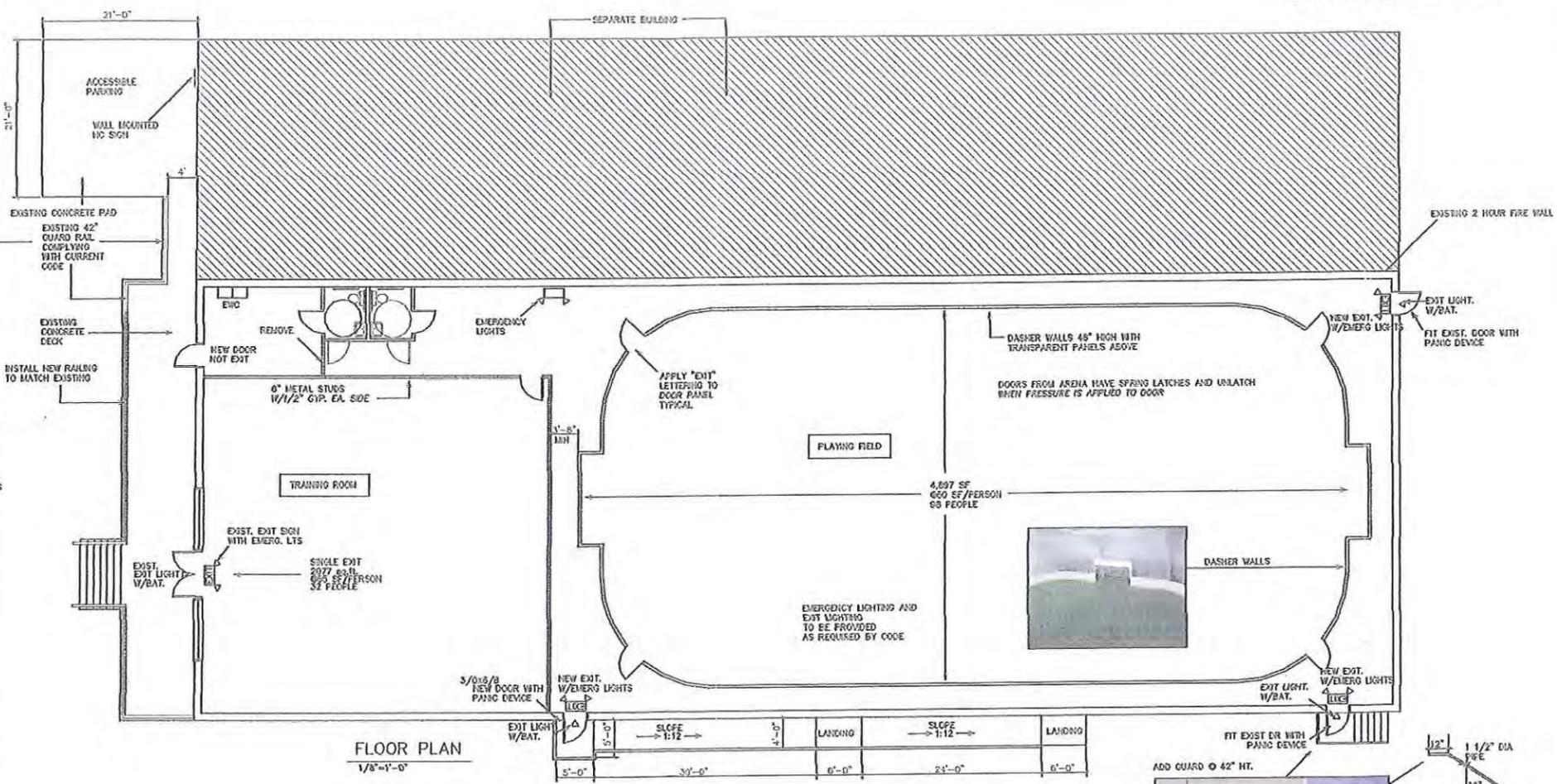
NEXT LEVEL  
 ATHLETIC DEPARTMENT  
 HARRISONBURG VIRGINIA



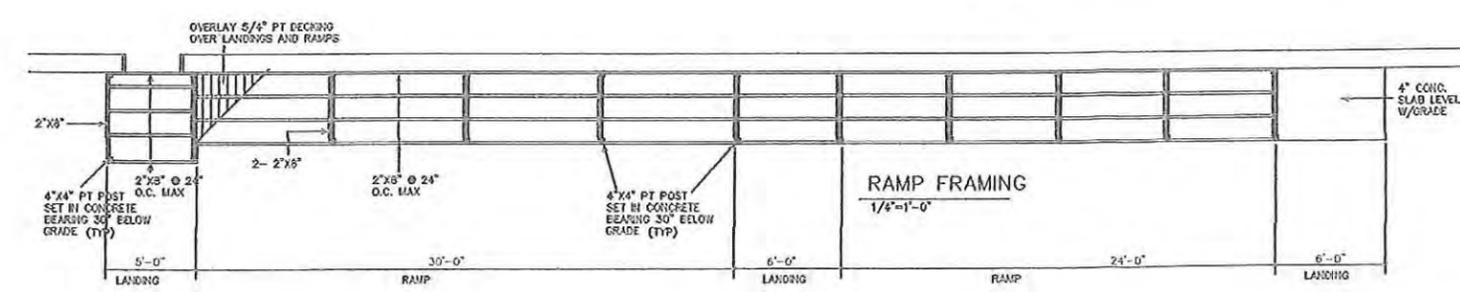
EXISTING GUARD RAIL



RAMP SECTION  
 1/2"=1'-0"



FLOOR PLAN  
 1/8"=1'-0"



RAMP FRAMING  
 1/4"=1'-0"



ADD GUARD @ 42" HT.  
 ADD ADDITIONAL RAILS TO NOT ALLOW PASSAGE OF 4" SPHERE  
 ADD HANDRAIL EACH EDGE OF STAIR  
 ADD GUARD @ 42" ABOVE STAIR nosing  
 CLOSE IN RISERS W/1/8" STEEL PLATE

BUILDING AS USE GROUP  
 CONSTRUCTION 2B  
 AREA LINT TABLE 503 = 650GSF / ACTUAL 6000 SF  
 NOTE: 130 ASSIGNED POPULATION  
 BY FLAMING LIMITS

DATE:	
DRAWN BY:	
APPROVED BY:	
REVISED:	
PROJECT NO.:	

DRAWING TYPE

SHEET \_ 07 \_

A-1

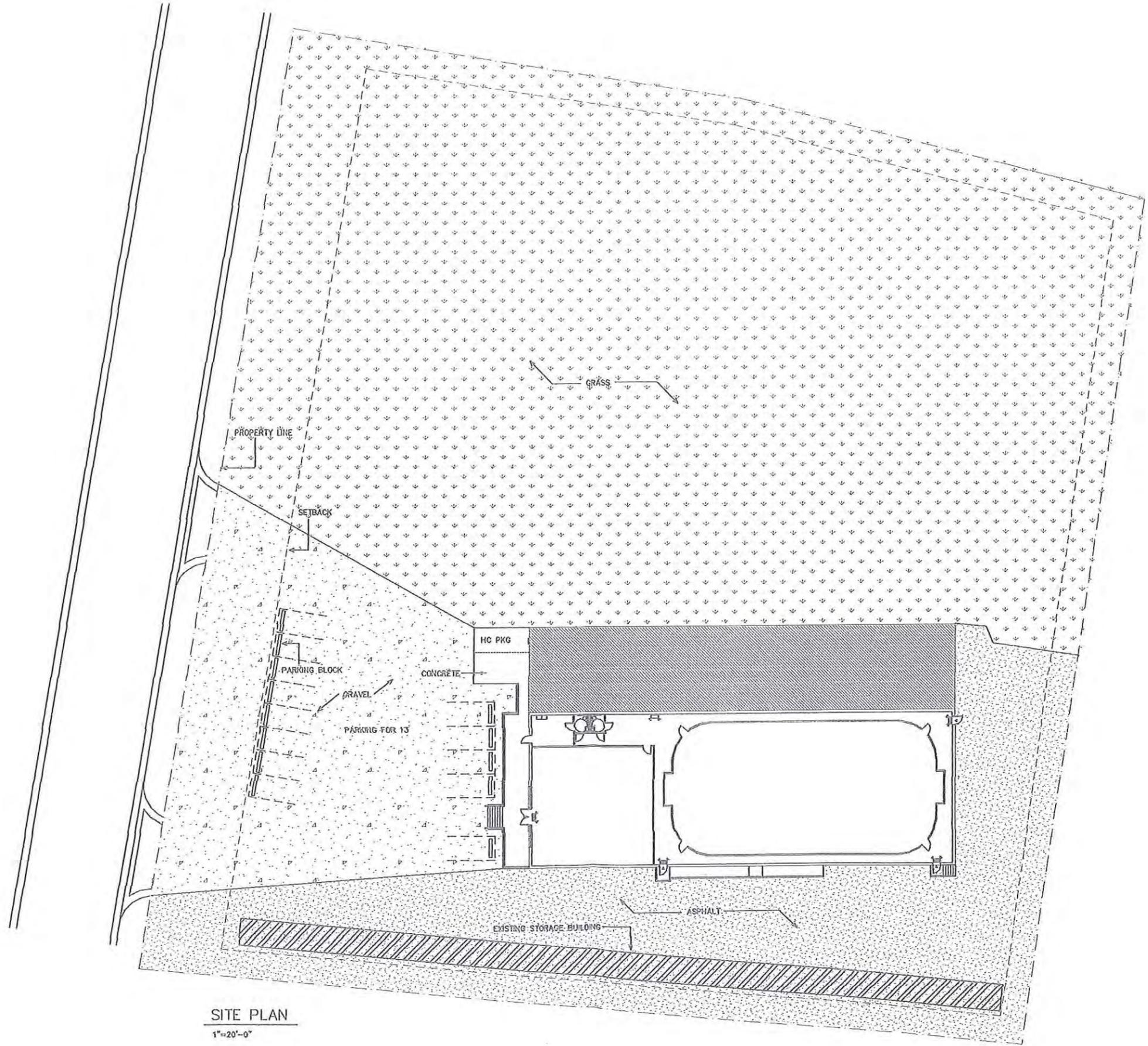
CONSULTANTS

NEXT LEVEL  
 MULTIMEDIA REDEMPTION

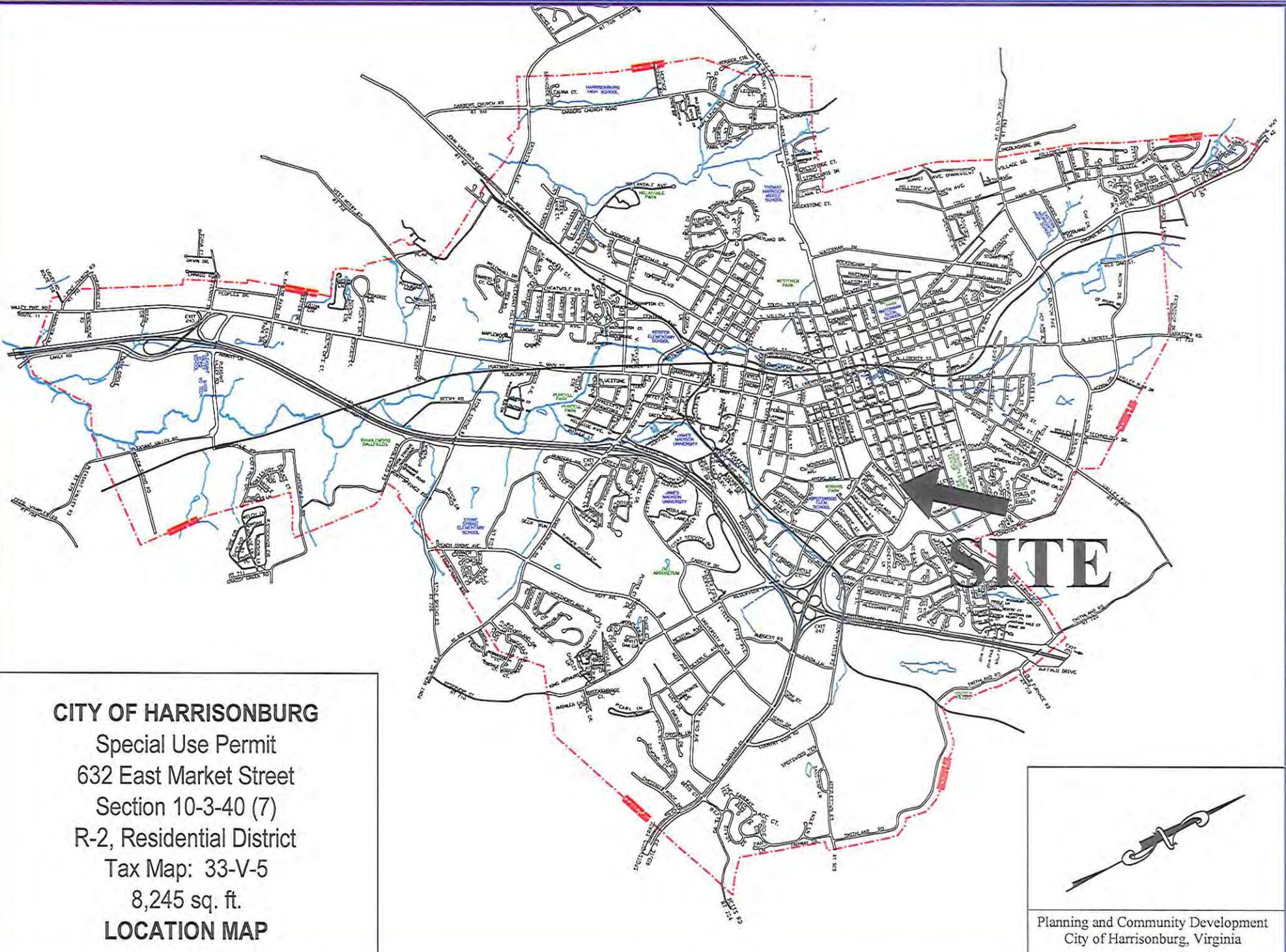
DATE: \_\_\_\_\_  
 DRAWN BY: \_\_\_\_\_  
 APPROVED BY: \_\_\_\_\_  
 REVISED: \_\_\_\_\_

PROJECT NO. \_\_\_\_\_

DRAWN BY: \_\_\_\_\_  
 SHEET NO. \_\_\_\_\_  
 SF



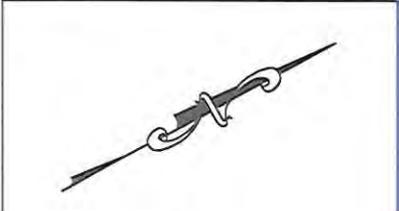
**SITE PLAN**  
 1"=20'-0"



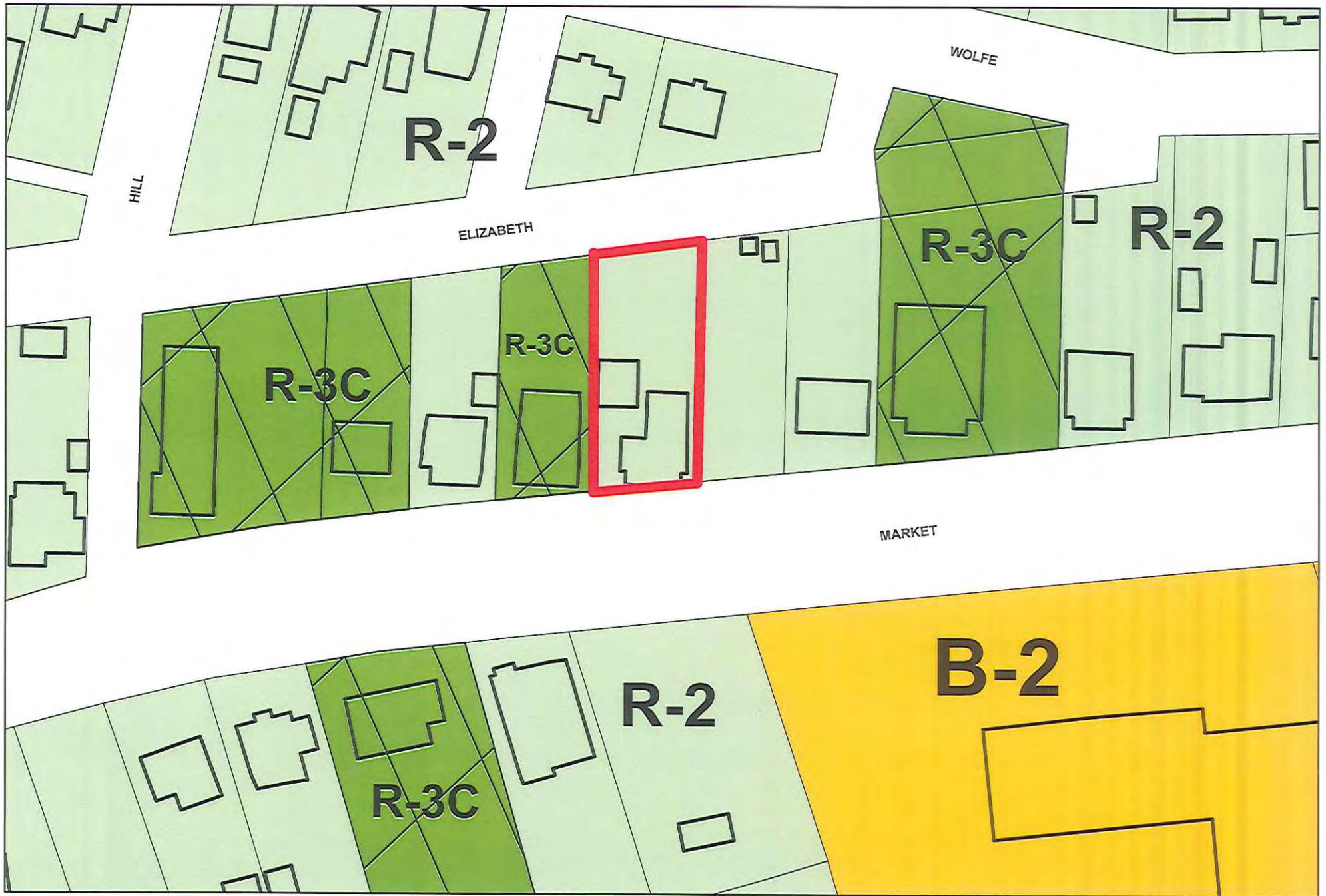
**CITY OF HARRISONBURG**

Special Use Permit  
632 East Market Street  
Section 10-3-40 (7)  
R-2, Residential District  
Tax Map: 33-V-5  
8,245 sq. ft.

**LOCATION MAP**



Planning and Community Development  
City of Harrisonburg, Virginia



**SUP - 632 East Market Street**  
**10-3-40(7) Occupancy of four unrelated persons**



# City of Harrisonburg, Virginia

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

## STAFF REPORT

June 12, 2013

### SPECIAL USE PERMIT – 632 EAST MARKET STREET (10-3-40 (7))

#### GENERAL INFORMATION

- Applicant:** Sharon S. Welch Kessler with representative Austin L. Welch
- Tax Map:** 33-V-5
- Acreage:** 8,245 square feet
- Location:** 632 East Market Street
- Request:** Public hearing to consider a special use permit per Section 10-3-40 (7) of the Zoning Ordinance to allow occupancy, other than permitted by right, of not more than four persons within the R-2, Residential District.

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

The Comprehensive Plan designates this area as Professional. This designation states that these areas are for professional service oriented uses with consideration to the character of the area. These uses are found in the residential areas along major thoroughfares and adjacent to the Central Business District. Conversion of houses in these areas to office and professional service uses is permitted with appropriate attention to maintaining compatibility with adjacent residential areas in the same manner as described for Planned Business areas.

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

- Site:** Single-family dwelling; zoned R-2
- North:** Across undeveloped portion of East Elizabeth Street, single-family dwellings; zoned R-2
- East:** Vacant lot and single-family dwelling; zoned R-2
- South:** Across East Market Street, single-family dwelling; zoned R-2 and professional offices; zoned B-2 & R-3C
- West:** Professional offices; zoned R-3C and dwelling; zoned R-2

#### EVALUATION

The applicant is requesting a special use permit per Section 10-3-40 (7) of the Zoning Ordinance to allow occupancy other than permitted by right within the R-2, Residential District. The property is located on the northern side of East Market Street; east of the intersection with Hill Street. The site is improved with a single-family dwelling and parking in the rear, which is accessible from East Market Street or from undeveloped East Elizabeth Street. If approved, the applicant desires to provide rental housing to four tenants.

The Comprehensive Land Use Guide designates this area as Professional; an area that is suitable for professional service oriented uses, usually found in residential areas along major thoroughfares. In the last twenty years, eight properties along this portion of the East Market Street corridor have been rezoned to R-3C, allowing for a dwelling to be converted to professional offices. With each rezoning it was obvious that residential dwelling occupancy was a very important issue; as proffers were submitted with each stating that only R-1 and R-2 uses, and medical/professional office uses would be permitted or clearly specifying that dwelling units could only be occupied by a family or not more than two unrelated individuals. Staff and Planning Commission recommended in favor of each of the eight rezoning requests for R-3C.

Adjacent properties to the north of the subject parcel include single-family dwellings fronting East Wolfe Street, where the area transitions into the northeast neighborhood. Staff believes that granting the special use permit would set a precedent for allowing increased densities within this area and neighborhood, which is a trend staff does not want to establish.

This is a very visible and highly traveled corridor of the City and although staff has been in favor of the conversion of single-family dwellings into professional offices along this portion of East Market Street, we do not support increasing in occupancy for residential uses. Allowing for greater occupancy would not be in keeping with the surrounding residential uses and staff feels the limitation on occupancy helps to maintain the attractive entryway to the downtown area of the City. The recommendations and actions of the previous rezonings along this portion of the East Market Street corridor is proof that the City's long-term plans for this area are achievable and being implemented as desired. Approving this request does not conform to the Comprehensive Plan.

Staff recommends denial of the SUP request.

May 7, 2013

To City of Harrisonburg Planning Commission,

I am writing this letter to request a change of use for the property and home that I own at 632 East Market Street. Currently, the use is specified as single family and my son lives there with a friend. I have attached an application here to change the use to occupancy, other than by right, of up to four (4) unrelated persons, as I would like to provide substance-free rental housing for college students and other qualified tenants in Harrisonburg. I currently live in Hampton, VA, but am finishing the construction of a new home in Woodstock, VA that I will occupy in August. I will be able to manage the property at 632 East Market Street effectively as a rental as I will be only 30 miles away.

The house at 632 East Market sits to the front of the lot shown in the survey attached to this letter. I have already cleared the back of the lot and spread gravel to create parking space for three additional cars to park off of Elizabeth Street. Including this newly cleared space, there is now ample room to park up to five cars off of the street at 632 East Market. In addition to expanding the parking space, I have made significant improvements to the home since purchasing it last August, including installing a new heat system, a new roof, and wall and ceiling surfaces. The home has just over 2100 square feet, with 2 full bathrooms, and four bedrooms.

I am in the process of installing a privacy fence between 632 East Market and 640 East Market to create additional privacy for both residences and reduce the possibility of people driving down Elizabeth Street, across the corner of my yard and through the neighbors' driveway to Market Street. In early conversations with my neighbors at 640 East Market, they indicated that people trespassing in this way was a frequent annoyance. I understood why when I looked at the aerial view of the property on Google as it mistakenly shows Elizabeth Street connecting to an old driveway that was created when 640 East Market and 632 East Market were owned by the same family. In addition to stopping unwanted through traffic to my neighbor's yard, the privacy fence will also serve to provide additional protection for cars parked in the new parking area at the back of 632 East Market Street. There already exists a mature cypress hedge separating the properties at 590 East Market and 632 East Market.

If additional information is needed to make a determination on this request for special use of 632 East Market Street, please let me know. I am happy to provide it.

With Kind Regards,



Sharon S. Welch Kessler

Date Application Received: 05-07-13

### Application for Special Use Permit City of Harrisonburg, Virginia

Fee: \$375.00 plus \$30.00 per acre

Total Paid: \$ 405.00 AF

Property Owner's Name: Sharon S. Welch Kessler

Street Address: 28 North Curry St. Email: snrkessler@cox.net

City: Hampton State: VA Zip: 23663

Telephone: Work (757) 876-9178 Fax \_\_\_\_\_ Mobile (757)850-2793

Owner's Representative: Austin L. Welch

Street Address: 632 East Market Street Email: welchal@jmu.edu

City: Harrisonburg State: VA Zip: 22801

Telephone: Work \_\_\_\_\_ Fax \_\_\_\_\_ Mobile (757)869-9522

#### Description of Property and Request

Location (Street Address): 632 East Market Street 8245

Tax Map Number Sheet: 33 Block: V Lot: 5 Lot Area: 8460 sq ft

Existing Zoning Classification: R2

Special Use being requested: Occupancy, other than permitted by right, of not more than four (4), unrelated persons, provided one (1) off-street parking space per tenant is provided on site.

Please provide a detailed description of the proposed (use additional pages may be attached): The house at 632 East Market sits at the front of the lot, close to Market street. The back of the lot connects to Elizabeth Street. The back of the lot has been cleared and gravel spread to enable side-by-side parking for four cars, with additional parking space in the driveway.

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

North: Elizabeth St. and across Elizabeth Street, Jeremy H. Martin and Glen E. Johnson at 639 and 649 E. Wolfe Street, respectively.

South: Market Street and across Market Street an empty lot.

East: Empty lot and house owned by Jerry J. Hollar 640 East Market Street

West: Mountain Valley Investments LLC 590 East Market Street

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

Signature: *Sharon S. Welch Kessler*  
Property Owner

#### ITEMS REQUIRED FOR SUBMISSION

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

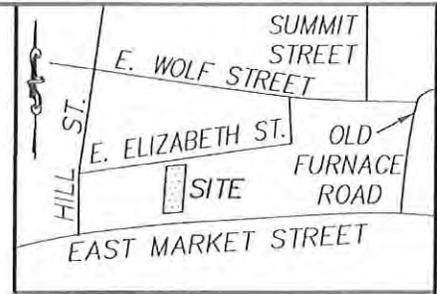
- Fees Paid
- Property Located on Tax Map
- \_\_\_\_\_
- \_\_\_\_\_

**NOTES**

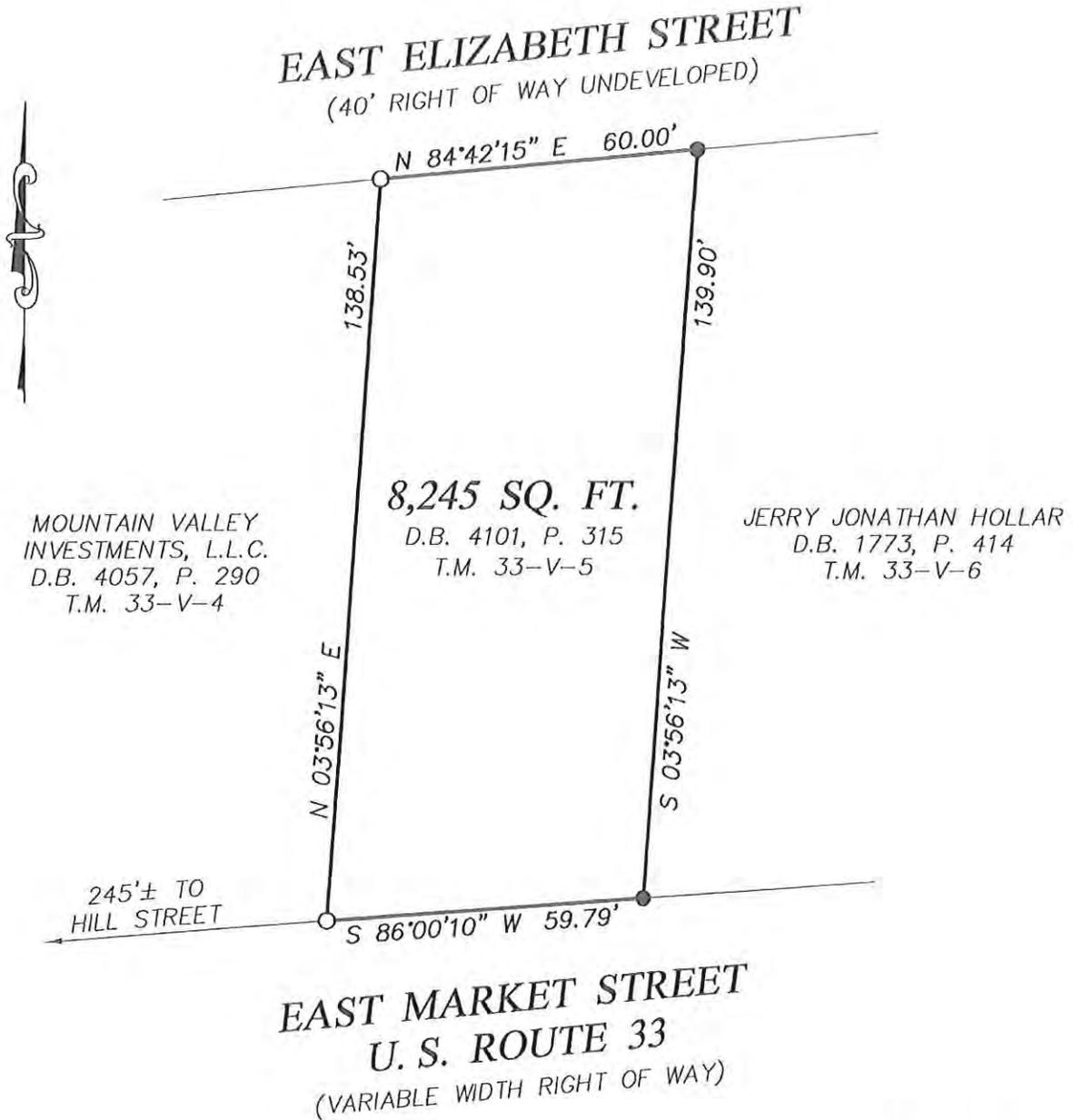
- 1) DATUM AS SHOWN HEREON IS ACCORDING TO RECORDED INFORMATION AND A CURRENT FIELD SURVEY.
- 2) THIS PROPERTY IS PRESENTLY ZONED "R-2" AND IS SHOWN ON TAX MAP 33-V-5.
- 3) THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT, AND DOES NOT REFLECT ALL ENCUMBRANCES.
- 4) BEARINGS ARE ROTATED TO PLAT IN D.B. 4057, P. 290.

**LEGEND**

- #5 REBAR SET
- IRON PIN FOUND

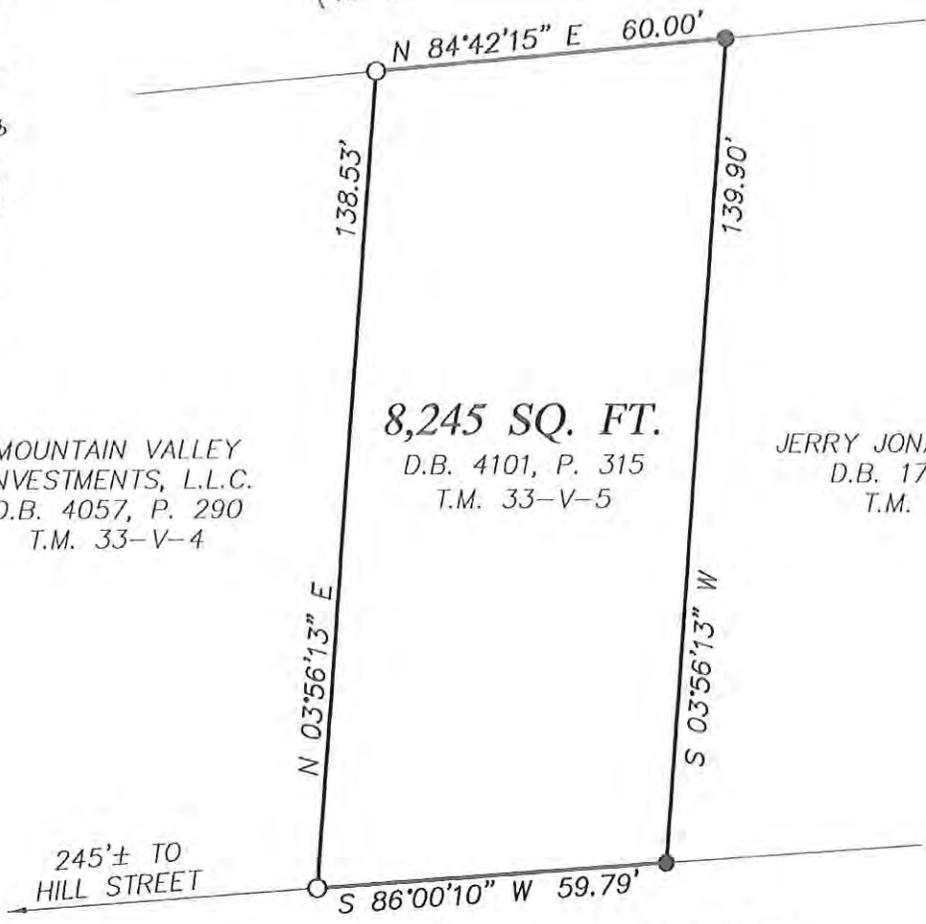


**VICINITY MAP**  
NOT TO SCALE



**BOUNDARY SURVEY OF  
8,245 SQUARE FEET OF LAND**





MOUNTAIN VALLEY  
INVESTMENTS, L.L.C.  
D.B. 4057, P. 290  
T.M. 33-V-4

**8,245 SQ. FT.**  
D.B. 4101, P. 315  
T.M. 33-V-5

JERRY JONATHAN HOLLAR  
D.B. 1773, P. 414  
T.M. 33-V-6

**EAST MARKET STREET**  
**U. S. ROUTE 33**  
(VARIABLE WIDTH RIGHT OF WAY)

**BOUNDARY SURVEY OF**  
**8,245 SQUARE FEET OF LAND**  
**PRESENTLY IN THE NAME OF**  
**SHARON S. WELCH KESSLER**  
CITY OF HARRISONBURG, VIRGINIA

SCALE 1" = 30'  
OCTOBER 10, 2012

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

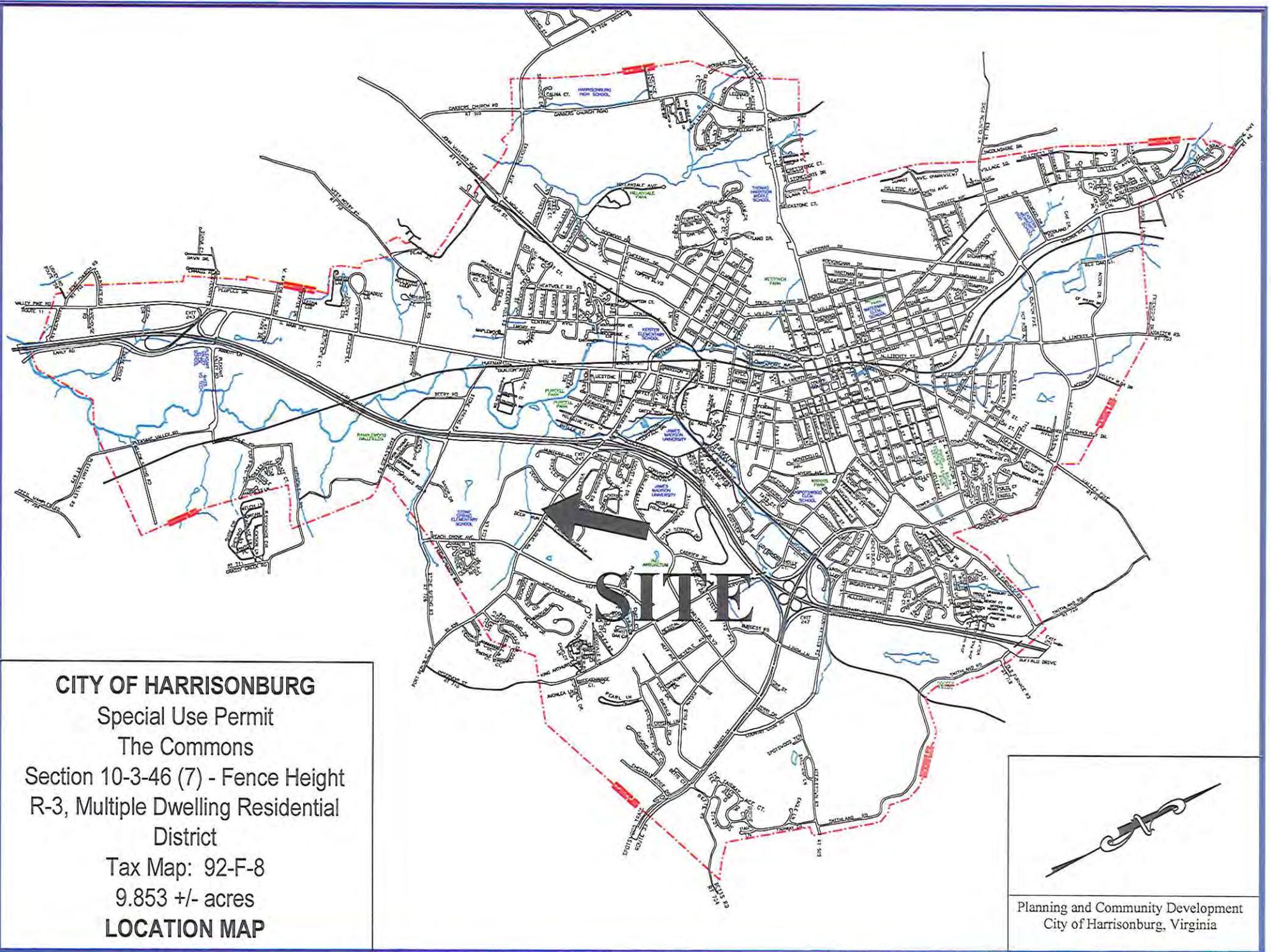
FILE No. 0690





To see all the details that are visible on the screen, use the "Print" link next to the map.





**CITY OF HARRISONBURG**

Special Use Permit

The Commons

Section 10-3-46 (7) - Fence Height

R-3, Multiple Dwelling Residential

District

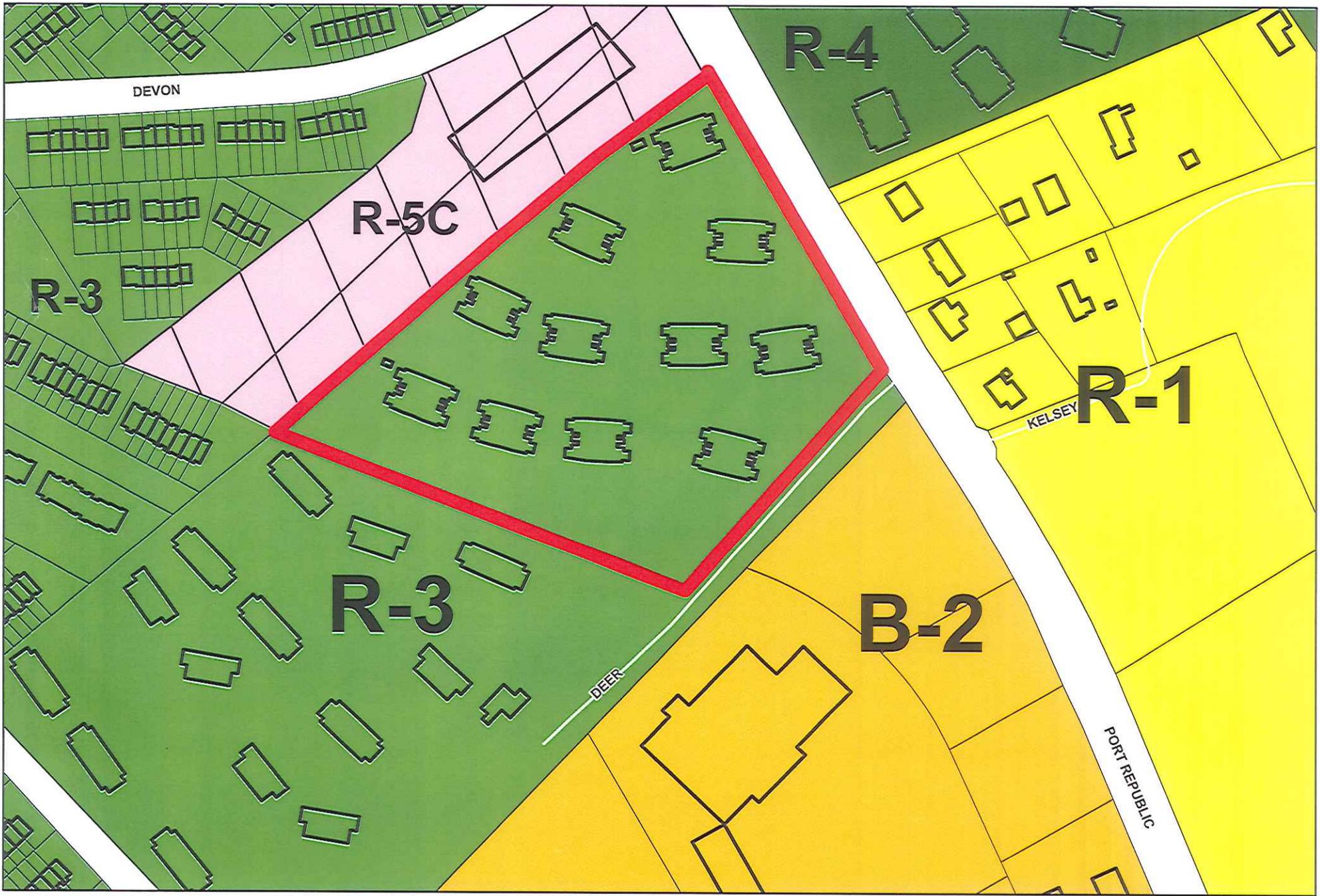
Tax Map: 92-F-8

9.853 +/- acres

**LOCATION MAP**

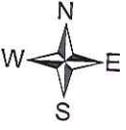


Planning and Community Development  
City of Harrisonburg, Virginia



# SUP -The Commons

10-3-46(7) Fence height greater than six feet





# City of Harrisonburg, Virginia

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

## STAFF REPORT

June 12, 2013

### SPECIAL USE PERMIT – THE COMMONS – FENCE HEIGHT (10-3-46 (7))

#### GENERAL INFORMATION

- Applicant:** The Commons II, LLC
- Tax Map:** 92-F-8
- Acreage:** 9.85 acres
- Location:** 869 Port Republic Road
- Request:** Public hearing to consider a special use permit per Section 10-3-46 (7) of the Zoning Ordinance to allow a fence to exceed the 6-foot, on average, fence height in the R-3, Multiple Dwelling Residential District.

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

The Comprehensive Plan designates this area as High Density Residential. This designation states that these areas are intended for high density residential use, mostly apartment buildings at densities ranging from 12 to 24 dwelling units per acre.

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

- Site:** Apartment complex; zoned R-3
- North:** Across Port Republic Road, single-family homes; zoned R-1 and University Fields Apartment Complex; zoned R-4
- East:** Across private driveway to Deer Run Apartments, vacant land, commercial businesses and Port Crossing Shopping Center; zoned B-2
- South:** Deer Run Apartment Complex; zoned R-3
- West:** 865 East Apartments and commercial businesses; zoned R-5C

#### EVALUATION

The applicant is requesting a special use permit per Section 10-3-46 (7) to allow for a fence of eight-feet in height. The eight-foot fence would be constructed along the southern boundary line and portions of the eastern and western property lines.

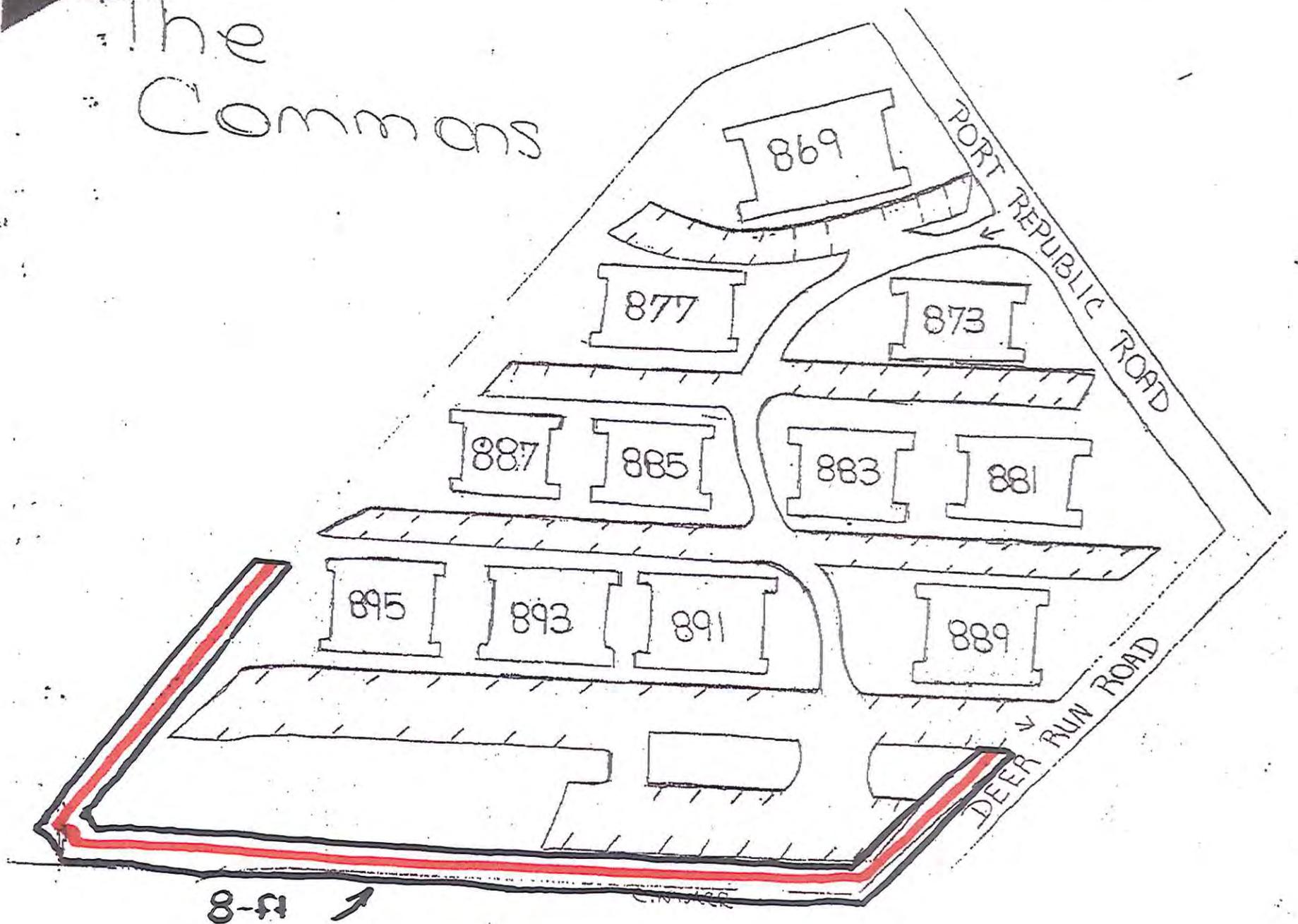
The Commons II, LLC is a 132-unit apartment complex that generally provides housing to college students. It consists of 11 buildings with 12 dwelling units in each building and four bedrooms per unit. The applicant has stated that they are becoming a gated community and are requesting the higher fence along portions of the property for security purposes.

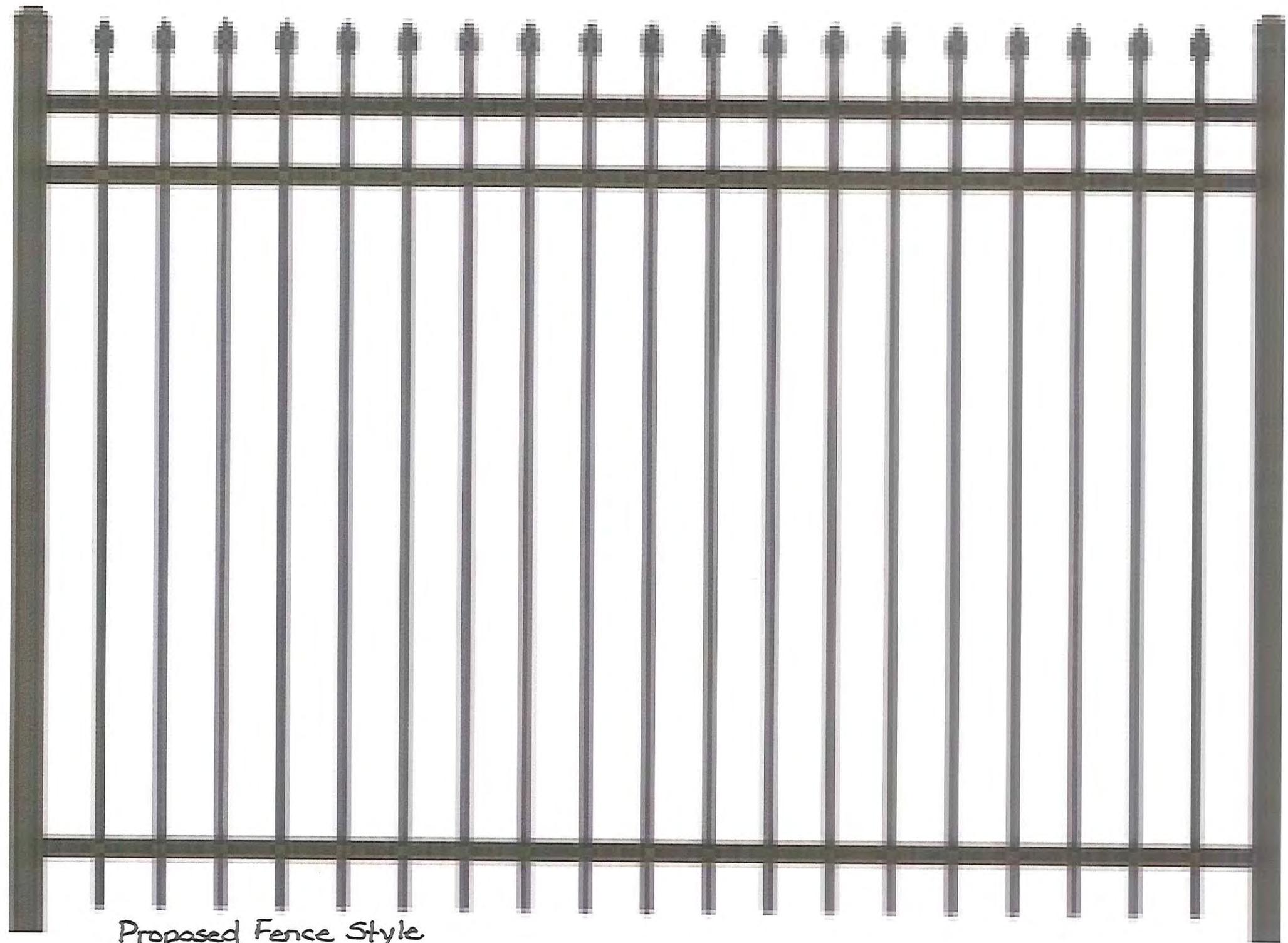
The proposed fence is shown as a black, picket-style fence and would be six-feet in height at the northern boundary of the property along Port Republic Road. Entrances to the property would be served by six-foot gates, styled like the fence. The applicant has been in contact with the Public Utilities Department and Emergency Services to coordinate access into the property once the project is completed.

Staff does not foresee any negative impact in approving this application. Staff supports approval of the special use permit with the following conditions:

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

# The Commons





Proposed Fence Style

Date Application Received: \_\_\_\_\_

**Application for Special Use Permit**  
City of Harrisonburg, Virginia

Fee: \$375.00 plus \$30.00 per acre Total Paid: \$ \_\_\_\_\_

Property Owner's Name: The Commons II, LLC c/o GMH Management

Street Address: PO Box 530292 Email: \_\_\_\_\_

City: Birmingham State: AL Zip: 35253-0292

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

Owner's Representative: Josiah Cadle

Street Address: 869 B Port Republic Road Email: jcadle@studenthousing.com

City: Harrisonburg State: VA Zip: 22801

Telephone: Work 540-438-3835 Fax 540-438-6264 Mobile 540-209-5902

**Description of Property and Request**

Location (Street Address): 869 Port Republic Road

Tax Map Number Sheet: 92 Block: F Lot: 8 Lot Area: 9.85 acres

Existing Zoning Classification: R-3

Special Use being requested: 10-3-46 (7) 8' high security fence

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

The Commons is becoming a gated community and a portion of the fencing along the south and west sides needs to be 8' for security purposes.

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

North: Port Republic Road

South: Deer Run Apartments

East: Food Lion

West: 865 East

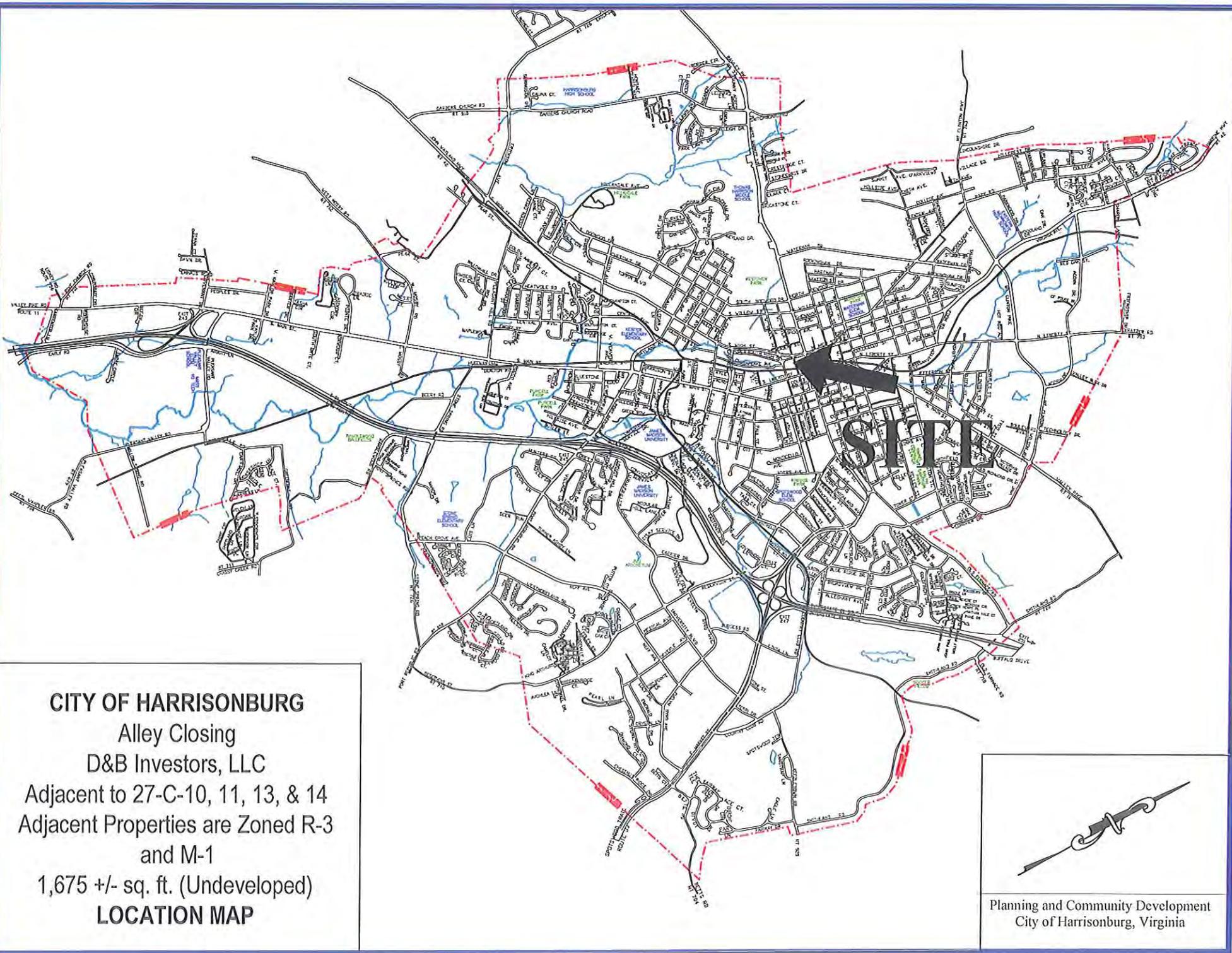
Certification: *I certify that the information contained herein is true and accurate.*

Signature: \_\_\_\_\_  
*Property Owner*

**ITEMS REQUIRED FOR SUBMISSION**

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

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



**CITY OF HARRISONBURG**

Alley Closing

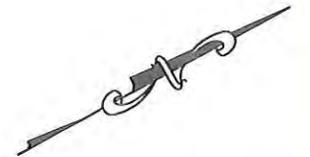
D&B Investors, LLC

Adjacent to 27-C-10, 11, 13, & 14

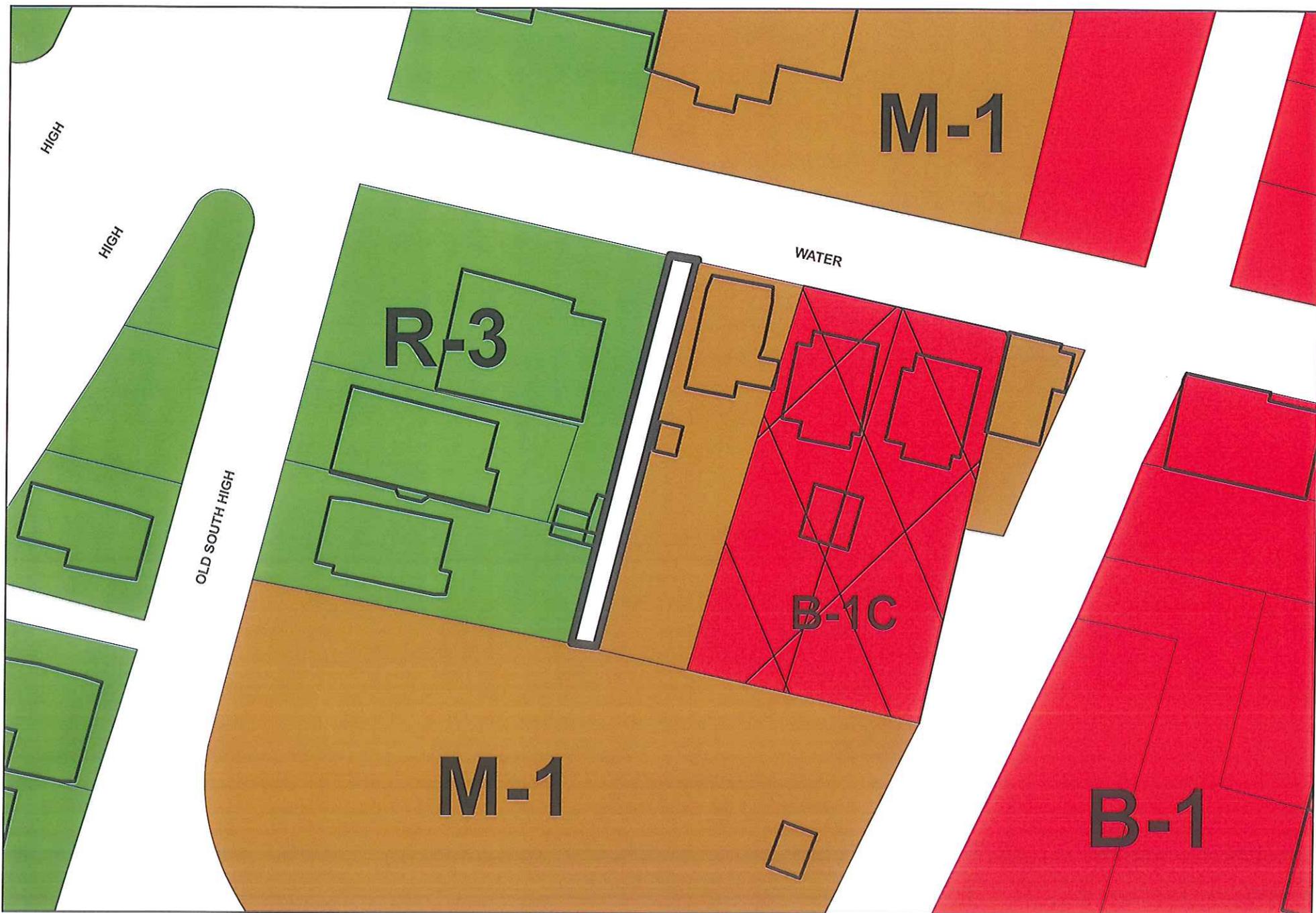
Adjacent Properties are Zoned R-3  
and M-1

1,675 +/- sq. ft. (Undeveloped)

**LOCATION MAP**



Planning and Community Development  
City of Harrisonburg, Virginia



# Alley Closing - (D & B Investors LLC)

Adjacent to TM 25-C-10, 11, 13, & 14



# City of Harrisonburg, Virginia

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

## STAFF REPORT

June 12, 2013

### ALLEY CLOSING – ADJACENT TO 25-C-10, 11, 13, & 14 (D&B INVESTORS, LLC)

#### GENERAL INFORMATION

- Applicant:** D&B Investors, LLC with representative Barry Kelley
- Tax Map:** Adjacent to 27-C-10, 11, 13, & 14
- Acreage:** 1,675 +/- square feet
- Location:** Off of and perpendicular to West Water Street
- Request:** Consider a request to close a public alley that is approximately 10-feet wide and 164 feet in length and includes 1,675 +/- square feet.

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

- Site:** Public alley (predominantly paved with a private carport built within the public right-of-way)
- North:** Across West Water Street, Community Mennonite Church, zoned M-1
- East:** Non-conforming, single family detached dwelling, zoned M-1
- South:** Predominantly vacant property and private parking lot, zoned M-1
- West:** Single family detached structures, zoned R-3

#### EVALUATION

The applicant is requesting to close 1,675 +/- square feet of public right-of-way (ROW) in the form of a 10-foot wide by 164 foot in length public alley. The alley is located off of and perpendicular to West Water Street within the block bounded by West Water Street, Old South High Street, the Norfolk and Southern Rail Line, and West Bruce Street. The alley is not a through alley but provides access to four separate parcels.

The applicant is the owner, or part owner, of three of the four parcels adjacent to the alley. The Trustees of the Community Mennonite Church is the other property owner that could purchase up to half the width of the alley along the entire length of their property boundary they share with the City ROW. If the church chooses not to purchase portions of the alley, the applicants may purchase the entire ROW. In conversation with representatives of the church, the church is interested in maintaining access to the rear and side of their property within the area now part of the public ROW. If the City chooses to close and sell the alley, it will be a matter between the applicants and the church to decide how to divide the property or to provide private access to adjacent properties within this area.

During the same agenda timeline of this request, but through separate applications, the applicant and other property owners are undergoing a rezoning review to rezone their adjacent and nearby properties

to the B-1, Central Business District, while also requesting a special use permit to allow parking lots and parking garages as principle uses. The applicant is hoping to purchase the public alley and to incorporate the area into this project.

Although the alley is predominantly paved, to the best of staff's knowledge, this alley was not paved by the City. It is not known when exactly the alley was paved, but it appears possible that a past owner of 110 Old South High Street paved the alley to provide access to their accessory storage building and to their carport, which encroaches the public ROW.

The alley is not used for providing any public services and there are no public or private utilities within the right-of-way, and thus no easements would be needed if the City chooses to approve the request.

On March 12, 2013, a report on unused alleys was presented to City Council. In that report, this alley is shown as an alley to retain ownership of for a potential pedestrian or bicycle connection from West Water Street to West Bruce Street. Regardless of the recommendation, staff is okay with closing and selling this ROW. The report on unused alleys is a good reference tool for the City in deciding whether or not such ROWs should be retained or sold, but given the fact that this alley is not a through alley and that to build a pedestrian or bicycle connection as is hoped for by the Bicycle and Pedestrian Subcommittee—a subcommittee of the Transportation Safety and Advisory Commission—who recommended the City retain this alley, the City would have to purchase private property or an easement, to build such a connection. Furthermore, the private property that would have to be utilized to make this connection a reality is already being planned and designed for private development. As described above, the immediate development plan for the private property is to construct a surface parking lot, and in the spirit of trying to connect West Water Street to West Bruce Street for pedestrians, at this time, the property owners have designed the private parking lot to include a sidewalk along that property's eastern boundary, adjacent to the Norfolk Southern rail line, to connect West Water Street to West Bruce Street even though such a connection is not required.

Staff recommends closing the public alley.

26 April 2013

D&B Investors LLC

205 A South Liberty Street

Harrisonburg, VA 22801

City of Harrisonburg,

Dear Sirs,

**Application for Alley Closing**

We refer to the above.

We wish to purchase the adjacent alley and incorporate it into our property, 155 West Water Street from the City. The alley is not being used as intended and dead ends at a property that we also own, 164 West Bruce Street.

Yours faithfully,

Gene Diener

D&B Investors LLC

Date application received: \_\_\_\_\_

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

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

Applicant's Name: D & B INVESTNS LLC

Street Address: 205 A SOUTH LIBERTY ST E-mail: gdiener@ldbinsurance.com

City: HARRISONBURG State: VA Zip: 22801

Telephone: Work 540 438 409 Fax \_\_\_\_\_ Mobile \_\_\_\_\_

Representative (if any): BARRY KELLEY

Street Address 202 NORTH LIBERTY SUITE 101 E-mail: BARRY E MATCHBOXREALTY.COM

City: H'BURG State: VA Zip: 22802

Telephone: Work 540 434 5150 Fax 540 434 3634 Mobile 540 421 2878

#### Description of Request

LOCATION: ADJACENT TO 155 W. WATER ST

Square footage of area to be closed: 1675

Cost per square foot: \$ 5.50/sq ft. Total cost: \$ 9212.50

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

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

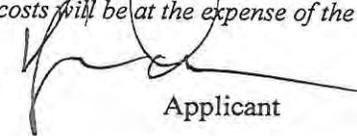
North: AS PER ATTACHED

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

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

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

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

Signature:  Applicant

Date: 4-29-13

#### ITEMS REQUIRED FOR SUBMISSION

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

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

## Section 5: Names and addresses of Adjacent Property Owners

- North
  - c/o Treasurer, Trustees of the Mennonite Church, 70 South High Street, Harrisonburg, 22801 (70 South High Street)
- South
  - D & B Investors LLC, 205 A South Liberty Street, Harrisonburg, 22801 (164 West Bruce Street)
- Easts
  - D & B Investors LLC, 205 A South Liberty Street, Harrisonburg, 22801 (155 West Water Street)
- West
  - c/o Treasurer, Trustees of the Mennonite Church, 70 South High Street, Harrisonburg, 22801 (70 South High Street)
  - D & B Investors LLC, 205 A South Liberty Street, Harrisonburg, 22801 (120 Old South High Street)

Scale: 1" = 30'  
April 26, 2013



### West Water Street

← 134' to Old South High Street

S79°39'24"E  
10.00'

S79°38'18"E  
45.00'

Nail in walk  
found

Bolt  
found

Iron Pin  
found

T.M. 25 - (C) - 11  
Trustees of the Community  
Mennonite Church  
D.B. 1955/585

T.M. 25 - (C) - 10  
D & B Investors  
Porthill LLC  
D.B. 4034/530  
D.B. 3916/653

T.M. 25 - (C) - 9  
Hess & Allen  
Properties, LLC  
D.B. 3819/679

T.M. 25 - (C) - 12  
Jonathan Byrne  
D.B. 3551/413

Iron Pin  
found

Nail  
found

T.M. 25 - (C) - 13  
D & B Investors  
Porthill LLC  
D.B. 4034/530  
D.B. 3916/653

N79°05'37"W  
23.89'

N12°31'21"E 164.51'  
S12°23'19"W 160.30'  
**10' Alley 1,675 sq.ft.**

Iron Pin  
found

Iron Pin  
found

T.M. 25 - (C) - 14  
D & B Investors  
D.B. 1848/745  
D.B. 4209/500  
D.B. 4209/504

N79°05'19"W  
10.37'

Iron Pin  
found

Iron Pin  
found

Iron Pin  
found

S77°19'41"E  
40.54'  
S12°28'41"W  
4.30'

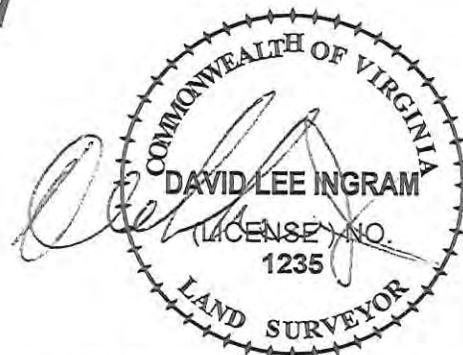
## Plat of a 10' Alley to be Vacated City of Harrisonburg, Virginia

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

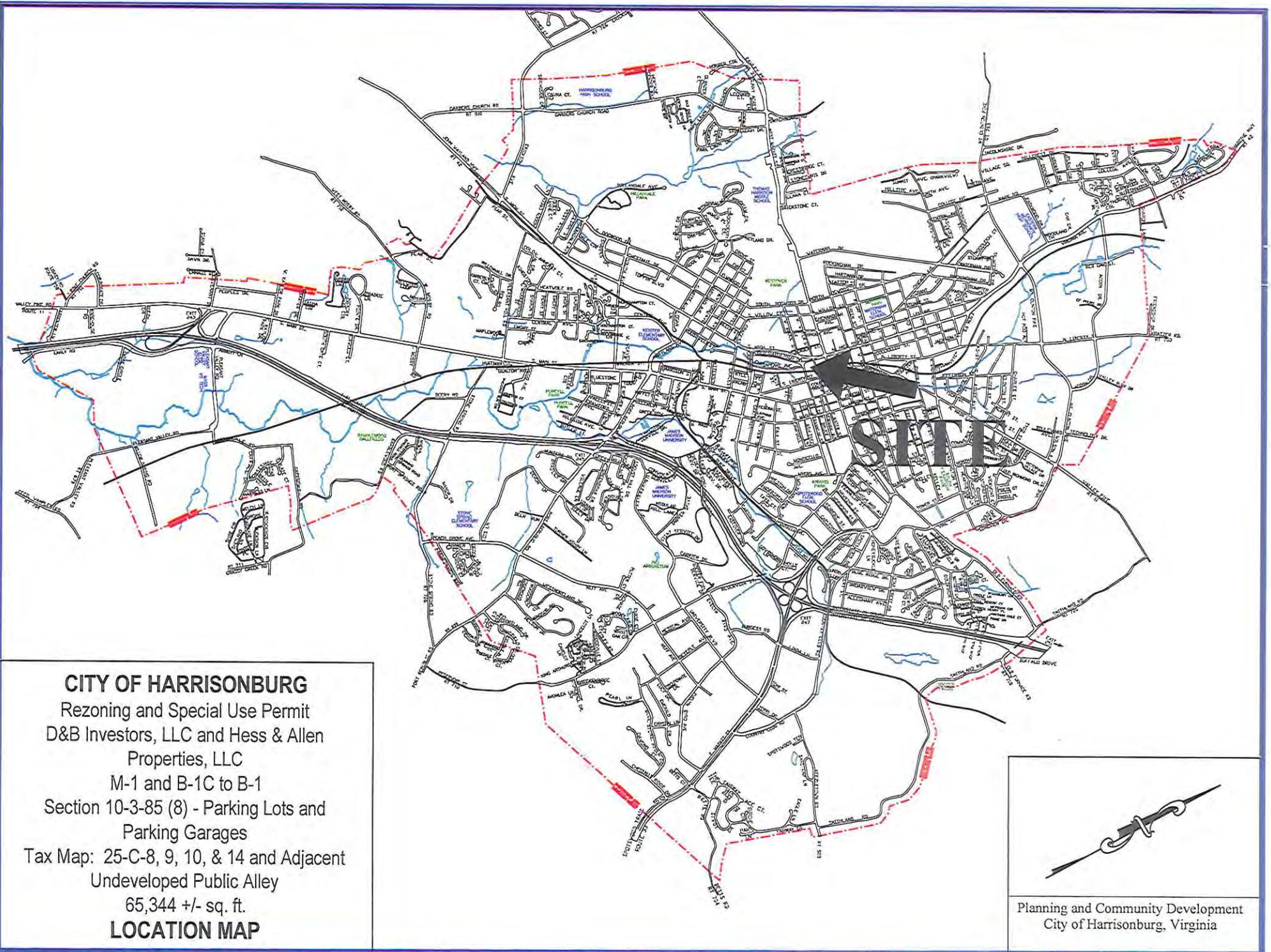
Surveyors - Engineers - Planners

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

Job #22352A



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

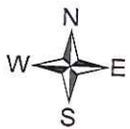
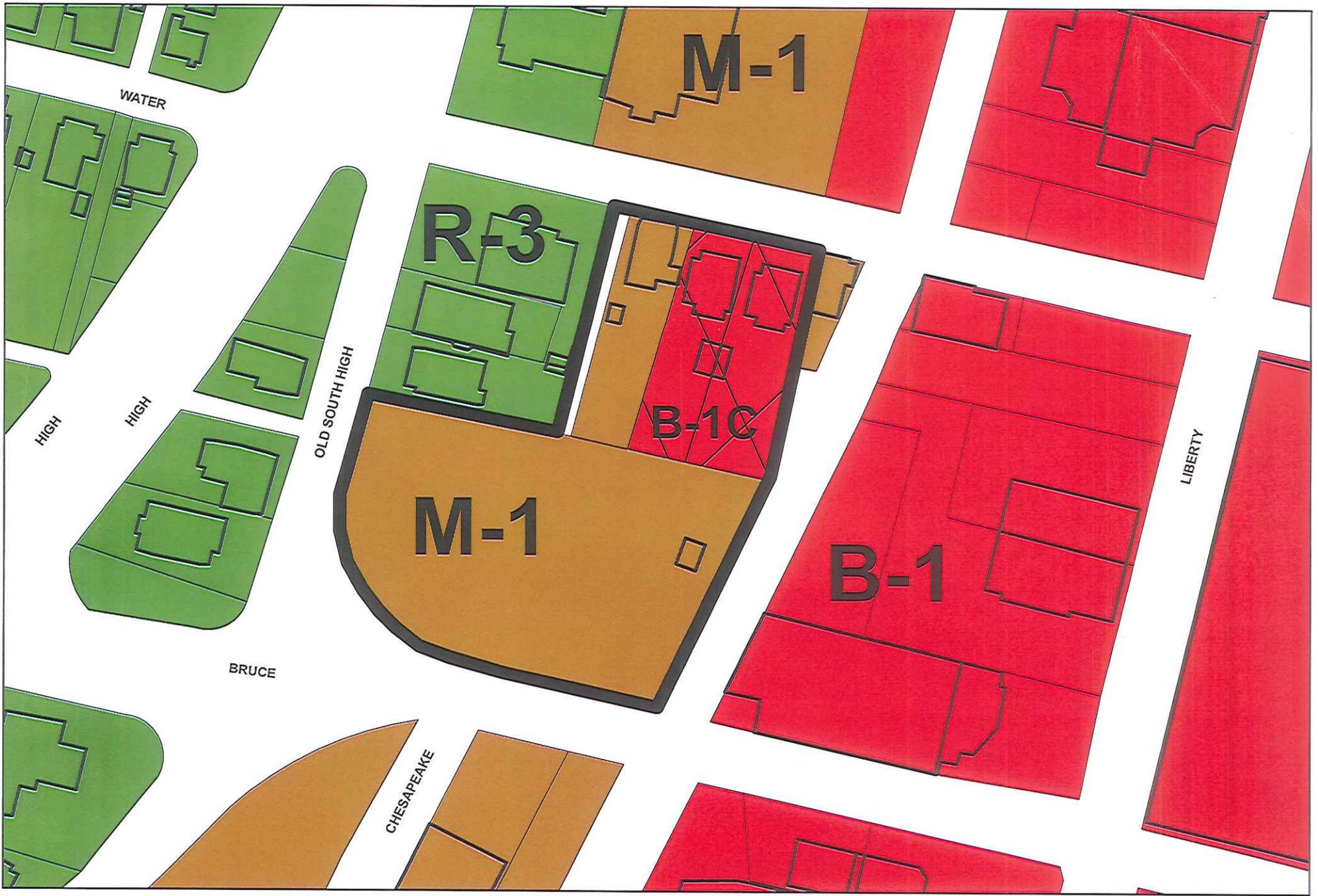


**CITY OF HARRISONBURG**

Rezoning and Special Use Permit  
D&B Investors, LLC and Hess & Allen  
Properties, LLC  
M-1 and B-1C to B-1  
Section 10-3-85 (8) - Parking Lots and  
Parking Garages  
Tax Map: 25-C-8, 9, 10, & 14 and Adjacent  
Undeveloped Public Alley  
65,344 +/- sq. ft.  
**LOCATION MAP**



Planning and Community Development  
City of Harrisonburg, Virginia



**Rezoning - M-1 and B-1C to B-1  
 SUP - 10-3-85 (8) Parking Lots/Garages**



# City of Harrisonburg, Virginia

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

## STAFF REPORT

June 12, 2013

### REZONING & SPECIAL USE PERMIT – D&B INVESTORS, LLC AND HESS & ALLEN PROPERTIES, LLC

#### GENERAL INFORMATION

- Applicant:** D&B Investors, LLC, Hess and Allen Properties, LLC, and Stephan and Allyson Hess with representative Barry Kelley
- Tax Map:** 25-C-8, 9, 10, & 14.
- Acreage:** 65,344 +/- square feet
- Location:** 139, 147, and 155 West Water Street and 164 West Bruce Street
- Requests:** Public hearing to consider rezoning two parcels zoned M-1, General Industrial District and an adjacent undeveloped public alley and two parcels zoned B-1C all to the B-1, Central Business District.
- Public hearing to consider a special use permit per Section 10-3-85 (8) of the Zoning Ordinance to allow parking lots and garages as principles uses within the B-1, Central Business District.

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

The Comprehensive Plan designates this area as Mixed Use Development. This designation includes both existing and proposed new mixed use areas. These areas are intended to combine residential and non-residential uses in planned neighborhoods where the different uses are finely mixed instead of separated. These areas are prime candidates for “live-work” and traditional neighborhood developments. Live-work developments combine residential and office/service uses allowing people to both live and work in the same area, which could be combined in the same building or on the same street. The gross residential density in areas outside downtown should not exceed an average of 15 units per acre, though all types of residential units are permitted: single family detached, single family attached and apartments. Apartments are permitted only if single family detached and/or attached units are also provided and together cover a greater percentage of the project site. Residential densities in downtown may be higher than an average of 15 units per acre, and commercial uses would be expected to have an intensity equivalent to a Floor Area Ratio of at least 0.4, although the City does not measure commercial intensity in that way.

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

- Site:** Predominantly vacant property with private parking lot, zoned M-1, non-conforming single family dwelling, zoned M-1, single family detached structures and associated parking, zoned B-1C, and public alley

- North: Across West Water Street, Community Mennonite Church, zoned M-1, and Rosetta Stone zoned B-1
- East: Across the Norfolk Southern rail line, Rosetta Stone and other building (currently being renovated), zoned B-1
- South: Across West Bruce Street, industrial uses and buildings (including the old train depot), zoned M-1
- West: Single family detached structures, and across Old South High Street, single family detached structures, all zoned R-3

### EVALUATION

The applicants are requesting to rezone 65,344 +/- square feet of property, which includes four parcels, along with the adjoining public alley that they are hoping to close and purchase through a separate application, all to B-1C, Central Business District Conditional. The properties make up a majority of the block bordered by West Water Street, the Norfolk Southern rail line, West Bruce Street, and Old South High Street. Concurrently with the rezoning request, the applicants are also requesting a special use permit per Section 10-3-85 (8) of the Zoning Ordinance to allow parking lots and parking garages as principle uses within the B-1 zoning district. Both requests are described herein.

Two parcels (tax maps 25-C-10 & 14) are currently zoned M-1, General Industrial District and are owned by D&B Investors, LLC. The public alley that D&B Investors, LLC has requested to be closed is adjacent to these two parcels. The other two parcels (tax maps 25-C-8 & 9) are currently zoned B-1C, Central Business District Conditional and are owned by two separate entities including Hess and Allen Properties, LLC and Stephan and Allyson Hess. These two parcels were most recently rezoned in May 2010 with proffers that require not less than 10 parking spaces among the two properties and further that any residential uses on either property would be limited to two units. Other than these two conditions, both properties could operate any by-right use, apply for any special use, and would be afforded the privilege of having no building setbacks.

With the current rezoning request, the applicants have submitted the following proffer:

- All uses shall comply with the requirements of Article G Off-Street Parking except that residential dwelling units shall provide one parking space per dwelling unit.

Therefore, if approved, all four properties would become zoned B-1C and be bound by the above proffer. (The existing proffers on the two B-1C properties would no longer exist). The implications of the submitted proffer means the properties would be permitted to operate any of the B-1's by-right uses, apply to operate any of its special uses, and would be permitted to utilize the district's zero building setbacks. However, unlike standard B-1 properties that have the benefit of having no minimum parking requirements, the submitted proffer would require any use to meet all provisions of the Zoning Ordinance's off-street parking requirements, except that residential uses shall only be required to provide one parking space per dwelling unit regardless of the number of bedrooms in any particular unit.

The applicants offered the above proffer after staff explained we were not as comfortable with a standard B-1 rezoning with the subject properties, with no conditions, as we were with the recently rezoned Cassco Ice property, as there are less assurances of exactly how the subject properties could develop if granted all of the flexible provisions of the B-1 district and how such unknown development could impact the City's downtown.

At the current time, the applicants are not trying to operate any of the by-right B-1 uses, but rather are specifically interested in constructing a parking facility, which, as of October 2012, requires B-1 property owners desiring to construct parking lots and parking garages as principle uses to obtain a special use permit. (B-1 property owners operating any other use permitted by the district may build and supply any number of parking spaces to support the principle use and are not required to apply for a special use permit.) Thus, the applicants are simultaneously applying for the ability to build a parking lot or parking garage as a principle use per Section 10-3-85 (8).

Staff requested for the applicant to submit a layout of their planned parking facility so that we could evaluate if there would be any issues with the functionality of the public streets. The submitted surface parking lot layout is only a representation of what a surface parking lot could look like and it may or may not be permitted as shown as the travel lane widths do not meet the minimums specified by the Design and Construction Standards Manual. It should be understood that approving the special use permit as requested would grant the property owners the ability to build a surface parking lot or a parking garage. As shown in the example surface parking lot layout, the subject properties may be able to sustain as many as 151 parking spaces; and more, if the site were to ever contain a parking garage.

The reason the applicants want to build a parking facility is, and some may recall from the March 12, 2013 joint public hearing with City Council to rezone the Cassco Ice property, that a majority of the subject property (specifically tax map 25-C-14) was intended to contain a parking lot to support the uses that would operate within the soon-to-be-renovated Cassco Ice industrial building. Some may also recall that a comprehensive site plan had already been submitted to construct a 104-space surface parking lot on that parcel.

This information brings to attention the fact that 75 percent (the combined total area of the two M-1 zoned parcels) of the subject properties can already construct a parking facility as a principle use by-right. The main reason the applicants are going through both of the processes described herein, is that although for the time being they are planning to construct a surface parking lot, at some point in time, they may be interested in constructing a parking garage. If they were to build a parking garage on the portions of the property that are currently zoned M-1, a 30-foot setback must be provided along all public street right-of-way lines and along the adjacent property boundaries of the neighboring parcels to the northwest because those lots are residentially zoned.

Furthermore, it should be understood that regardless of the zoning district in which a surface parking lot is built, the design standards and the parking lot landscaping regulations are the same. In addition, as described within the parking lot landscaping regulations Section 10-3-30.1 (3) (a), parking garages built within the B-1 district are exempt from parking lot landscaping regulations because they are considered structures and can be built with no building setbacks. Specifically with regard to landscaping of the site for the proposed SUP uses, staff is comfortable with what the parking lot landscaping requirements already stipulate for surface parking lots. In this particular situation, we are also comfortable with suggesting no additional conditions or requirements for landscaping associated with a parking garage. The main reasons for the latter is since the parking garage would be a structure, and given the site's physical characteristics and its location, which is not directly adjacent to or within a larger established single family home neighborhood, we believe it can be afforded the same flexibility as other buildings and structures in B-1, which allows zero lot line construction, and therefore having no landscaping obligation.

The Comprehensive Plan designates the subject properties, and the remaining properties within this block, as Mixed Use Development Areas (MUDA). Generally, the MUDA Land Use Guide designation most closely resembles the characteristics of the B-1 zoning district. Having such a designation, however, does not automatically mean that all rezoning requests to the B-1 district conform to the Comprehensive Plan, but in this particular case, staff believes it helps. The properties within this block have been designated MUDA since the 2004 Comprehensive Plan update when the designation was created and added to the Comprehensive Plan. This block of properties also represents portions of the western edge of where the City is promoting mixed-use-type development in the downtown. In general, rezoning these properties and eliminating the ability to operate intense industrial uses permitted by the existing M-1 zoning district is a good thing for this area of the City's downtown. Development as allowed by the B-1 district, at this location, would be a positive as it provides economic and social vitality for the City's core.

The submitted proffer solidifies staff's affirmative opinion to rezone these properties to the Central Business District with those specific conditions. Staff also recommends in favor of the applicants SUP to be able to build a parking lot or parking garage as a principle use. Although for the time being the property may only serve as a parking facility, the proffer indicates the applicants are considering other development for the future that could lend itself to becoming a development that promotes traditional neighborhood development, where such space is pedestrian friendly, near mass transportation options, and focuses on live-work-type environments.

Staff supports rezoning these properties to B-1C and approving the SUP to allow a parking lot or parking garage as a principle use in the Central Business District.

In addition to our recommendations herein, staff also recommends the SUP to be valid for five years from the date of approval by City Council, rather than the default timeframe of establishing the SUP within 12 months of the date of approval (See Section 10-3-130 (c) of the Zoning Ordinance). This is the same timeframe that was suggested for HRHA's SUPs reviewed by Planning Commission last month.



540.442.8787 (O) 540.442.9090 (F)

June 5, 2013

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

Subject: Proffer for D & B Investors & Others Rezoning Request

Dear Mr. Adam Fletcher:

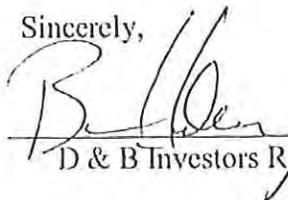
D & B Investors & Others are proffering the follow condition to their B-1 rezoning request addressing off-street parking requirements:

- *All uses shall comply with the requirements of Article G Off-Street Parking, except that residential dwelling units shall provide one parking space per dwelling unit.*

We hereby proffer that the development of the subject property on this application shall be in strict accordance with the conditions set forth in this submission.

A conceptual plan has been attached to this document as a representation of what a surface parking lot could look like on these properties while meeting City of Harrisonburg Landscaping Regulations for parking lots. The topography of this area also provides an additional option of providing more parking with the construction of a parking garage.

Sincerely,

  
\_\_\_\_\_  
D & B Investors Representative

6.5.13  
\_\_\_\_\_  
Date

277 South Liberty Street LLC  
202 North Liberty Street, Suite 101  
Harrisonburg, VA  
22801

City of Harrisonburg

Attn. Mr., Adam Fletcher

Dear Sirs,

**Rezoning application and Special Use permits**

We refer to the above and enclose the following applications.

1. TM 25 C 8&9 – 139 & 147 Water Street
  - o Rezoning & Special use permit
2. TM 25 C 10 – 155 W. Water Street
  - o Rezoning & Special use permit
3. TM 25 C 14 – 164 W. Bruce Street
  - o Rezoning & Special use permit
4. Alley closing adjacent to 155 W Water Street

We are applying to change the current zoning from M1 to B1 for items 2 and 3. In addition we are applying to change the current B1 (C) to B1 for item number 1, this would remove the proffer of 10 parking space requirement.

We would also require the alley to have the same zoning ,B1 with a special use permit , as 155 W Water Street.

The rezoning will let us create additional on-grade parking for the development of the Cassco Ice House project located on Liberty and Bruce Street.

The application for the special use permit is in terms of ordinance 10-3-85.

Should you require any additional information please do not hesitate to contact the writer.

Yours faithfully,



Andrew Forward

Date Application Received: 05-06-13

Total Paid: 435.00 *AP*

### Application for Change of Zoning District City of Harrisonburg, Virginia

#### Section 1: Property Owner's Information

Name: D & B INVESTORS LLC  
Street Address: 205 A S. LIBERTY STREET Email: gdiener@ldbinsurance.com  
City/State/Zip: HARRISONBURG VA 22801  
Telephone (work): 540 438 4109 (home or cellular): \_\_\_\_\_ (fax): \_\_\_\_\_

#### Section 2: Owner's Representative Information

Name: BARRY KELLEY  
Street Address: 202 N. LIBERTY ST SUITE 101 Email: Barry@MatchboxReality.com  
City/State/Zip: HARRISONBURG VA 22802  
Telephone (work): 540 434 5150 (home or cellular): 540 421 2678 (fax): 540 434 3034

#### Section 3: Description of Property

Location (street address): 164 WEST BRUCE ST, HARRISONBURG  
Tax Map Number: Sheet: 25 Block: C Lot: 14 Total Land Area (acres or square feet): 42246 sq ft  
Existing Zoning District: M1 Proposed Zoning District \*: B1  
Existing Comprehensive Plan Designation: \_\_\_\_\_

*\*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: AS PER ATTACHED  
East: \_\_\_\_\_  
South: \_\_\_\_\_  
West: \_\_\_\_\_

#### Section 6: Certification

I certify that the information contained herein is true and accurate. Signature: \_\_\_\_\_

*[Handwritten Signature]*  
Property Owner

**See Back for Items Required for Submission**

Date Application Received: 05-06-13

Total Paid: \_\_\_\_\_

### Application for Change of Zoning District City of Harrisonburg, Virginia

**Section 1: Property Owner's Information**

Name: DEB INVESTORS LLC  
Street Address: 205 A S. LIBERTY STREET Email: galener@ldbinsurance.com  
City/State/Zip: HARRISONBURG VA 22801  
Telephone (work): 540 438 4109 (home or cellular): \_\_\_\_\_ (fax): \_\_\_\_\_

**Section 2: Owner's Representative Information**

Name: BARRY KELLEY  
Street Address: 202 N. LIBERTY SUITE 101 Email: BARRY@MATCHBOXREalty.com  
City/State/Zip: HARRISONBURG VA 22802  
Telephone (work): 540 434 5130 (home or cellular): 540 421 2878 (fax): 540 434 3034

**Section 3: Description of Property**

Location (street address): 155 WEST WATER ST, HARRISONBURG  
Tax Map Number: Sheet: 25 Block: C Lot: 10 Total Land Area (acres or square feet): 6890 sq ft  
Existing Zoning District: M1 Proposed Zoning District\*: B1  
Existing Comprehensive Plan Designation: \_\_\_\_\_

*\*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: AS PER ATTACHED  
East: \_\_\_\_\_  
South: \_\_\_\_\_  
West: \_\_\_\_\_

**Section 6: Certification**

I certify that the information contained herein is true and accurate. Signature: [Signature]  
Property Owner

**See Back for Items Required for Submission**

Date Application Received: 05-06-13

Total Paid: \_\_\_\_\_

Application for Change of Zoning District  
City of Harrisonburg, Virginia

Section 1: Property Owner's Information

Name: HESS & ALLEN PROPERTIES LLC  
Street Address: 3320 BAYBROOK DRIVE Email: S Hess@hess-financial.com  
City/State/Zip: HARRISONBURG VA 22801  
Telephone (work): 540 246 0122 (home or cellular): 540 246 2046 (fax): NA

Section 2: Owner's Representative Information

Name: BARRY KELLEY  
Street Address: 702 N. LIBERTY STREET SUITE 101 Email: BARRY@MATHBOXREALTY.COM  
City/State/Zip: HARRISONBURG VA  
Telephone (work): 540 434 5150 (home or cellular): 540 421 2878 (fax): 540 434 3634

Section 3: Description of Property

Location (street address): 189 & 147 W. WATER ST  
Tax Map Number: Sheet: 25 Block: C Lot: 8/9 Total Land Area (acres or square feet): 6830/7703  
Existing Zoning District: B1 (C) Proposed Zoning District #: B1  
Existing Comprehensive Plan Designation: B1

\*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: C/O TICASAW, Trustees of the Monastic Church, 70 South High St, H1burg  
East: Dellinger Allen, 137 W Water Street  
South: D&B INVESTNS LLC 203A S. LIBERTY STREET, H1BURG 22801  
West: D&B INVESTNS LLC - " -

Section 6: Certification

I certify that the information contained herein is true and accurate. Signature: Stephen Hess  
Property Owner

See Back for Items Required for Submission

Date Application Received: 05-06-13

Application for Special Use Permit  
City of Harrisonburg, Virginia

Fee: \$375.00 plus \$30.00 per acre Total Paid: \$ 435.00 AR

Property Owner's Name: D & B INVESTMENTS LLC

Street Address: 205 A S. LIBERTY ST Email: gdiener@ldbinsurance.com

City: HARRISONBURG State: VA Zip: 22801

Telephone: Work 540 438 4109 Fax \_\_\_\_\_ Mobile \_\_\_\_\_

Owner's Representative: BARRY KELLY

Street Address: 202 N. LIBERTY STREET SUITE 101 Email: BARRY@MATCHBOXREALTY.COM

City: HARRISONBURG State: VA Zip: 22802

Telephone: Work 540 434 5150 Fax 540 434 3634 Mobile 540 421 2878

Description of Property and Request

Location (Street Address): 155 WEST WATER STREET

Tax Map Number Sheet: 25 Block: C Lot: 10 Lot Area: 6890

Existing Zoning Classification: M1 (REZONING APPLICATION SUBMITTED TO CHANGE TO B1)

Special Use being requested: \_\_\_\_\_

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

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

North: \_\_\_\_\_  
South: \_\_\_\_\_  
East: \_\_\_\_\_  
West: \_\_\_\_\_

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

Signature: [Signature]  
Property Owner

ITEMS REQUIRED FOR SUBMISSION

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

Date Application Received: 05-06-13

Application for Special Use Permit  
City of Harrisonburg, Virginia

Fee: \$375.00 plus \$30.00 per acre

Total Paid: \$                     

Property Owner's Name: D & B Investments LLC

Street Address: 205 A S. LIBERTY ST Email: gdiener@ldbinsurance.com

City: HARRISONBURG State: VA Zip: 22801

Telephone: Work 540 438 4109 Fax                      Mobile                     

Owner's Representative: BARRY KELLEY

Street Address: 202 N. LIBERTY STREET SUITE 101 Email: BARRY@MATCHBOXREALTY.COM

City: HARRISONBURG State: VA Zip: 22802

Telephone: Work 540 434 3150 Fax 540 434 3634 Mobile 540 421 2878

Description of Property and Request

Location (Street Address): 164 WEST BRUCE STREET

Tax Map Number Sheet: 25 Block: C Lot: 14 Lot Area: 42,246 sq ft

Existing Zoning Classification: M1 (REZONING APPLICATION SUBMITTED TO CHANGE TO B1)

Special Use being requested:                     

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

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

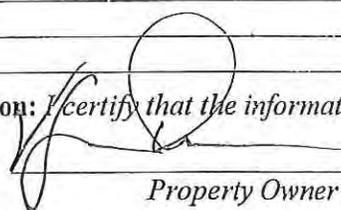
North: AS PER ATTACHED

South:                     

East:                     

West:                     

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

Signature: 

Property Owner

ITEMS REQUIRED FOR SUBMISSION

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

- Fees Paid
- Property Located on Tax Map
- 
-



## Adjacent Property Owners

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

## Section 5: Names and addresses of Adjacent Property Owners

- North
  - c/o Treasurer, Trustees of the Mennonite Church, 70 South High Street, Harrisonburg, 22801 (70 South High Street)
  
- South
  - D & B Investors LLC, 205 A south Liberty Street, Harrisonburg, 22801 (164 West Bruce Street)
  
- East
  - Allen R Dellinger, 137 West Water Street, Harrisonburg, 22801 (137 West Water Street)
  
- West
  - Hess & Allen Properties LLC, 147 West Water Street, Harrisonburg, 22801 (147 West Water Street)

## Section 5: Names and addresses of Adjacent Property Owners

- North
  - c/o Treasurer, Trustees of the Mennonite Church, 70 South High Street, Harrisonburg, 22801 (70 South High Street)
  
- South
  - D & B Investors LLC, 205 A South Liberty Street, Harrisonburg, 22801 (164 West Bruce Street)
  
- East
  - Stephan J Allyson L Hess, 139 West Water Street, Harrisonburg, 22801 (139 West Water Street)
  
- West
  - D & B Investors LLC, 155 West Water Street, Harrisonburg, 22801 (155 West Water Street)

## Section 5: Names and addresses of Adjacent Property Owners

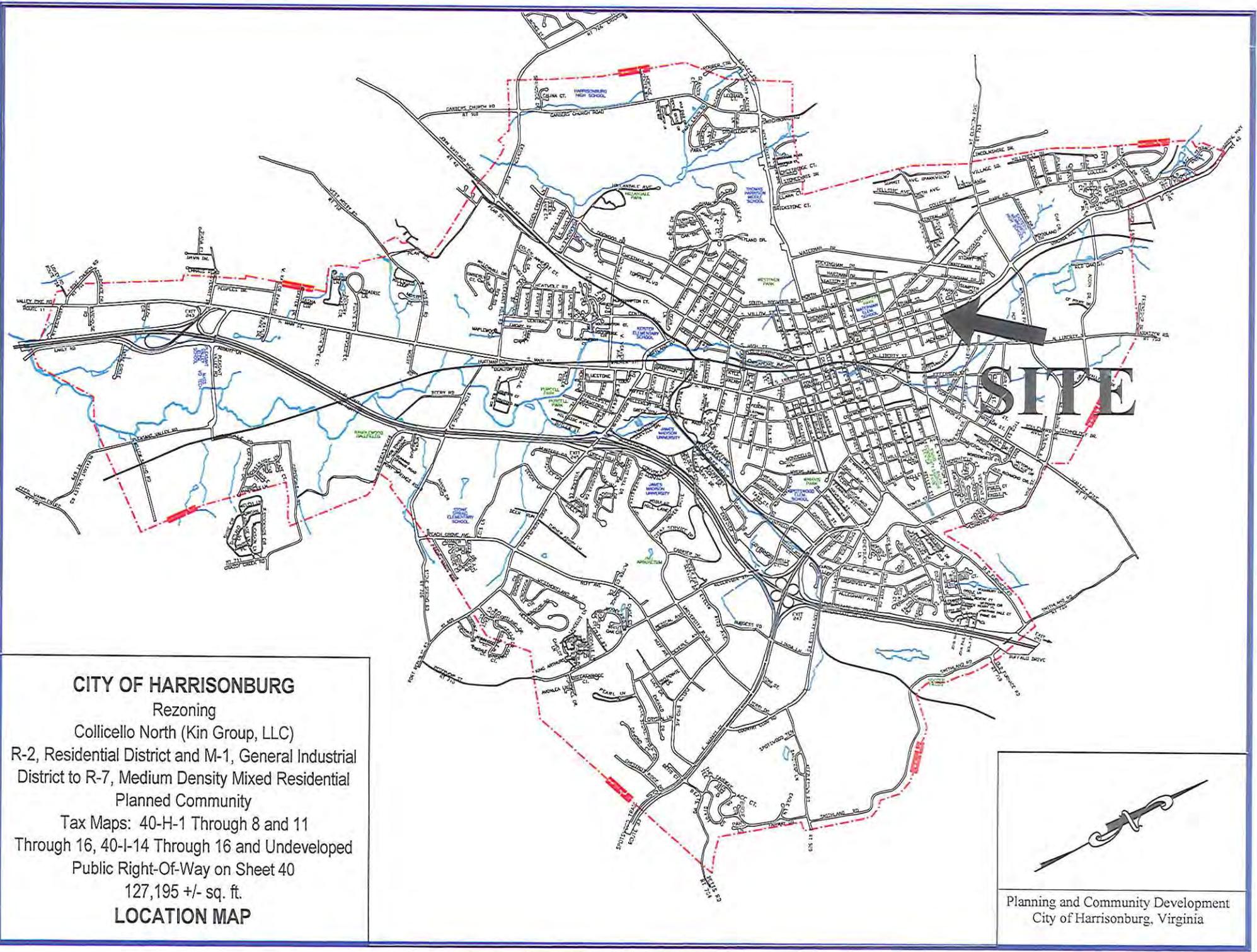
- North
  - c/o Treasurer, Trustees of the Mennonite Church, 70 South High Street, Harrisonburg, 22801 (70 South High Street)
- South
  - D & B Investors LLC, 205 A South Liberty Street, Harrisonburg, 22801 (164 West Bruce Street)
- Easts
  - D & B Investors LLC, 205 A South Liberty Street, Harrisonburg, 22801 (155 West Water Street)
- West
  - c/o Treasurer, Trustees of the Mennonite Church, 70 South High Street, Harrisonburg, 22801 (70 South High Street)
  - D & B Investors LLC, 205 A South Liberty Street, Harrisonburg, 22801 (120 Old South High Street)

## Section 5: Names and addresses of Adjacent Property Owners

- North
  - c/o Treasurer, Trustees of the Mennonite Church, 70 South High Street, Harrisonburg, 22801 (70 South High Street)
- South
  - D & B Investors LLC, 205 A South Liberty Street, Harrisonburg, 22801 (164 West Bruce Street)
- East
  - D & B Investors LLC, 205 A South Liberty Street, Harrisonburg, 22801 (155 West Water Street)
- West
  - c/o Treasurer, Trustees of the Mennonite Church, 70 South High Street, Harrisonburg, 22801 (70 South High Street)
  - D & B Investors LLC, 205 A South Liberty Street, Harrisonburg, 22801 (120 Old South High Street)







**CITY OF HARRISONBURG**

Rezoning

Collicello North (Kin Group, LLC)

R-2, Residential District and M-1, General Industrial District to R-7, Medium Density Mixed Residential Planned Community

Tax Maps: 40-H-1 Through 8 and 11

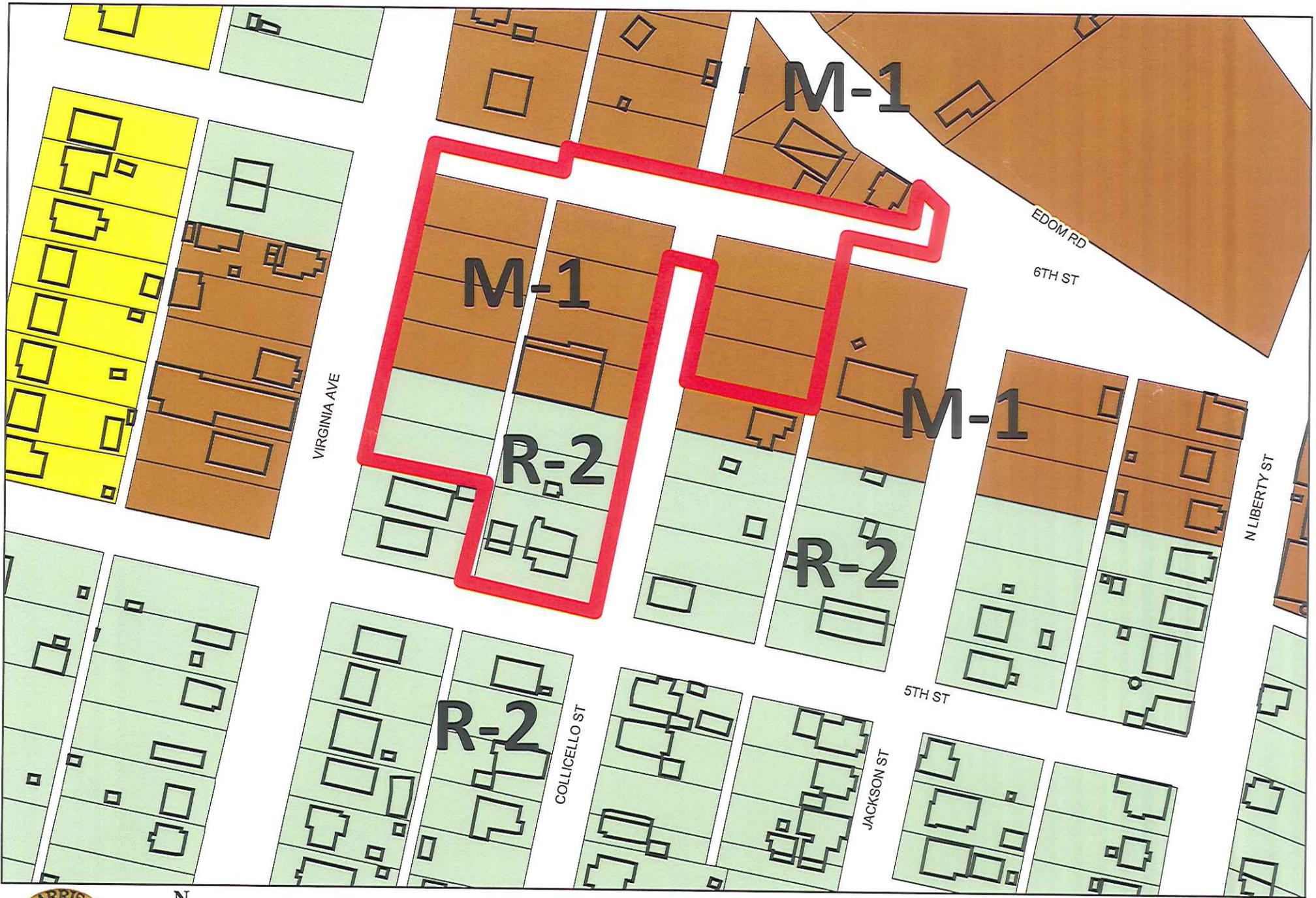
Through 16, 40-I-14 Through 16 and Undeveloped

Public Right-Of-Way on Sheet 40

127,195 +/- sq. ft.

**LOCATION MAP**

Planning and Community Development  
City of Harrisonburg, Virginia



**Collicello North (The Kin Group LLC)  
Rezoning - R-2 and M-1 to R-7**





# City of Harrisonburg, Virginia

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

## STAFF REPORT

June 12, 2013

### REZONING - COLLICELLO NORTH R-7 (KIN GROUP, LLC)

#### GENERAL INFORMATION

- Applicant:** Kin Group, LLC with representative Dean Weaver
- Tax Map:** 40-H-1—8 and 11—16, 40-I-14, 15, and 16, and portions of undeveloped 6<sup>th</sup> Street right-of-way, undeveloped portions of Collicello Street right-of-way, adjacent undeveloped alleys, and other public street right-of-way near Edom Road all of which is illustrated on tax map sheet 40.
- Acreage:** 127,195 +/- square feet
- Location:** Bounded by Virginia Avenue, 5<sup>th</sup> Street, portions of undeveloped Collicello Street, and Edom Road
- Request:** Public hearing to consider rezoning 17 parcels and portions of undeveloped public street and alley right-of-way that will soon be in their ownership from R-2, Residential District and M-1 General Industrial District to R-7, Medium Density Mixed Residential Planned Community District. The planned development will provide at least 35 dwelling units and would permit any allowable non-residential uses.

#### 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:** Vacant commercial building and undeveloped lots and property, zoned R-2 and M-1
- North:** Business office fronting Virginia Avenue, zoned M-1, undeveloped lots fronting undeveloped Collicello Street, zoned M-1, and an automobile repair shop and a non-conforming single family home, zoned M-1
- East:** Automobile repair shop, and across Edom Road, parking lot, zoned M-1
- South:** Nonconforming single family home fronting Collicello Street, zoned M-1, and a single family home fronting Collicello Street, and across 5<sup>th</sup> Street single homes, zoned R-2

West: Single family homes fronting Virginia Avenue, zoned R-2, and across Virginia Avenue, a repair shop and non-conforming single family homes, zoned M-1, and a duplex structure, zoned R-2

### **EVALUATION**

The applicant is requesting to rezone six parcels, zoned R-2 Residential District, and 11 parcels, zoned M-1, General Industrial District, along with adjacent undeveloped public street and alley right-of-way (ROW) that will soon be in their ownership, all to the R-7, Medium Density Mixed Residential Planned Community District. The property is located at the north end of the developed section of Collicello Street, bounded by 5<sup>th</sup> Street, Virginia Avenue, portions of undeveloped Collicello Street, and Edom Road. The subject area totals 127,195 +/- square feet (2.92 +/- acres) in area and would contain at least 35 residential dwelling units. The proposed master planned neighborhood has been named "Collicello North."

The applicant is the same entity that over the past year received approval from City Council to close and purchase the adjacent public street and alley ROWs including: the majority of undeveloped 6<sup>th</sup> Street between Virginia Avenue and Edom Road, portions of undeveloped ROW near Edom Road, portions of undeveloped Collicello Street to the south of its intersection with undeveloped 6<sup>th</sup> Street, and portions of two undeveloped alleys off of and perpendicular to undeveloped 6<sup>th</sup> Street. As shown on the master plan layout, the applicant will also soon be requesting to close more undeveloped Collicello Street ROW; a 1,557 +/- square foot area that is entirely encompassed by this proposed development. If this area is closed and purchased by the developer, and if the developer purchases additional undeveloped 6<sup>th</sup> Street ROW that was originally planned to be bought by the adjacent property owner of tax map 40-I-6, then additional residential units could be built within Collicello North because both of the mentioned areas would become zoned R-7 and added to the overall development. The planning for this scenario has been incorporated into the regulatory control of the Collicello North master plan.

To fully understand the proposed rezoning, one must understand the R-7 zoning district, which was added to the City Code in October 2005. The adoption of this district put into practice listed strategies of the 2004 Comprehensive Plan including, among other things, providing incentives for neighborhoods that contain a mix of housing types and for providing open space or cluster development to preserve green space within subdivisions. The 2004 plan also strategized to address traffic calming measures and to create flexibility with building setbacks that could enhance social interaction among neighbors. These strategies led to the creation of the R-6 and R-7 zoning districts. In brief, these districts have the same intent except that R-6 allows only detached single family homes at a maximum of six units per acre, while the R-7 allows detached, attached, and multi-family units at a maximum of 12 units per acre. The R-6 district allows five percent non-residential uses, while the R-7 district allows 10 percent non-residential uses. The non-residential uses permitted by these districts that cannot exceed the specified percentages include: retail stores, convenience shops, personal service establishments, restaurants, food and drug stores, and governmental, business, professional, and financial institutions. Other non-residential uses of this district include places of worship and child and adult day care centers, however, such uses are not limited in the amount of area they may take up within such developments.

As explained by the Zoning Ordinance, the purpose of the R-7 district is intended to provide opportunities for the development of planned residential communities offering a mix of single family detached units, single family attached units, and in certain circumstances, multi-family units. R-7

neighborhoods are developed under an approved master development plan that incorporates regulatory text and a master layout of the neighborhood. In other words, aside from particular provisions of the Zoning Ordinance that must be met, the approved master plan is the “zoning” by which all development must abide. The R-7 zoning district requires a minimum of two contiguous acres, a minimum of 15 percent open/green usable space, and at least two types of residential housing types, where no one type can exceed 70 percent of all residential units. If multi-family units are built, they cannot exceed 30 percent of the total number of units. The master plan must also identify the required areas, widths, depths, and building setback requirements of all lots and it may also incorporate provisions that are typically regulated by Article T of the Zoning Ordinance, which among other things includes the regulations for walls and fences; terraces, patios, and decks; and accessory buildings.

To date, the City has approved two R-7 master planned communities: Brookside Park and the Quarry. Aside from Collicello North, these are the only two R-7 applications to ever be submitted. The Brookside Park master plan was originally approved in June 2006, but has been amended twice; once in 2007 and then again in 2011. This development has not been completed but has gradually developed over the past few years. It is located off of Suter Street and includes over 7 acres of property and is master planned to include single family detached and attached homes at about 82 percent of the maximum permitted density. The Quarry was approved in September 2007 and includes about 118 acres of property located off of Linda Lane and Smithland Road and is master planned to include non-residential uses along with all housing types allowing up to 744 residential units, which is a little over half of the permitted density. This development never materialized but has received attention from potential developers since its approval.

With regard to the subject request, Collicello North has met or exceeded all of the minimum required provisions to construct an R-7 development. The property is almost three acres in size; the master plan text defines all of the area and dimensional requirements for all lots; the master plan layout illustrates the general arrangement and location of the types of residential units, roads, sidewalks, and landscaping; the neighborhood will have at minimum just over 15 percent usable open/green space; and they have addressed the regulatory matters of Article T. As is necessary when proposing a rezoning in any of the City’s master planned districts, the developer has worked closely with staff to ensure the provisions of the master plan can be practically applied. The master plan text and layout have been thoroughly reviewed and edited, where necessary, by City staff. The master plan text and the governing layout sufficiently explain the details of Collicello North, and therefore such information does not need to be repeated in this report. However, there are several matters that need to be clarified herein.

First, the project would maximize the permitted density of 12 units per acre in providing at least 35 dwelling units—15 single family detached units, one duplex structure (two units), and 18 townhouse units—all made up among six different housing types. All buildings, including community buildings and non-residential structures, would have zero building setbacks. Note that although zero setbacks are afforded to the single family detached units, this provision is more about offering flexibility in design as these dwelling units could never physically touch another unit because they would then be considered attached units, which would not be permitted by the master plan.

A majority of the residential lots would not have public street frontage; therefore, a variance to the Subdivision Ordinance Section 10-2-42 (c) would be required during the platting of this project. As described earlier, if additional density is achieved by purchasing more property, then extra units could be built. The additional units could take the form of any of the permitted types as indicated in the

master plan, the existing single family home, or multi-family units. If multi-family units are constructed, they would be incorporated within the area delineated for mixed-use at the corner of the intersection of Collicello Street and 5<sup>th</sup> Street and would be designed and built in conformity to the vision and intent of the rest of Collicello North. If density permits, the multi-family units may be incorporated into a mixed-use building that might house any of the non-residential uses allowed by the district. Collicello North will allow any of the non-residential uses up to the maximum 10 percent of the development, which at this time is about 12,720 square feet. As required by the R-7 zoning district, the 10 percent includes all land area associated with the non-residential uses (i.e. streets, parking, landscaping, etc.). Buildings containing non-residential uses cannot exceed floorplates of 7,500 square feet, while mixed use buildings allow the entire first floor of the building to include the non-residential uses.

What is not obvious when looking at the master plan layout with regard to residential unit parking spaces, is that the developer has uniquely designed the driveways leading into the garages of the Type B, C, and E units as parallel parking spaces. The parallel spaces for the Type B and C units offer additional parking spaces for the property owner, or to be available to offer parking spaces for neighbors if they are having a family event or if there is a community event. The parallel spaces for the Type E units are provided to meet the minimum parking spaces necessary for those townhome units.

With regard to the public street layout, the designed road does not meet the typical requirements of public streets pursuant the Design and Construction Standards Manual (DCSM). It is already known that some of these issues will include deviations to street and ROW width requirements, curve designs, and to the standards for street classifications. Because of these issues, a variance to the Subdivision Ordinance for the design standards of the street would be required during the platting of the project. As is specified with the Subdivision Ordinance Section 10-2-41 (a), variances may be approved by City Council on a case-by-case basis when:

- the proposed alternative would better achieve the walkable, pedestrian and bicycle-oriented environment the city desires;
- the particular conditions of the site and surrounding street network would allow the proposed alternative without causing undue inefficiencies for service vehicles, nor an excessive reduction in pedestrian safety due to pedestrian-vehicle movement conflicts; and
- the proposed alternative would better balance the needs of pedestrians and vehicles, and better achieve the goals of the comprehensive plan.

Staff believes the proposed street layout meets the criterion above and is prepared to support the necessary variances during the platting phase. The intent behind Collicello North's street layout is to utilize narrow street widths combined with streetscape planting to create traffic calming measures for a safer environment for automobiles, pedestrians, and bicyclists.

The Collicello North master plan also indicates the extension of Collicello Street will either be a public or private street. At this point, the most likely scenario, and also the hope of the developer, is that the entire road will be a public street. The road section to be built within the existing undeveloped Collicello Street ROW can be accepted as a public street as such a design meets specific criterion for the City to be able to receive maintenance funds from the Virginia Department of Transportation. The remaining road section that would connect the existing ROW westward to Virginia Avenue is the part of the road that could still be a private street. Regardless of that section being public or private, the physical road would be built as shown. All other roads shown on the master plan will be private streets. Any section of a street that is not public will not be maintained by the City, and therefore, will not

receive City trash services or receive public snow removal services. Public school bus services would be provided as is determined necessary.

Regarding the phasing of the project as shown within Appendix B, pursuant to the requirements of the Zoning Ordinance Section 10-3-11 (c) concerning certificates of occupancy, no certificates of occupancy shall be issued for any building within any phase, unless the phase is completed or the developer has posted an approved surety to the City, to complete any particular phase. A note on the phasing layout sheet indicates the developer's preference to build phases 1 and 2 in immediate sequence, which would complete the through street. However, if there is a gap between these two phases, a temporary, public turnaround will be provided.

The Collicello North master plan also indicates that if the City approves of its location, a transit bus stop area would be provided within the mixed use area near the intersection of Collicello Street and 5<sup>th</sup> Street. The Director of the Department of Public Transportation has already commented that at the present time, such a stop at the desired location would most likely not be accommodated as there is a transit stop near the intersection of 3<sup>rd</sup> and Collicello Streets. The City's goal is to be within  $\frac{3}{4}$  of a mile of everyone, thus the residents of Collicello North would be serviced by the stop on 3<sup>rd</sup> Street.

As discussed above, the development would require variances from the Subdivision Ordinance. These variances should be considered when making a recommendation for this project as approving an R-7 plan of development could be perceived as also providing an endorsement for variances that would be requested during the platting phase.

The Comprehensive Plan designates the entire subject area and the majority of the surrounding area as Neighborhood Residential. This designation is characterized by large housing units on small lots, where existing conditions should dictate the types and densities of future residential development, and where infill development and redevelopment should be compatible with the existing neighborhood. Given the site's location within the overall neighborhood, the physical characteristics (i.e. slope and grade) of the project site, and the general design and philosophy of Collicello North, staff believes the intent of the Neighborhood Residential land use designation would be fulfilled.

Much of the subject property is zoned M-1, therefore rezoning these industrially zoned properties to a residential district is more in line with the long term plans of the City. As one travels north, up the hill of Collicello Street, single family detached homes would be the first types of residential units visible to the rest of the existing single family and duplex neighborhood to the south. The majority of Collicello North's attached units would be built beyond the crest of the knoll, not visible from the existing neighborhood, and predominately accessible only from Edom Road, lessening the overall traffic impact of this development to the existing neighborhood. Staff also appreciates that the first two phases of the project would build all of the detached single family homes—the later phases would incorporate the attached residential units. Often times, detached single family homes are built in later phases of development projects.

Although the unit density of Collicello North and the utilization of townhome units is closer to an R-3-type development than an R-2-type development, which is what the majority of the neighborhood to the south is zoned and what is traditionally thought of as a Neighborhood Residential development, Collicello North is quite different from a medium to high density R-3 development because R-7 dwelling units must be occupied by a single family or not more than 2 persons, which is similar to R-1 and R-2 occupancy restrictions. The R-7 zoning district is not a multi-tenant zoning district. It was designed to promote home ownership within a cohesive single family neighborhood. Furthermore, the

flexibility afforded through reduced setbacks and the required open space also sets it apart from other developments that achieve similar unit density.

Staff believes Collicello North embodies the intent of the R-7 zoning district and is master planned in a way that creates an excellent transition from the existing neighborhood toward the existing industrial uses along Edom Road.

Staff recommends approving the request to rezone the properties from R-2 and M-1 to the R-7 Medium Density Mixed Residential Planned Community District.

Date Application Received:

4/9/2013

Total Paid:

232.50 <sup>pd</sup> <sub>23</sub>  
previously paid of #232.50 AF  
total = \$465.00

# Application for Change of Zoning District City of Harrisonburg, Virginia

## Section 1: Property Owner's Information

Name: KIN Group, LLC Attn: Dean Weaver  
Street Address: 5782 Greenhill Road Email: \_\_\_\_\_  
City/State/Zip: Linville, VA 22834  
Telephone (work): \_\_\_\_\_ (home or cellular): 540 810-7337 (fax): \_\_\_\_\_

## Section 2: Owner's Representative Information

Name: Blackwell Engineering, LLC  
Street Address: 566 E. Market Street Email: \_\_\_\_\_  
City/State/Zip: Harrisonburg, VA 22801  
Telephone (work): 540 432-9555 (home or cellular): \_\_\_\_\_ (fax): \_\_\_\_\_

## Section 3: Description of Property

Location (street address): bordered by Virginia Avenue and Collicello Street and 5<sup>th</sup> and 6<sup>th</sup> Streets  
Tax Map Number: Sheet: 40 Block: H & (I) Lot: 1-8,11-16 (14-16) Total Land Area (acres or square feet): 127,195 SF ±  
Existing Zoning District: R-2/M-1 Proposed Zoning District \* : R-7  
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 attached.  
East: \_\_\_\_\_  
South: \_\_\_\_\_  
West: \_\_\_\_\_

## Section 6: Certification

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

Property Owner

See Back for Items Required for Submission

**PROPERTY PROPOSED TO BE REZONED**

TM#	ZONING		OWNER	OWNER ADDRESS	
	Current	Rezoned as:			
40 H 1-4, 11-12	R-2	R-7	KIN GROUP, LLC	5782 GREENHILL ROAD	LINVILLE, VA 22834
40 H 5-8, 13-16	M-1	R-7	KIN GROUP, LLC	5782 GREENHILL ROAD	LINVILLE, VA 22834
40 I 14-16	M-1	R-7	KIN GROUP, LLC	5783 GREENHILL ROAD	LINVILLE, VA 22835

**ADJACENT PROPERTIES**

	TM#	ZONING	OWNER	OWNER ADDRESS	CITY
1	40 F 5	M-1	ALICA SHOEMAKER	225 S. SUNSET DRIVE	BROADWAY, VA 22815
2	40 F 1	M-1	MARY ROADCAP	5777 SINGERS GLEN ROAD	HARRISONBURG, VA 22802
3	40 G 2	M-1	JERRY LEE GENTRY	501 WEST VIEW STREET	BRIDGEWATER, VA 22812
4	40 I 6	M-1	HAIDER RASUL	581 ALLEGHENY AVENUE	HARRISONBURG, VA 22802
5	40 I 14-16	M-1	KIN GROUP, LLC	5782 GREENHILL ROAD	LINVILLE, VA 22834
6	40 I 13	M-1	MALA MAY	P.O. BOX 94	SHENANDOAH, VA 22849
7	40 I 12	R-2	ERIC WEAVER, C/O MARVIN WEAVER	465 SUGAR MAPLE LANE	HARRISONBURG, VA 22801
8	40 I 11	R-2	AYSHA RASUL	581 ALLEGHENY AVENUE	HARRISONBURG, VA 22802
9	40 I 9-10	R-2	THOMAS BENVENUTO & MARGOT ZAHNER	910 COLLICELLO STREET	HARRISONBURG, VA 22802
10	40 L 8	R-2	EVELYN DEPUTY	880 COLLICELLO STREET	HARRISONBURG, VA 22802
11	40 K 8	R-2	DIANE GRAY	879 COLLICELLO STREET	HARRISONBURG, VA 22802
12	40 K 16	R-2	CHARLES MASON	1119 WATERMAN DRIVE	HARRISONBURG, VA 22802
13	40 H 9	R-2	THOMAS & BERONICA GARCIA	910 VIRGINIA AVENUE	HARRISONBURG, VA 22802
14	40 H 10	R-2	BRADLEY BOYCE	920 VIRGINIA AVENUE	HARRISONBURG, VA 22802
15	39 L 1-3	M-1	NORLYN SENGER	919 VIRGINIA AVENUE	HARRISONBURG, VA 22802
16	39 L 4-5	M-1	HEATHER & ROBERT TAYLOR	949 VIRGINIA AVENUE	HARRISONBURG, VA 22802
17	39 L 6	M-1	CHARLES SITES	959 VIRGINIA AVENUE	HARRISONBURG, VA 22802
18	30 L 7	R-2	FRANKIE JUDY	969 VIRGINIA AVENUE	HARRISONBURG, VA 22802
19	39 L 8	R-2	MARGEE GREENFIELD	971 VIRGINIA AVENUE	HARRISONBURG, VA 22802
20	39 K 1	R-2	JOHN MONGER TRUSTEE	900 CIRCLE DRIVE	HARRISONBURG, VA 22801

5-30-13

To Whom it May Concern,  
Planning Commission,  
City Council,

My Mother & Boby live at  
195 5th St N/Burg, Va. 22802.

I am against the proposed building  
of more multi housing off of  
5th St, Collicelle St, Virginia Ave  
and Edson Rd. Also the proposed  
bus stop in front of my and  
Diane Greys houses. We  
already have a lot of traffic,  
Children playing in the streets,  
A lot of people walking the  
streets all hours day and night  
now. We also have things  
turn up missing and property  
damaged enough.

Now we don't need more  
children or traffic. Waterman  
over.

School is over populated now.

My mother Charles Mason  
owns the property and agrees  
with me, that it will lower  
property value and endanger, both  
the us elderly and children  
alike. We don't like the  
changing from R2 to RT

Please consider my letter before  
you change anything

Thank You  
Membri M. Boluy  
195 5th St. VA. 22802  
H' Burg'

# collicello



## NORTH

### MASTER PLAN

Kin Group, LLC  
6322 Acker Lane  
Linville, VA 22834

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**Appendix C – Property Owners’ Association Covenants, Conditions, and Rights**

# Collicello North

## I. Introduction

The following information comprises the Vision for Collicello North and the zoning regulations for development.

### **Vision**

The Vision conveys the philosophy behind the conception and intent of Collicello North.

### **Zoning Regulations**

The zoning regulations as identified in this section and Master Plan layout (described below) define the myriad of regulations necessary to bring the Collicello North Vision to fruition.

### **Master Plan Layout**

The Master Plan layout is a graphic depiction of the Zoning Regulation sections, but the layout is a governing detail of the Collicello North development generally depicting where roads, buildings, sidewalks, landscaping, grading, and utilities will be provided.

## II. Vision

Collicello North is designed to be a NetZero Ready Community aligned with the purpose of the R-7 district and based on the 7 New Urbanism Principles:

- 1) The basic building block of a community is the neighborhood.
- 2) The neighborhood is limited in physical size, with well-defined edges and center.
- 3) Corridors form the boundaries between neighborhoods, both connecting and defining the neighborhoods.
- 4) Human scale sets the standard for proportion for buildings. Buildings must be disciplined in how they relate to their lots if public space is to be successfully demarcated.
- 5) Treating a range of transportation options as important is fundamental.
- 6) The street pattern is conceived as a network to create the greatest number of alternative routes from one part of the neighborhood to another.
- 7) Civic buildings belong on preferred sites such as squares and neighborhood centers.

Every detail of Collicello North is designed to facilitate the manifestation of these principles and concepts into the fabric of a vibrant traditional neighborhood that is connected to greater Harrisonburg. Collicello North does not wish to define itself as its own community, but rather as a neighborhood among neighborhoods within the Harrisonburg community.

### **General Intentions of Housing and Neighborhood**

The houses of Collicello North are intended to be NetZero Ready. This means that at the core of each house will be the principles of design that are the most sustainable and the most efficient in practice. First, and most importantly, the houses are not oversized, averaging around 1300 sf. Secondly, the downsized houses are oriented to welcome the southern exposure, providing protection from the north while providing sufficiently sized and oriented roof space for solar and photo-voltaic arrays. Thirdly, each home is constructed with an exceptionally tight and efficient shell. These three concepts combined with the use of quality products, excellent craftsmanship and a “house-as-a-system” approach to design, allow the houses of Collicello North to achieve a NetZero capability; producing as much energy as they use.

Weaving private areas and public areas into useable and inviting space is a challenge within urban planning. The R-7 asks for clustered groupings of living units to allow for open space. This is much easier to do when using a multi-family housing concept but is more difficult within a single-family model. Adding to the design challenges is the need to account for the demands of sustainable living. Through quality design, Collicello North has incorporated a zero-lot-line setback concept to create private outdoor living area, which also serves as the spacing between buildings to allow for access to the southern sky. Appendix A Illustrates elevation conceptual renderings of the single family buildings. Although no renderings have been sketched, the master plan will allow for multi-family development within the area delineated for mixed used. If such units are developed, these units will be integrated and made compatible with Collicello North’s other residential units through the use of good site planning, common architectural themes and landscaping.

Collicello North will also try to incorporate a bicycle and pedestrian path. The purpose of this approximately 150’ long and six (6) feet wide paved strip is to connect the upper streets with the lower access private road that leads to Edom Road. This connector has further significance as the developers of Collicello North would like to help connect this neighborhood to the planned Northend Greenway. Increasing the accessibility to the greater community while minimizing residence reliance on automobiles by creating and encouraging alternative transportation options, is a major component in Collicello North’s New Urban Principles and emphases on sustainability.

The vision is for Collicello North to uniquely apply the attributes of the R-7 zoning in such a way that allows for the principles of New Urbanism, traditional neighborhood and sustainable design, to serve our community long into the future.

### **III. Zoning Regulations for Collicello North**

Lot area, width and depth and setbacks for all buildings are stated in Table A.

## TABLE A

BUILDING TYPE	# of units	LOT SIZE (MIN. SF)	LOT DEPTH (MIN)	LOT WIDTH (MIN)	SETBACK
A- single family	7	2000'	70'	30'	0'
B- single family	7	1600'	50'	30'	0'
C- single family	3	1600'	45'	30'	0'
D- town home	6	700'	35'	19'	0'
E- town home	6	900'	40'	19'	0'
F- town home	6	700'	35'	19'	0'
Multi-Family	as permitted by density	no minimum	no minimum	no minimum	0'
Non-Residential	N/A	No minimum or maximum other than as required by the R-7 zoning regulations.	no minimum	no minimum	0'

\* Any residential building type may be developed in conjunction with the mixed-use area or areas later added to the Master Plan

\*\* One duplex on lot 13 & 14 (Type B units)

\*\*\*If the existing single family structure within the mixed-use area is used as a detached single family home there shall be no minimum lot size, lot depth or lot width requirements and it shall have zero setbacks.

The Master Plan layout illustrates the general arrangement and location of buildings and where residential unit types will be located. The application of typical requirements of the City's Zoning Ordinance Article T and other regulations for this development are specified below.

1. No provisions of the City's Zoning Ordinance Article T shall apply, however matters normally regulated by Article T are otherwise regulated as indicated below.
  - Patios, courtyards, terraces, porches and other similar features may have zero setbacks along all property lines.
  - Section 10-3-111 Height shall be applicable.
  - Accessory buildings shall be held to the same setbacks required of principal buildings and as afforded by the provisions of the H.O.A.
2. Walls and fences, beams and similar items which may restrict passage or vision or simply enhance private property shall not exceed 8' may be located with a zero setback as afforded by the provisions of the H.O.A. except as restricted by needed sight lines for traffic.
3. In the event that residential dwellings utilize garage space to meet minimum required parking requirements, such space shall not be converted to livable space.

4. Any community building (i.e. pavilion) and any future amenities for the green/open space can be constructed in common areas with zero setbacks and as afforded by the provisions of the H.O.A.
5. A mixed-use area has been designated at the corner of 5th and Collicello Streets (See layout in Appendix B). This area will include any of the following uses: Non-Residential as permitted by the district, Multi-Family Units, and/or any of the residential unit types listed in Table A or the existing single family detached structure. The existing structure will be maintained as is or either renovated with new construction added or will be demolished and new building(s) constructed. Lot and dimensional requirements for such uses is governed by Table A.
6. Although the master plan layout illustrates 35 residential units, given the intent of #5 as noted above, the total number and type of dwelling units will ultimately be determined by the finalized total square footage of the master planned R-7.

### **Streets and Parking**

The location of streets, access to parking areas, and sidewalks shall be constructed in the areas generally shown on the Master Plan layout and as shown in the layout in Appendix B. The private road entrance for Collicello North off of Edom Road may be shared with tax map 40-I-6.

A variance to the Subdivision Ordinance for the design of streets, alleys, blocks, easements, sidewalks, and all such related features along with allowing lots to not have public street frontage shall be applied for during the preliminary platting of this development.

The variance is needed so the preliminary plat and final plat can be adopted in accordance to the Master Plan and Appendix B. Note that Appendix B provides proposed street widths, sidewalks, and indicates streets as public or private. Appendix B also delineates parking areas.

- Landscaping within the public and private street right-of-ways will be maintained by the Collicello North Home Owners Association.

### **Bicycle and Pedestrian Path**

As indicated on the Master Plan layout, a bicycle and pedestrian path is generally located along the west end of the Lower Green and Type D units and will continue north between the Type F & E units. If this path cannot be accommodated in this general location, a different location may be provided within the development to provide the same connection intent as described in the Vision.

### **Transit**

So long as the Harrisonburg Department of Public Transportation approves of a location, a bus stop will be provided near the intersection of 5<sup>th</sup> and Collicello Streets. Until such time that the mixed-use area is sufficiently developed, the existing bus stop location on the corner of Collicello and 3rd is acceptable. However, when the mixed-use area is substantially completed, which includes

shelter for individuals waiting for the bus, it is the developers extreme wish to have a bus stop located as proposed on the Master Plan.

**Appendix A**

Illustrates conceptual renderings of the residential buildings.

**Appendix B**

Phasing, Proposed Public Street Right-Of-Way, Parking and Common areas

**Appendix C**

Property Owners' Association Covenants, Conditions, and Rights

Date: JUNE 2013  
 Scale: AS SHOWN  
 Designed by: EHB  
 Drawn by: JRC  
 Checked by: EHB

**BLACKWELL ENGINEERING, PLC**  
 356 East Main Street, Suite 22801  
 Harrisonburg, Virginia 22801  
 Phone: (540)432-1555 Fax: (540)432-7044  
 E-Mail: info@blackwellengineering.com



Revision Dates

**MASTER PLAN**  
 COLLICELLO NORTH  
 KIN GROUP, LLC  
 5782 GREENHILL ROAD  
 LINNILLE, VA 22834

Drawing No.  
**1**  
 of 2 Sheets

Job No. 2266

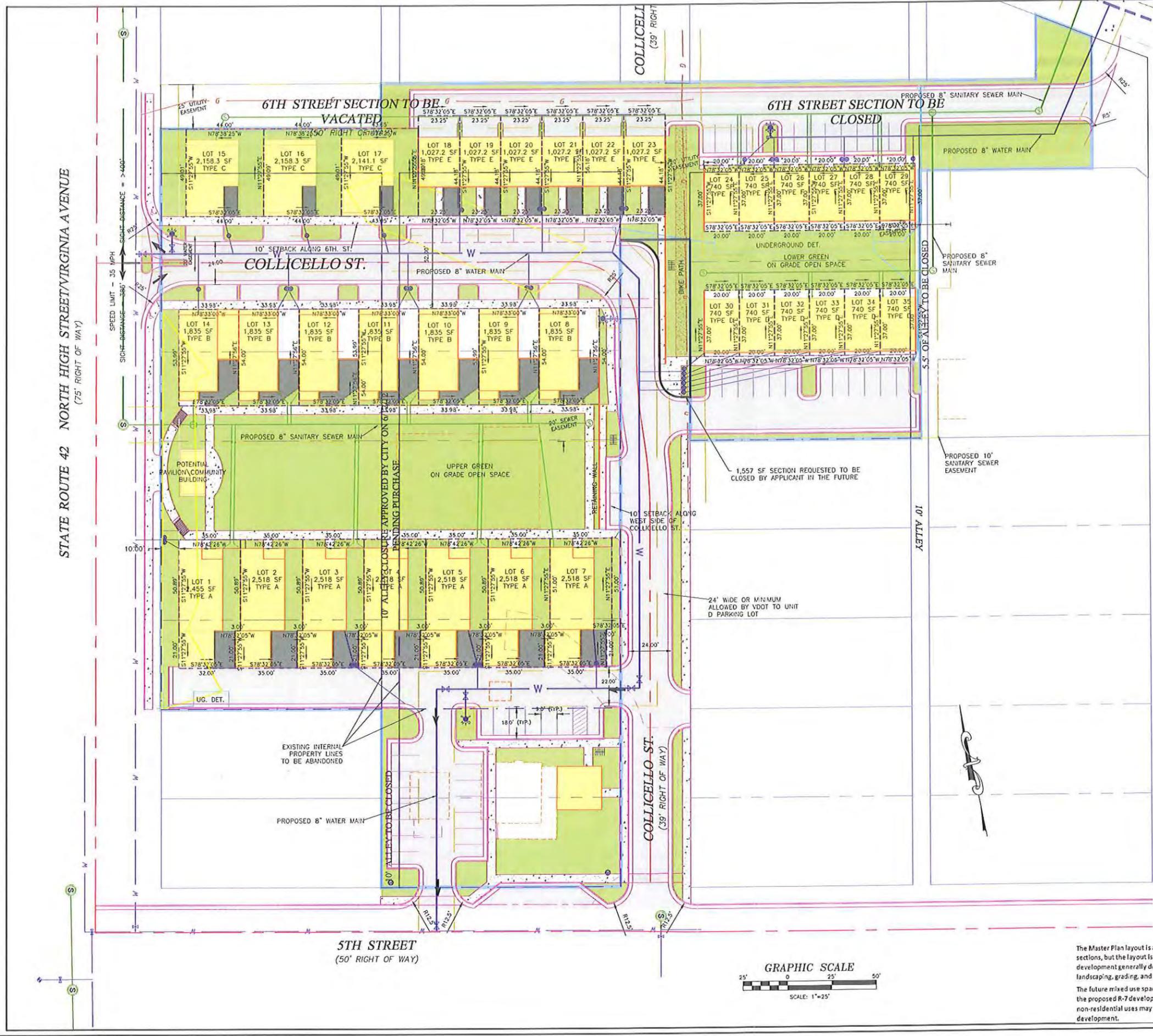
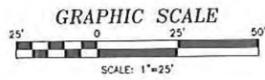


**R-7 NOTES**  
 35 SINGLE FAMILY ATTACHED (18 - 51.4%) & DETACHED HOMES (17 - 48.6%)  
 1 MIXED-USE BUILDING  
 SITE: 128,841 sf  
 2.96 acres  
 35 UNITS MAXIMUM  
 RESIDENTIAL DENSITY: 12.0 DWELLING UNITS/ACRE  
 OPEN SPACE: 20,398 SF (0.468 AC)  
 15.8%  
 SETBACKS: ALL SETBACKS ARE ZERO MINIMUM, EXCEPTING 10' MINIMUM WHEN ADJACENT TO PUBLIC STREET.  
 PARKING:  
 1 SPACE PER SINGLE FAM. DETACHED  
 1 1/2 SPACES PER SINGLE FAMILY ATTACHED (1 BEDROOM)  
 2 1/2 SPACES PER SINGLE FAMILY ATTACHED (2-3 BEDROOM)  
 A PROPERTY OWNERS' ASSOCIATION SHALL BE ESTABLISHED TO PROVIDE OWNERSHIP, CARE, AND MAINTENANCE OF ALL COMMON OPEN SPACE AREAS AND OTHER COMMON FACILITIES AND IMPROVEMENTS.

**LEGEND**

	CENTER LINE
	SITE BOUNDARY
	ELECTRIC/TELEPHONE
	EXISTING UTILITY POLE
	EXISTING LIGHT POLES
	PROPOSED UTILITY POLE
	WATER LINES
	SANITARY FORCE MAIN
	SANITARY LINES
	SANITARY CLEANOUT
	STORM SYSTEM
	PROPOSED DITCH
	GAS LINES
	EXISTING PROPERTY LINE
	PROPOSED PROPERTY LINE
	SETBACK LINE
	EASEMENT LINE
	EXISTING BUILDING
	PROPOSED BUILDING
	PROPOSED ROAD/ECP
	PROPOSED PARKING
	EXISTING ROAD
	EXISTING PARKING
	CURBING: CO-6 OR CO-7
	CURBING: CO-2 OR CO-3
	HANDICAP PARKING
	DUMPSTER
	EXISTING FIRE HYDRANT
	PROPOSED FIRE HYDRANT
	FIRE DEPARTMENT CONN.
	WATER VALVE
	WATER METER
	EXISTING FENCE LINE
	PROPOSED FENCE
	PAVERS
	CONCRETE PAVING
	GRAVEL
	LIGHT PAVEMENT
	GRASS AREA
	SLOPES >15%
	BIKE RACK
	RIGHT-OF-WAY GIVEN TO CITY

The Master Plan layout is a graphic depiction of the Zoning Regulation sections, but the layout is a governing detail of the Collicello North development generally depicting where roads, buildings, sidewalks, landscaping, grading, and utilities will be provided.  
 The future mixed use space as shown is less than 10% of the total area of the proposed R-7 development. However, if it can be accommodated, non-residential uses may utilize the maximum permitted 10% of the development.



STATE ROUTE 42 NORTH HIGH STREET/VIRGINIA AVENUE  
 (75' RIGHT OF WAY)

SPEED LIMIT - 35 MPH  
 SIGHT DISTANCE - 390'

SIGHT DISTANCE - 400'

SIGHT DISTANCE - 390'

SIGHT DISTANCE - 390'

# Table B - Landscape

QTY	BOTANICAL NAME	COMMON NAME	SIZE/CONDITION
<b>TREES</b>			
1	Gingo Biloba	GINKGO	2-2.5"
1	Acer Sacchanum	SUGAR MAPLE	2-2.5"
1	Cercis Cauadences	EASTERN REDBUD	6-8'
1	Thuja occidentalis 'Nigra'	BLACK CEDAR	6-7'
<b>PROJECTED PLANT TYPES</b>			
N/A	Buxus microphylla japonica 'Justin Brouwer'	JUSTIN BROUWER BOXWOOD	15-18", #3
N/A	Buxus sempervirens 'fastigiata'	FASTIGIATA BOXWOOD	30-36", #7
N/A	Ilex glabra 'Compacta'	COMPACT INKBERRY HOLLY	15-18", #3
N/A	Ilex x 'Christmas Jewel'	CHRISTMAS JEWEL HOLLY	36-42", #7
<b>PROJECTED PERENNIALS AND ANNUALS</b>			
N/A	Liriope muscari 'Variagata'	VARIEGATED LILYTURF	#1

\* Similar plant materials may be substituted if suitable

Once plans are finalized we will develop a more formal landscape plan.

# Appendix A



**UNIT A FRONT ELEVATIONS**  
SCALE: 1/8" = 1'-0"

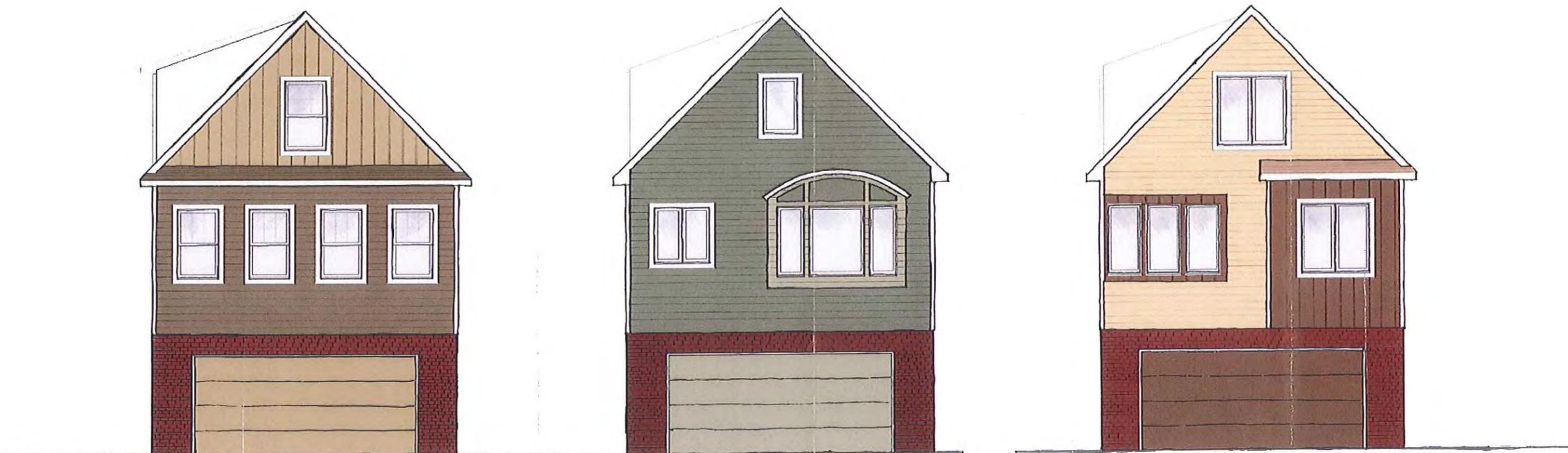


**UNIT A BACK ELEVATIONS**

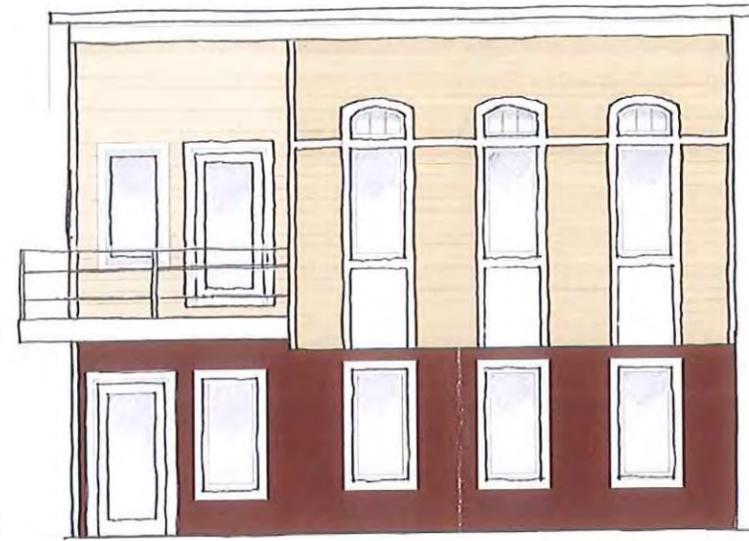
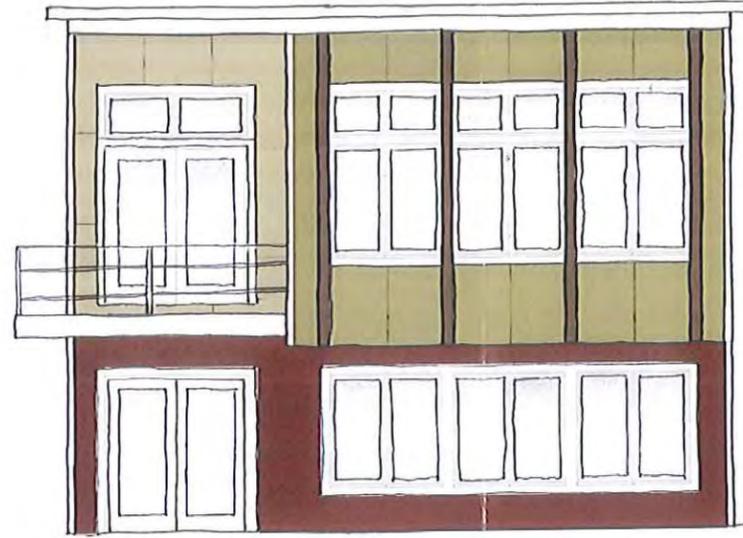
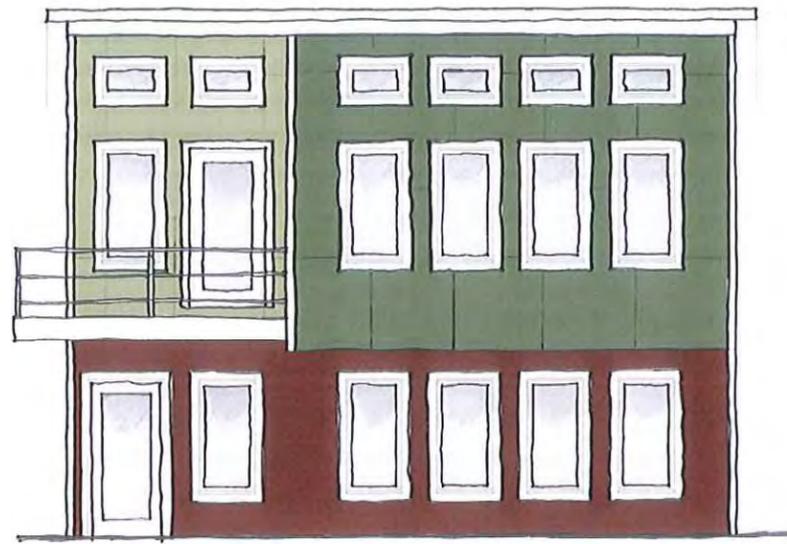
**PRELIMINARY**



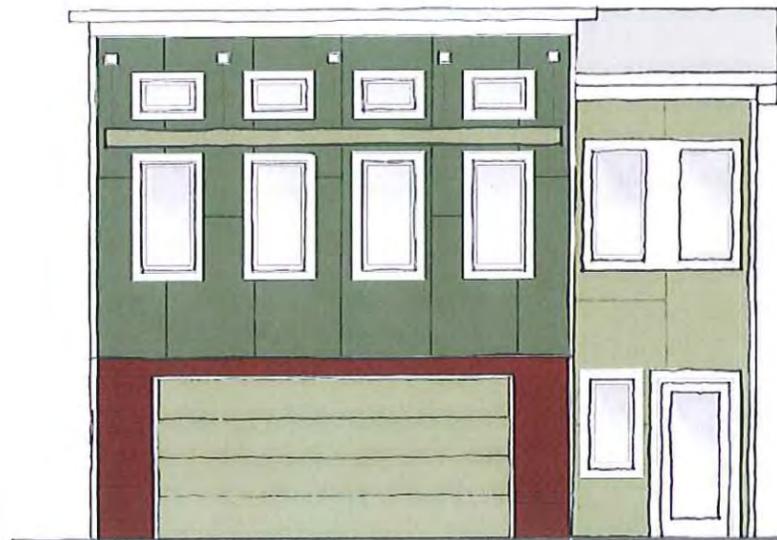
**UNIT B FRONT ELEVATIONS**  
SCALE: 1/8"=1'-0"



**UNIT B BACK ELEVATIONS**

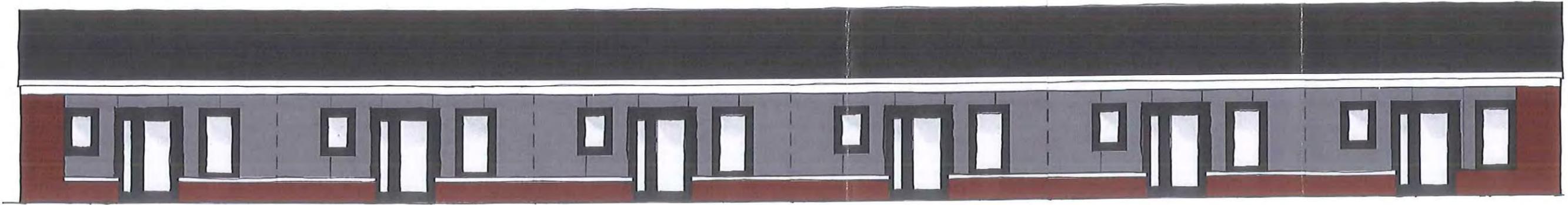


UNIT C FRONT ELEVATIONS  
SCALE: 1/8"=1'-0"



UNIT C BACK ELEVATIONS

PRELIMINARY



UNIT D FRONT ELEVATIONS  
SCALE: 1/8"=1'-0"

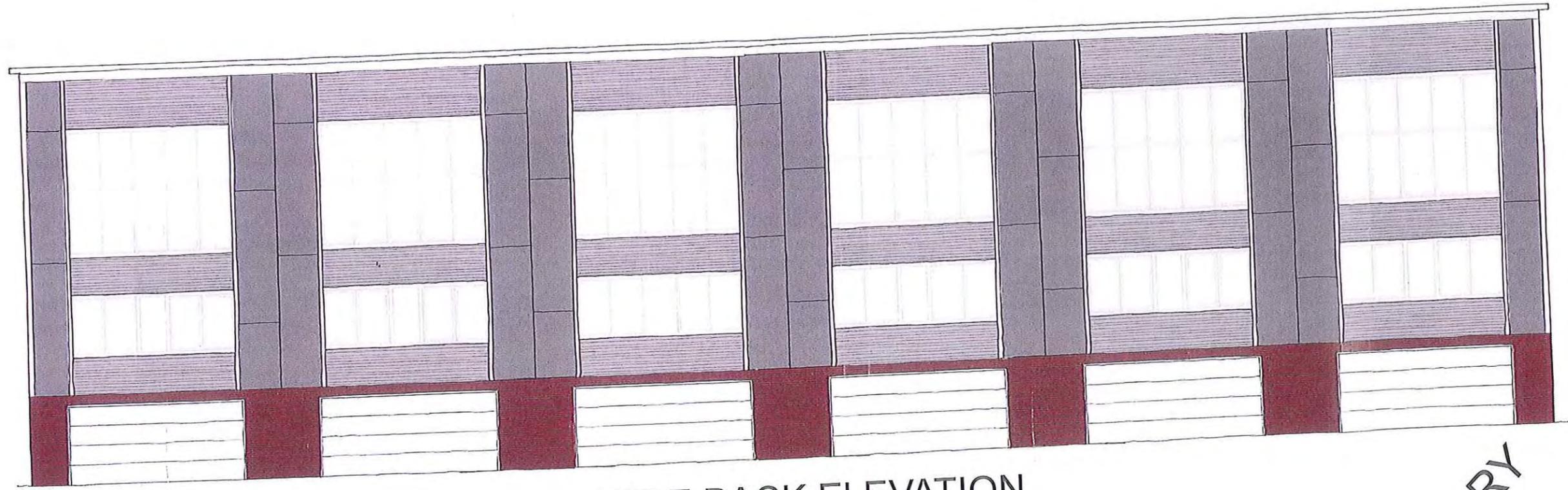


UNIT D BACK ELEVATIONS

PRELIMINARY



UNIT E FRONT ELEVATION  
SCALE: 3/32"=1'-0"



UNIT E BACK ELEVATION

PRELIMINARY

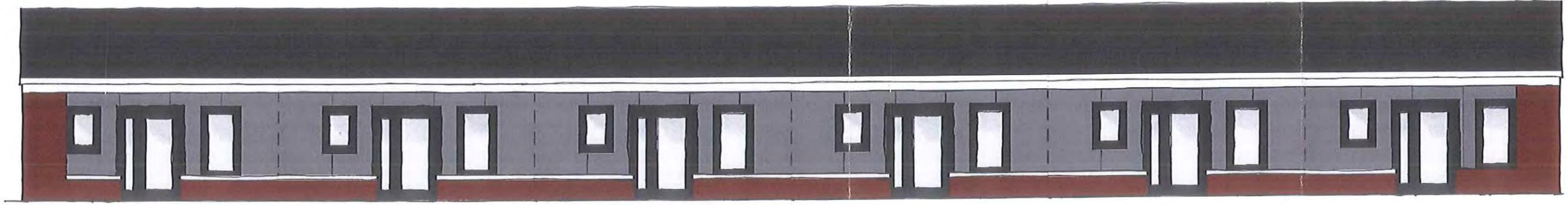
BLUE RIDGE  
ARCHITECTS  
61 South Main Street | Suite 200  
Harrisonburg, VA 22801  
P: 540.437.1228 | F: 540.437.1227

Collicello  
NORTH

24 FT  
16  
COLLICELLO NORTH  
HARRISONBURG VA

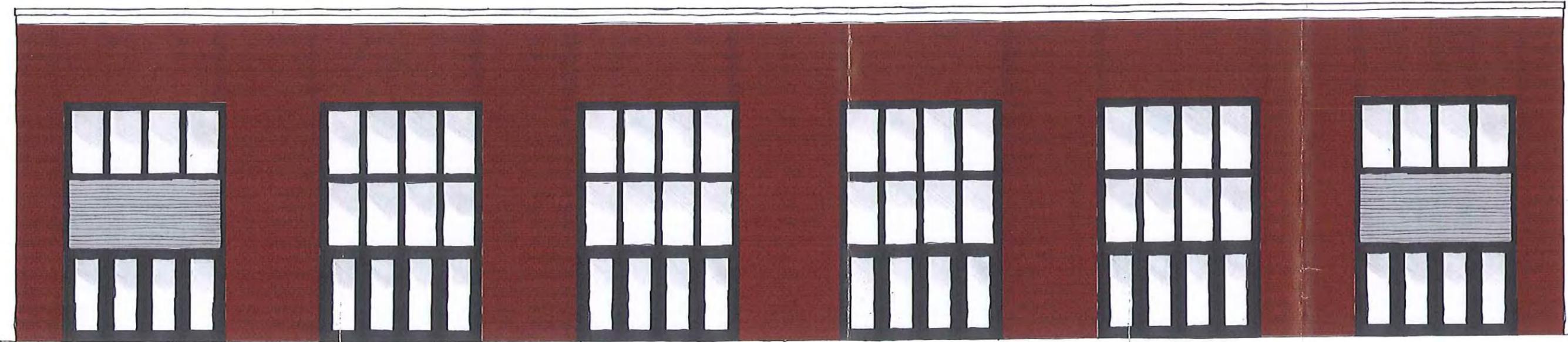
0 4 8  
UNIT E

PROJ NO: 12-440



UNIT F FRONT ELEVATIONS

SCALE: 1/8"=1'-0"



UNIT F BACK ELEVATIONS

PRELIMINARY

# Appendix B

Date: JUNE 2013  
 Scale: AS SHOWN  
 Designed by: EHB  
 Drawn by: JRC  
 Checked by: EHB

**BLACKWELL ENGINEERING, PLC**  
 506 East Market Street  
 Harrisonburg, Virginia 22801  
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 E-Mail: EHB@blackwell-engineering.com

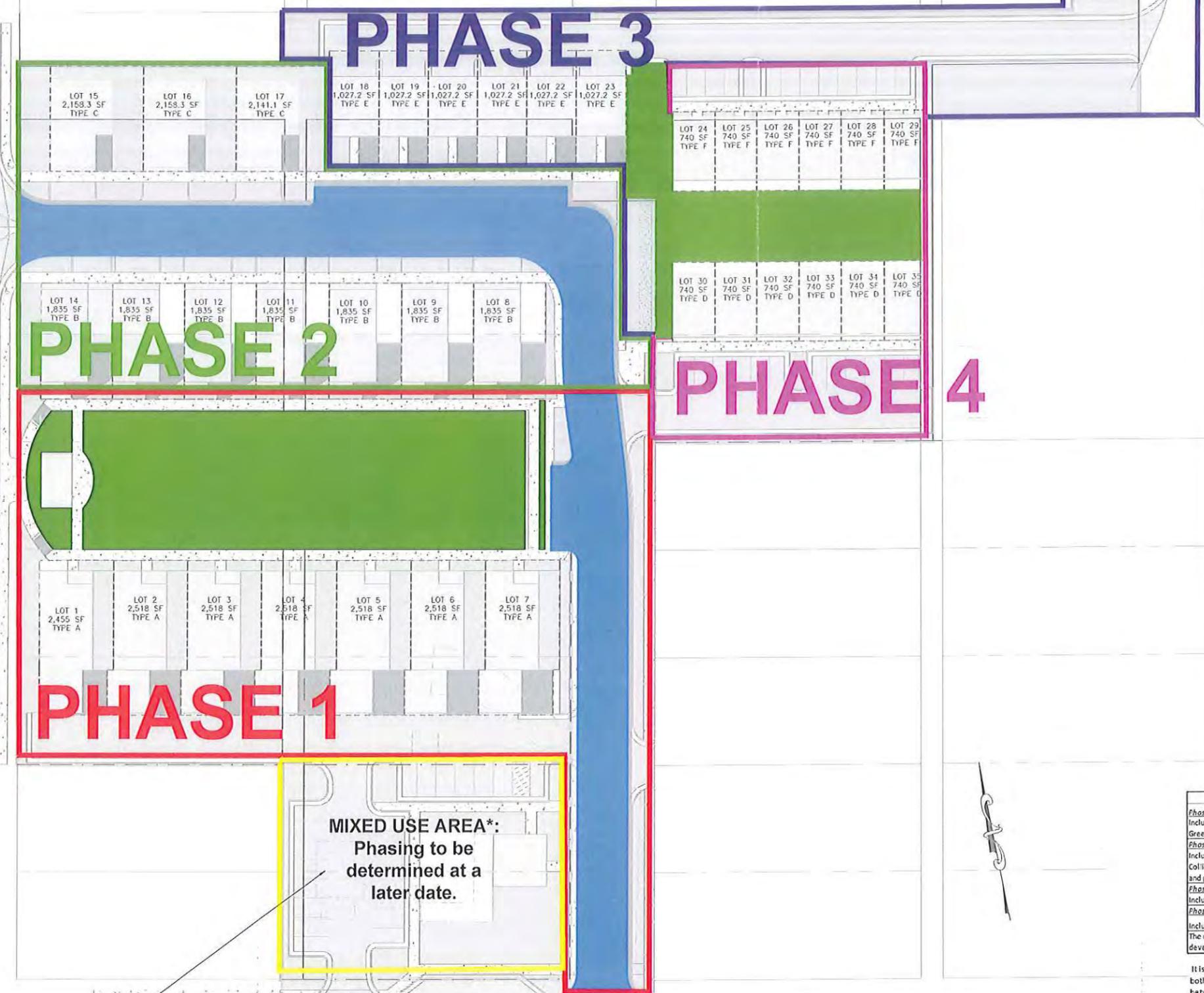


Revision	Date

**APPENDIX B**  
**COLLICELLO NORTH**  
 KIN GROUP, LLC  
 5782 GREENHILL ROAD  
 LINVILLE, VA 22634

Drawing No.  
**2**  
 of 2 Sheets

Job No. 2266



- LEGEND**
- CENTER LINE
  - SITE BOUNDARY
  - E/T ELECTRIC/TELEPHONE
  - EXISTING UTILITY POLE
  - EXISTING LIGHT POLES
  - PROPOSED UTILITY POLE
  - WATER LINES
  - SANITARY FORCE MAIN
  - SANITARY LINES
  - SANITARY CLEANOUT
  - STORM SYSTEM
  - PROPOSED DITCH
  - GAS LINES
  - EXISTING PROPERTY LINE
  - PROPOSED PROPERTY LINE
  - SETBACK LINE
  - EASEMENT LINE
  - EXISTING BUILDING
  - PROPOSED BUILDING
  - PROPOSED ROAD/ECP
  - PROPOSED PARKING
  - EXISTING ROAD
  - EXISTING PARKING
  - CURBING: CG-6 OR CG-7
  - CURBING: CG-2 OR CG-3
  - HANDICAP PARKING
  - DUMPSTER
  - EXISTING FIRE HYDRANT
  - PROPOSED FIRE HYDRANT
  - FIRE DEPARTMENT COWL
  - WATER VALVE
  - WATER METER
  - EXISTING FENCE LINE
  - PROPOSED FENCE LINE
  - PAVERS
  - CONCRETE PAVING
  - GRAVEL
  - LIGHT PAVEMENT
  - GRASS AREA
  - SLOPES >15%
  - BIKE RACK
  - RIGHT-OF-WAY GIVEN TO CITY
  - COMMON AREAS

**Phasing Table**

**Phase 1**  
Includes (7) Type A units with patios & courtyards, asphalt driveway from Collicello Street, Upper Green common area with sidewalks, retaining wall and steps along Virginia Avenue, retaining wall.

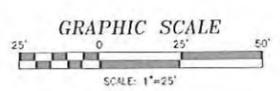
**Phase 2**  
Includes (7) Type B units with patios & courtyards, sidewalks, retaining walls, and completion of Collicello Street all the way to Virginia Avenue (includes curb & gutter, driveways & planting areas, and parking spaces).

**Phase 3**  
Includes one building of (6) units, private drive to Edom Road, and bike and pedestrian path.

**Phase 4**  
Includes two buildings of (6) units each, private drive and parking areas, sidewalks and Lower Green. The non-residential mix-use area is an integral component to the neighborhood and will be developed at the earliest possibility.

It is the developers preference to build the street and infrastructure needed to complete both Phase 1 and Phase 2 in immediate sequence. If it is determined there will be a gap between the two phases then a temporary Turn-A-Round will be provided according to the City's DCSM: Table 3.19.

A mixed-use area has been designated at the corner of 5th and Collicello Streets. This area will include any of the following uses: Non-Residential as permitted by the district, Multi-Family Units, and/or any of the residential unit types listed in Table A or the existing single family detached structure. The existing structure will be maintained as is or renovated with new construction added or will be demolished and new building(s) constructed. Although the master plan illustrates 35 units, the total number and type of dwelling units is not known and will ultimately be determined by the finalized total square footage of the master planned R-7.



TOTAL OPEN SPACE (COMMON AREA):  
 20,398 SF (0.468 AC)  
 15.8%

Building Type	Bedrooms	Spaces Required	Garage Spaces Provided	Non-Garage Parking Provided
A	3	7	14	0
B	3	9	14	6
C	2 or 3	3	6	3
D	1	9	0	12
E	2	18	12	6
F	1	9	0	12

\* 22 Parking spaces provided for mixed use building at the southern most section of development.  
 \*\* 8 Public on-street parking spaces provided.  
 \*\*\* The number of bedrooms per unit may change, however parking shall conform to Article G of the City Zoning Ordinance.

# Appendix C

**DECLARATION  
OF  
COVENANTS, CONDITIONS, AND RESTRICTIONS  
OF  
“COLLICELLO NORTH” SUBDIVISION**

THIS DECLARATION, made on this \_\_\_\_ day of \_\_\_\_\_, 2013, by KIN GROUP, LLC, a Virginia limited liability company (Grantor), hereinafter referred to as “Declarant,” as the Owner and proprietor of certain Lots of land, streets and common areas totaling \_\_\_\_\_ acres, situate in The City of Harrisonburg, Virginia, shown and designated on a plat entitled “\_\_\_\_\_”, dated the \_\_\_\_th day of \_\_\_\_\_, 2012, and made by \_\_\_\_\_, LS (“Plat”), which Plat is to be recorded in the Clerk’s Office of the Circuit Court of Rockingham County, Virginia, immediately prior to the recordation of this instrument. All land shown and described on said Plat shall be referred to herein as the “Properties”; and

**WITNESSETH:**

**WHEREAS**, Declarant will convey the said Properties, subject to certain protective covenants, conditions, restrictions, reservations, liens, easements and charges as hereinafter set forth.

**WHEREAS**, \_\_\_\_\_ has a Deed of Trust dated \_\_\_\_\_, 2013, recorded in the aforesaid Clerk’s Office in Deed Book \_\_\_\_\_, page \_\_\_\_\_, on the property that is subject to this Declaration. \_\_\_\_\_ and its Trustee, join in the Declaration to evidence their consent; and

**NOW, THEREFORE**, Declarant hereby declares that all of the Properties described herein shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions, all of which are for the purpose of enhancing and protecting the value, desirability, and attractiveness of the Properties and insuring a uniform mode of development. These easements,

covenants, restrictions, and conditions shall run with the land constituting the Properties and shall be binding on all parties having or acquiring any rights, title, or interest in the described Properties or any part thereof, and shall inure to the benefit of each Owner thereof.

## ARTICLE ONE DEFINITIONS

Section 1.1. "Association" shall mean and refer to The \_\_\_\_\_ Homeowners' Association, its successors and assigns. The Association may or may not be incorporated or organized as a corporation or limited liability company.

Section 1.2. "Properties" or "Property" shall mean and refer to that certain real property, containing 2.84 acres more or less in the aggregate, hereinbefore described on the Plat, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 1.3. "Lot" shall mean and refer to any plot of land shown upon the Plat or any subsequently recorded subdivision map of the Properties with the exception of the Roads, Parking Areas and Common Areas.

Section 1.4. "Member" shall mean and refer to every person or entity that owns one (1) or more of the Lots.

Section 1.5. "Owner" shall mean and refer to the record Owner, whether one (1) or more persons or entities, of a fee simply title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 1.6. "Family" shall mean two (2) or more persons all of whom are related to each other by blood, marriage, or adoption.

Section 1.7. "Common Area" shall mean that portion of the Properties not contained within a Lot, or Lots, which Common Area shall be controlled and managed by the Declarant or the Association for the benefit of the Owners.

Common Area shall also contain the private Streets, Roads and Parking areas within the Property as shown on the Plat.

Section 1.8. “Roads” or “Streets” shall mean the public streets and rights of way such as Collicello St, and 6<sup>th</sup> St., along with the private drives for ingress and egress and Common Areas for parking as shown on the Plat, which shall be reserved for the private use of the Owners, the Declarant and the Association.

Section 1.9. “Master Plan” shall mean that Master Plan approved by the City Council of the City of Harrisonburg pursuant to the City R-7 zoning classification, which governs zoning for the Properties.

## ARTICLE TWO COMPOSITION OF ARCHITECTURAL CONTROL COMMITTEE

Section 2.1. Composition of Architectural Control Committee. The Architectural Control Committee is initially composed of a single Member appointed by Kin Group, LLC, a Virginia limited liability company, the Declarant herein. Said initial Member is Dean Weaver. The Committee may designate a representative or representatives to act for it. Upon the completion of the subdivision, and sale of all Lots therein by the Developer, the Architectural Control Committee, consisting of at least two (2) in number, shall be elected by the record title Owners of all Lots in said subdivision, each Lot having one (1) vote in such election. Such election may be called by any one (1) Lot Owner in such subdivision by giving thirty (30) days written notice to all other Owners at the address then listed with the Treasurer of the governmental subdivision having real estate tax jurisdiction over said subdivision.

Section 2.2. Authority of Architectural Control Committee. No building, fence, wall, or other structure shall be commenced, erected, or maintained upon the Properties, nor shall any exterior addition to or change, including paint and trim, roofing, or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, color of paint, color of roofing, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Architectural Control Committee. In the event said Board, or its designated committee, fails to approve or disapprove such

design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with. Said compliance shall be limited to the scope and character of the improvements or alterations contained in the plans and specifications submitted to the Committee.

Section 2.3. Fences. All fencing, subject to the decision of the Architectural Control Committee, shall be white vinyl fencing of equal or better quality than Dutchway fencing.

Section 2.4. Driveways. All driveways shall be of equal quality and appearance to that installed by the Declarant, unless otherwise approved by the Architectural Control Committee.

Section 2.5 Patios. All patios or other hardscaped exterior surfaces within a Lot shall also conform to quality and appearance to that installed by Declarant, unless otherwise approved by the Architectural Control Committee.

### ARTICLE THREE MEMBERSHIP AND VOTING RIGHTS

Section 3.1. Every person or entity who is a record Owner of a fee or undivided fee interest in any Lot which is subject by covenants of record to assessment by the Association, including contract sellers, shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. No Lot Owner shall have more than one (1) membership or more than one (1) vote per Lot owned. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association. Ownership of such Lot shall be the sole qualification for membership.

Section 3.2. The Association shall have two (2) classes of voting membership:

3.2.1. Class A. Class A members shall be all those Owners as defined in Article One with the exception of the Declarant. Class A members

shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership by Article Three. When more than one (1) person holds such interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot. Owners shall not be entitled to vote until their Lot is subject to assessment.

3.2.2 Class B. The Class B member shall be the Declarant. The Class B member shall be entitled to thirty-four (34) votes for each Lot in which it holds the interest required for membership by Article Three, provided that the Class B membership shall cease and be converted to Class A membership when the total votes outstanding in the Class A membership equal or exceed the total votes outstanding in the Class B membership.

Section 3.3. Association's Board of Directors. The business of the Property Owners' Association shall be managed by its Board of Directors. The initial number of directors shall be three (3). Declarant shall appoint said initial directors, who are not required to be Lot Owners, until such time as ninety percent (90%) of the Lots are independently owned. At that time, the Directors shall be elected annually by and from the membership with voting privileges as set forth in Article Three, Section 3.2.

Section 3.3. Association's Authority. The Association shall have the authority and responsibilities as set forth herein.

Section 3.4. Association Organizational Documents. The Declarant shall prepare and adopt the initial organizational documents and entity form for the Association which shall be binding upon the Owners unless amended or abrogated according to their terms.

## ARTICLE FOUR COVENANTS FOR MAINTENANCE ASSESSMENTS

Section 4.1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall

be so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Association; (i) annual assessments or charges, and (ii) special assessments for capital improvements, such assessments to be fixed, established, and collected from time-to-time as hereinafter provided. The annual and special assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with such interest, costs, and reasonable attorney's fees shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation shall not pass to his successors in title unless expressly assumed by them, but shall remain a lien upon the Lot or Lots against which the assessments are made.

Section 4.2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents in the Properties and in particular for the improvement and maintenance of the Properties, services, and facilities devoted to this purpose and relating to the use and enjoyment of the homes situated upon the Properties. The assessments levied by the Association shall also be used to cover the expenses related to the ownership, maintenance, and use of the Common Areas including a community garden, community pavilion and fireplace area adjacent to the main green, and other similar common area amenities developed for community use. The Assessments shall also be used to fund the ongoing maintenance and upkeep of the private Roads, Streets and Common Areas for parking shown on the Plat, and for the provision of curbside private refuse collection services within the Properties. The Assessments shall be used for the mowing, upkeep and maintenance of all landscaping within the Properties. The Assessments shall also be used to maintain all storm water management systems located on the Property in accordance with the approved and installed original design plans.

Section 4.3. Basis of Annual Assessments. The initial annual assessment shall be set at TWO THOUSAND T AND NO/100 DOLLARS (\$2,000.00) per Lot, and shall commence upon the conveyance of a Lot from the Declarant and shall be prorated for the remainder of the assessment year from the time of such conveyance. Thereafter, upon a unanimous vote of the Board of Directors the annual assessment may be increased to an amount in excess of TWO

THOUSAND AND NO/100 DOLLARS (\$2,000.00) per Lot in order to meet current and future maintenance costs and operational responsibilities.

Section 4.4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Board of Directors shall have the authority as provided by Section 55-514 of the Code of Virginia, as amended, to levy in any assessment year a special assessment applicable to that year only, if the purpose in so doing is found by the Board to be in the best interests of the Association. A special assessment must have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all members in accordance with the Association's bylaws. Pursuant to Section 55-514 of the Code of Virginia, as amended, a special assessment may be rescinded or reduced upon a majority of votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all members in accordance with the Association's bylaws; provided that such meeting to rescind or reduce the special assessment is held within sixty (60) days of notice of the meeting.

Section 4.5. Declarant Exempt from Assessment. Declarant shall not be assessed on any Lots owned by it, either for regular annual or special assessments. This exception from Declarant assessments shall not apply to any Lot held by Declarant for investment purposes, where the Lot contains a completed structure with an issued occupancy permit, and the Lot is rented to a third party under a lease or other agreement where the Declarant receives income from the owned Lot.

Section 4.6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on an annual basis. Special assessments shall not be made more than once per year and shall not exceed fifty percent (50%) the amount of the annual assessments. However, special assessments may be spread over several annual periods subject to this limitation to cover substantial capital cost items which are the responsibility of the Association.

Section 4.7. Date of Commencement of Annual Assessment; Due Dates. The annual assessments provided for herein shall commence as to each Lot upon

the conveyance of the Lot from the Declarant. The first annual assessment shall be prorated according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The Association shall upon demand at any time furnish a certificate in writing signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A reasonable charge may be made by the Board of Directors for the issuance of these certificates. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 4.8. Effect of Nonpayment of Assessment; Remedies of the Association. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the current legal rate, and the Association may bring an action at law against the Owner personally obligated to pay the same, or may perfect the lien against the property, pursuant to Section 55-516 of the Virginia Code. Interest, costs, and reasonable attorney's fees of any such action shall also be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by abandonment of his Lot.

Section 4.9. Subordination of the Lien to Deeds of Trust. Pursuant to Section 55-516 of the Code of Virginia, as amended, the lien of the assessments provided for herein shall be subordinate to (i) real estate tax liens on the Lot, (ii) liens and encumbrances recorded prior to the recordation of the Declaration, and (iii) sums unpaid on and owing under any mortgage or deed of trust recorded prior to the perfection of said lien; provided, however, that mechanics' and materialmen's liens shall not be affected by this Section 4.9. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot, which is subject to any deed of trust, pursuant to a deed of foreclosure thereof, shall extinguish the lien of such assessments as to payments thereof which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessment thereafter becoming due or for the lien thereof.

Section 4.10. Exempt Property. The following property subject to this Declaration shall be exempt from the assessments created herein: (i) all Properties dedicated to and accepted by a local public authority and (ii) all Properties owned by a charitable or nonprofit organization exempt from taxation by the laws of the State of Virginia. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

ARTICLE FIVE  
EXTERIOR MAINTENANCE

The Association shall exercise its authority and fulfill its responsibilities as set forth herein. To this end, it shall have the power to levy assessments as herein contained and in accordance with the organizational documents of The Collicello North Homeowners Association. The Association shall maintain full and exclusive responsibility for common area and Lot lawn maintenance, mowing and landscaping for all Lots within the Properties.

In the event an Owner of any Lot shall fail to maintain the premises and the improvements situated thereon in a manner satisfactory to the Board of Directors of The Association, after approval by two-thirds (2/3) decision of the Board of Directors, the Association shall have the right, through its agents and employees, to enter upon said parcel and repair, maintain, and restore the Lot and the exterior of the buildings and any other improvements erected thereon. The cost of such exterior maintenance shall be added to and become part of the annual assessment to which such Lot is subject, and the expense of such exterior maintenance shall become a lien upon the subject property. It is a condition of these Covenants that the Association, is and shall be, deemed a general contractor for the purpose of qualifying to file a mechanic's lien, and every Lot Owner so in default, by the acceptance of his/her deed, and those claiming under him/her, hereby agrees to pay such expense, and grants permission to the Association, to enter upon such Lot and make such exterior maintenance without being guilty of trespass, and said Association, its agents and employees, shall not be liable in damages to any Lot Owner except for willful and tortuous acts committed beyond the scope hereof. Any assessments under this paragraph and the preceding paragraph hereof, shall constitute liens and shall be subject to the provisions of Section 55-516 of the Code of Virginia, as amended.

ARTICLE SIX  
USE RESTRICTIONS

1. No Lot shall be used, except for residential purposes, or for Declarant, or Declarant's agents' construction sheds and sales and administrative offices during the construction and sales period, and not more than one (1) principal building shall be permitted on any residential Lot shown on said plat, and no such Lot shall be resubdivided. The Declarant shall not be subject to the restriction on resubdivision set forth herein. The existing building at 919 Collicello Street shall be exempt from this restriction, and may be used for commercial, professional office or other uses permitted by the Master Plan for the project. If permitted by Harrisonburg Zoning Ordinance, "D" style units shall also be exempt from this restriction in that they may contain live/work businesses permitted by the Harrisonburg Zoning Ordinance.

2. No building, freestanding garage, storage shed, trailer, tent, or other structure may be erected, built, or permitted to remain on any Lot other than one (1) single family dwelling unless the HOA decides to provide approved option(s). Declarant may erect detached garages on Lots as part of its development of the Properties. The structure and Lot at 919 Collicello Street shall be exempt from this restriction.

3. No utility trailer, boat, house camper, recreational vehicle, trailer, bus, commercial equipment, disabled or unlicensed vehicle or material portion thereof, or commercial vehicle larger than three-fourths (3/4) of a ton, may be parked on any street or parking area, or Lot within said land area, unless, in the case of commercial equipments, it shall be temporarily within such subdivision for the purpose of performing work therein.

4. No noxious or offensive use of activity shall be carried on upon any Lot, street or parking area, nor shall any practice be engaged in by the Owners of the Lots, their tenants, agents, guests, or assigns, that shall become an annoyance or a nuisance to the neighborhood. The Association shall have the right to determine and enforce this restriction.

5. No exterior clothesline or hanging device shall be allowed upon any Lot, and no antenna shall project above the surface of the roof. The type and placement of all antennae, satellites or other wireless receiving equipment of any nature must be approved in advance by the Architectural Control Committee.

6. No swimming pools, above or below ground shall be permitted at any time on any Lot.

7. No sign of any kind shall be displayed on any Lot, except one (1) sign of not more than four (4) square feet advertising the property for sale or rent, except signs used by the Declarant and its agents to advertise the property during the construction and sales period. The structure and Lot at 919 Collicello Street shall be exempt from this restriction.

8. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot, except that dogs, cats or other usual household pets may be kept, provided that they are not kept, bred, or maintained for commercial or charitable purposes, or in unusual numbers. All household animals kept on a Lot must be housed indoors. All domestic animals shall be kept on a leash while on the streets or Common Areas on the Properties. Owners and their guests shall be responsible for collection and proper disposal of animal waste on the Property, including the Streets and Common Areas therein, or be subject for charges or fines for the clean-up of said waste.

9. No trash, garbage, or other refuse shall be burned upon any Lot except within the interior of the residence, except that the Declarant or its agents may burn debris for the purpose of cleaning the land or preparing any dwelling for occupancy. No trash garbage or refuse shall be stored outside of any residence, and all trash collection receptacles shall be placed at the curb no earlier than 4 PM on the day before schedule pick-up service, and shall be removed and stored indoors no later than 7PM on the day of pick-up service.

10. No hedge shall be planted or permitted to grow over three and one-half (3½) feet high along any property or Lot line, nor shall any growth be permitted by any Owner or tenant to extend beyond his property line.

11. All improvements to Lots approved by the Architectural Control Committee shall be completed within six (6) months of the commencement of construction thereof.

12. The Association shall be responsible for snow removal from any private streets shown on the Plat, until such streets are accepted by VDOT or the City of Harrisonburg as part of the public streets maintenance program. The Association shall also be responsible for snow removal from the abutting sidewalks, and Lot Owners' driveways. Snow removal from patios, courtyards, porches and other areas of Lots shall be the responsibility of the Lot Owner.

13. The Association shall be responsible for cutting of all grass, weed removal, mulching, plant, and tree/shrub maintenance and replacement for all Lots, streets, and Common Area portions of the Property.

14. The Association shall be responsible for the removal of Lot Owner's trash and refuse. Trash removal services provided via the Association shall be curbside pickup, and all Lot Owners shall abide by any regulations relating to said curbside refuse services. \*This may modify based upon final arrangements\*

15. The Association shall maintain and fund via the regular Annual Assessments utility charges and maintenance for street lighting on the Property. Declarant will install the initial street lighting.

16. The use of the Common Areas, including the Common Areas designated for parking, is exclusively reserved to the Owners and their guests and subject to regulation and control by the Association. The Association may adopt rules and regulations from time-to-time governing the use rights of the Owners in the Common Areas and improvements placed thereon. The Declarant will install the initial Common Area structures and improvements, and the community entrance area sign, fencing, and landscaping, which Common Area improvements and structures shall subsequently be maintained by the Association.

17. Every violation of the covenants contained herein is hereby declared to be and constitutes a nuisance, and every remedy allowed by law or equity

against a nuisance, either public or private, shall be applicable thereto, and such remedies shall be deemed cumulative and not exclusive.

18. Inasmuch as the enforcement of the provisions hereof is deemed essential for the implementation and preservation of the general plan of development, and for the protection of the undersigned and all of the Declarant, Owners and inhabitants of said subdivision, it is hereby declared that any violation of the provision hereof shall constitute irreparable harm not adequately compensable by recovery of damages, and any person, firm, or corporation shall be entitled, in addition to all other remedies, to relief by way of injunction for enforcement of the provisions hereof.

19. The cost and expenses incidental to the abatement of any violation hereof, and the removal and correction of any offending structure or condition shall be paid by the Owners of the offending Lot, and the amount thereof until paid shall constitute a lien upon such offending property, in favor of Association, inferior only to such liens as prescribed in Section 55-516 of the Code of Virginia, as amended.

ARTICLE SEVEN  
RESERVED

ARTICLE EIGHT  
EASEMENTS

Section 8.1. Utility Easements. Easements for installation and maintenance of utilities, walkways, driveways, drainage facilities, sanitary sewer, water line, street lights, and community entrance sign and fencing and access to all Lots are reserved as shown or described on the Plat and designated thereon respectively as Public or Private Drainage, Utility, Sanitary Sewer, Stormwater, Public Sidewalk and Waterline Easements. Easements for utilities and maintenance of utilities are reserved over the Lots in the Collicello North development as necessary for the benefit of said Lots, said locations to be designated by Declarant. Within these easements, no structure, planting, or other material shall be placed or permitted to remain which may obstruct or interfere with the installation and maintenance of said utilities or which may obstruct or interfere with the installation and maintenance of said utilities or access to Lots. The easement area within each Lot shall be maintained constantly by the Owner of said Lot, except those easements for which a public authority, utility company, or municipality is responsible. Owners acknowledge and agree that said Easements may be subject to the requirements of the City of Harrisonburg for public easements in place and adopted by the City from time-to-time. The Declarant and Association shall also retain all responsibility for the maintenance of all storm water management systems located on the Property in accordance with the approved and installed original design plans, whether the same are contained within easements on Lots or contained within the Common Areas.

Section 8.2. Reserved. \*This section to be used for other specific easement shown and designated on the final subdivision plat\*

Section 8.3. Landscaping Easement. An Easement for landscaping is reserved across all Lots and Common Areas as shown on the Plat recorded herewith. Within this easement Declarant shall plant the original landscaping. Within this easement, no structure, planting, or other material shall be placed by an Owner or permitted, by an Owner, to remain, which may obstruct or interfere with the planting and maintenance of said vegetation. Provided, however, that the Declarant or the Association may do additional landscaping within this Easement. The Association shall, after the initial planting is complete, be responsible for the care, pruning, and replacement of this vegetation, as it is

needed. Therefore, the Association, its agents and assigns, may enter on the Lots over which this easement lies for the purposes aforesaid. The Owner shall not prune, replace, or harm this vegetation. This easement shall be perpetual and shall run with the land.

Section 8.4. Easements of the Association. There is hereby reserved to the Association such easements as are necessary to perform the duties and obligations of the Association, including such access easements as are necessary for ingress, egress, and maintenance of the Common Areas and Landscaping Easements.

Section 8.5. Pipes, Ducts, Cables, Wires, Conduits. Each Owner shall have an easement in common with the Owners of all other Lots to use pipes, wires, ducts, cables, conduits, telephone, and public utility lines. The Association, its agents, the City of Harrisonburg, and such telephone, electric, and other utility companies as may be appropriate, but no other person or entity without the consent of the Owner, shall have the right of access to each Lot to inspect the same, to remove violations therefrom, and to maintain, repair, or replace same.

Section 8.6. Priority of Easements. Each of the easements hereinabove referred to shall be deemed to be established upon the recordation of this Declaration and shall run with the land for the use and benefit of the Lots superior to all other encumbrances which may hereafter be applied against or in favor of the Properties, Lots or any portion hereof.

Section 8.7. Declarant's Easements to Correct Drainage. For a period of ten (10) years from the date of submission of each Lot to this Declaration, the Declarant reserves an easement and right on, over, and under the ground within each Lot to maintain and to correct drainage of surface water in order to maintain reasonable standards of health, safety, and appearance. Such right expressly includes the right to cut any trees, bushes, or shrubbery, to perform any grading of the land, or to take any other similar action reasonably necessary, following which the Declarant shall restore the affected property to its original condition as nearly as is practicable. The Declarant shall give reasonable notice of intent to take such action to all affected Owners, unless in the opinion of the Declarant an emergency exists which precludes such notice.

Section 8.8. Construction Easements and Rights. Notwithstanding any provision of this Declaration or of any Supplementary Declaration, so long as the Declarant or builders are engaged in developing or improving any portion of the Properties, the Declarant and builders and their employees, agents, and assigns shall have an easement of ingress, egress, and use over any portion of the Properties not conveyed as a Lot to an Owner for occupancy for (i) movement and storage of building materials and equipment, (ii) erection and maintenance of directional and promotional signs, and (iii) conduct of sales activities, including maintenance of model Units. Such easement shall be subject to such rules as may be established by Declarant to maintain reasonable standards of safety, cleanliness, and general appearance of Properties.

Section 8.9. Easement to Inspect. There is hereby created an easement in favor of the Association for ingress and egress on any Lot (i) to inspect such property for alleged violations of the Governing Documents, based on formal, written complaints, and/or compliance with architectural standards and/or approved plans for alterations and improvements and (ii) to perform such maintenance as is required by this Declaration or the Supplementary Declaration for such Lot, provided the Owner of such Lot is given written notice of the purpose and time of inspection at least three (3) days in advance thereof and such inspection is performed during reasonable hours.

Section 8.10. Easement for Governmental Personnel. A right of entry on any Lot or Common Area is hereby granted to law enforcement officers and fire and rescue personnel as is needed to carry out their duties, including enforcement of cleared emergency vehicle access.

Section 8.11. Common Area Access or Use Easements. There is created a joint easement appertaining to all Lots for ingress, egress, and use of the Common Area, including the Common Areas designated for parking, created and described herein and on the Plat. Said easement of use and enjoyment of the Common Area by Owners shall be subject to the rights granted to the Association hereunder to control and manage maintenance use of the Common Areas. These joint easement rights granted hereunder also include the right to ingress and egress to the Common Area.

Section 8.12. Easement for Ingress and Egress over Private Streets. There is hereby created for all Lot Owners, the Declarant and the Association their heirs, successors, and assigns, a non-exclusive easement for ingress and egress over and across all Private Streets, Roads and Common Areas shown for parking, as shown on the Plat. Said easement of Ingress and Egress shall also be reserved to the reasonable and customary use of guests, invitees and service providers of Lot Owners, the Declarant and the Association. The reasonable regulation of the private Streets, Road and Common Areas for parking shall be governed by the Developer and the Association at their discretion.

Section 8.13. Parking Easement. There is hereby created for the benefit of each Lot Owner, the Declarant and the Association a non-exclusive and mutual easement for parking, and the same is hereby granted by the Declarant over all portions of the Common Areas shown for parking areas. Said parking easement shall be subject to the reasonable and ongoing regulation of the Declarant and/or the Association to preserve the equitable and efficient use of said parking areas amongst all the Owners, the Declarant and the Association for their uses.

Section 8.14. Other Improvements. The Developer at a minimum will install for the mutual benefit of the Lot Owner's and the Association, the improvements shown on the Plat. The Developer will also install and maintain a mail service area serving all residents of the community. This mail service will generally be located in or near the mixed-use area and be maintained continuously through the different construction phases until such time that its location can be made permanent after the final construction phase. Said improvements will be installed by the Developer in the Common Area administered by the Association. Said improvements shall be installed and completed no later than the time when 80% of the Lots are sold to third party purchasing Owners. Said improvements shall be for the mutual, non-exclusive use and benefit of the Owners, Developer and Association, and shall be governed by rules adopted for their use by the Developer and the Association.

ARTICLE NINE  
GENERAL PROVISIONS

Section 9.1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 9.2. Severability. Invalidation of any one (1) of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 9.3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any Lot subject to the Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of twenty (20) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years. The covenants and restrictions of this Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners. Any amendment must be properly recorded. The Declarant, or its successors and assigns, (not including the Association as successor hereunder) reserves the full and exclusive right to amend or supplement this Declaration at any time, in any fashion, at its discretion without the consent of the Members, the Owners or any other party.

Section 9.4. Rules and Regulations. The Declarant and the Association reserve the full right and authority to develop, adopt and enforce rules and regulations governing the development to insure the economic value and rights of the Developer to build, market and sell the development, and the ability to control and regulate activities on the Properties to insure the quality of life, property values and the orderly operation of the development. The adoption and operation of such rules and regulations, to the extent not defined herein, shall be governed by Virginia Code Section 55-513.

*[The remainder of this page was intentionally left blank.]*

IN WITNESS WHEREOF, Kin Group, LLC, (Declarant),  
\_\_\_\_\_ Bank, and its Trustee, have caused this Declaration to be  
duly executed this \_\_\_\_ day of \_\_\_\_\_, 2013.

KIN GROUP, LLC a Virginia limited  
liability company

By: \_\_\_\_\_  
\_\_\_\_\_, <Title>

COMMONWEALTH OF VIRGINIA,  
CITY OF HARRISONBURG, to-wit:

The foregoing instrument was acknowledged before me this \_\_\_\_ day  
of \_\_\_\_\_, 2013, by \_\_\_\_\_, <Title>  
of Kin Group, LLC, a Virginia limited liability company, on behalf of said  
Corporation.

My Commission expires: \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

**BANK, NOTEHOLDER**

By: \_\_\_\_\_

COMMONWEALTH OF VIRGINIA,  
CITY OF \_\_\_\_\_, to-wit:

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2013, by \_\_\_\_\_ Vice President of \_\_\_\_\_ BANK, a Virginia corporation, on behalf of said Corporation, Noteholder.

My Commission expires: \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

, TRUSTEE

By: \_\_\_\_\_

Its: \_\_\_\_\_

STATE OF \_\_\_\_\_,  
CITY/COUNTY OF \_\_\_\_\_, to-wit:

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2013, by \_\_\_\_\_, \_\_\_\_\_ of \_\_\_\_\_ a \_\_\_\_\_ corporation, on behalf of said Corporation, Trustee.

My Commission expires: \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

## May 2013 Proactive-Zoning Report

For the month of May 2013 the proactive-zoning program inspected the **Hillandale** section of the city. During the proactive inspections a total of eleven violations were found. The violations were a combination of discarded materials and 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	2	0	4	0
September 2012	N. Main St.	10	10	13	4	4
October 2012	Liberty St.	11	11	6	4	18
November 2012	Westover	13	13	18	8	17
December 2012	Garbers Church	9	9	1	2	1
January 2013	Spotswood Acres	8	8	6	4	1
February 2013	Jefferson St.	21	21	26	22	35
March 2013	Forest Hills/JMU	1	1	6	1	1
April 2013	S. Main St.	5	4	1	0	2
May 2013	Hillandale	11	n/a	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 June 2013 will be directed towards the enforcement of the Zoning Ordinance in the **Maplehurst/JMU** section of the City.