



City of Harrisonburg, Virginia

Planning Commission Meeting

November 13, 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 September 11, 2013 regular meeting.

2) New Business

Special Use Permit – 118 Broad Street (Occupancy Other Than Permitted By Right 10-3-40 (7))

Public hearing to consider a request from Alice Long for 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 4 persons provided 1 off-street parking space per tenant is provided. The 6,360 +/- sq. ft. property is zoned R-2, Residential District and is addressed at 118 Broad Street and can be found on tax map 34-RR-2.

Alley Closing – Adjacent to 18-L-1, 2, & 3 and 18-V-7 (Catholic Campus Ministry)

Consider a request from Catholic Campus Ministry to close an alley consisting of 3,647 +/- sq. ft. of public right-of-way (ROW) located off of Maplehurst Avenue. The ROW is almost 20-feet wide and 183.50 feet in length and is adjacent to tax maps 18-L-1, 2, & 3 and 18-V-7.

Preliminary Plat – Collicello North R-7 (Kin Group LLC)

Consider a request from Kin Group, LLC to preliminarily subdivide 36 lots on 3.06 +/- acres of property zoned R-7, Medium Density Mixed Residential Planned Community District. The applicant is requesting a variance from the Subdivision Ordinance Section 10-2-41 (a) to allow proposed streets to deviate from standards and specifications as outlined in the Design and Construction Standards Manual. The applicant is also requesting a variance to Section 10-2-42 (c) to allow several parcels to not have public street frontage. The property is bounded by Virginia Avenue, 5th Street, portions of undeveloped Collicello Street, and Edom Road and can be found on tax maps 40-H-1—8 & 11—16, 40-I-14, 15, & 16, and other property soon to be in their ownership consisting of portions of undeveloped 6th Street right-of-way (ROW), undeveloped portions of Collicello Street ROW, adjacent undeveloped alley ROWs, and other public street ROW near Edom Road all of which is illustrated on tax map sheet 40.

Zoning Ordinance Amendments – Screening Requirements, Refuse Facility Location Regulations, & Accessory Buildings in B-1

Public hearing to consider a request to amend multiple sections of the Zoning Ordinance to: clarify setback and other location requirements for refuse facilities (dumpsters), uniformly specify regulations when required to screen particular uses, and to add accessory buildings as a permitted use in the B-1, Central Business District. With regard to refuse facilities, such facilities are not defined by the Zoning Ordinance but have for some time been considered and regulated as accessory structures, where depending upon the zoning district in which they are located the required setback varies. The proposed amendment would modify several sections of the Zoning Ordinance to clearly reference that refuse facilities shall meet the requirements for accessory buildings. With regard to screening requirements, several sections of the Zoning Ordinance require screening around particular uses including: refuse

Staff will be available Monday December 9, 2013 at 4:30 p.m. for those interested in going on a field trip to view the sites for the December 11, 2013 agenda.

facilities; accessory storage of products to be processed or being processed and supplies and waste materials resulting from such work; outside storage or repair associated with facilities designed for the repair or storage of vehicles, recreation equipment, trailers, over the road tractors and their trailers, heavy equipment, manufactured homes, industrialized buildings, or agricultural equipment; portable restroom facilities; and storage of equipment, materials, and compost and disposal areas associated with business gardens. The proposed amendment would uniformly specify the screening regulations by removing all usages of the phrase “shall be screened from general public view” and replaced with “shall be screened.” This modification would require that such uses shall be completely screened. Lastly, the proposed amendment would add accessory buildings as a permitted use in the B-1 zoning district as the current list only states that accessory uses are permitted. In all, the sections to be amended include: 10-3-36 (c), 10-3-42 (d), 10-3-48 (d), 10-3-48.6 (d), 10-3-54 (d), 10-3-55.6 (d), 10-3-56.5 (f), 10-3-57.5 (f), 10-3-58.5 (5), 10-3-81 (c), 10-3-84 (7), 10-3-87 (b), 10-3-91 (3), 10-3-93 (c), 10-3-96 (19), 10-3-99 (c), 10-3-114 (g) & (h), 10-3-115 (7), 10-3-182 (d), and 10-3-193.

3) Unfinished Business

4) Public Input

5) Report of secretary and committees

Proactive Zoning

6) Other Matters

7) Adjournment

MINUTES OF HARRISONBURG PLANNING COMMISSION
September 11, 2013

The Harrisonburg Planning Commission held its regular meeting on Wednesday, September 11, 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 August 14, 2013 Planning Commission meeting.

Mr. Da'Mes moved to approve the minutes as presented from the August 14, 2013 regular Planning Commission meeting.

Mr. Heatwole seconded the motion.

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

Chair Fitzgerald said I know we have a rather long and technical discussion regarding amendments for telecommunications on the agenda under new business. I also know there are several people here tonight who would like to speak under the public input portion of the agenda. I am wondering if there is a motion to re-order the agenda so that public input is the first item on the agenda and we can allow these folks to speak and not have to wait through the lengthy telecommunications discussion.

Dr. Dilts moved to re-order the agenda by placing item four, public input, to the beginning.

Mr. Way seconded.

All voted in favor of the motion to re-order the agenda (7-0).

Public Input

Chair Fitzgerald opened the floor to anyone wanting to address the Planning Commission.

Randy Buie, 1537 Longs Pump Road, Rockingham County, said I am not a City resident, but I am the founder of the Valley Preservation Alliance for American History and Architecture based here in Harrisonburg. I would like to consolidate some of my thoughts and concerns about the recent proposal for the new Municipal Building, the primary design of which has been to place it in a location between this building and the existing Municipal Building. A concern from a preservation standpoint is that it obstructs and it dominates a historic structure. This is generally outside of good preservation standards as established by the Department of Interior; which are the same standards that the Virginia Department of Historic Resources goes by. One of the biggest concerns we have had is that initially there was not a lot done to engage the public; whether through a public comment period or through a collaborative process with the various organizations that have a vested interest in this. When I say this I include the organizations of the Planning Commission, Farmers Market, Plan Our Park Group, Harrisonburg Downtown Renaissance, and Downtown Landscape Committee; as well as Public Works with their Master Streetscape Design Project.

This project is being done as kind of an independent exercise. Because the original RFP (Request for Proposals) affected just the footprint of this building and not the historic Municipal Building, I suspect that is why there was no previous consideration given to preservation standards being applied to the project. Our interest, which the City Council was kind enough to grant last night, is to slow down the process and re-examine some alternative locations.

We hope to draw back and seek some professional preservation input on the scope and scale of everything related to preservation concerns; not the space uses and the infrastructure, but the mass proximity to the historic building and the sight context of the historic building itself. I guess my appeal to Planning Commission is that, either through your efforts or perhaps a special subcommittee, we reach out to preservation professionals in town, including myself or others, or to seek input from the Virginia Department of Historic Resources (DHR) on what the proper preservation standard practices are for this project. DHR does this on a regular basis, they reach out to communities to help, but they have to be invited to do so. It would be beneficial from a public educational perspective, as well as bringing a bit more insight to the people involved in making the decisions on the project.

That is my request, that some type of input be established through Planning Commission and Community Development; to be able to provide professional preservation input through whatever mechanism you have available. Thank you for your time this evening.

Chair Fitzgerald asked if there was any one else desiring to speak.

Jim Orndorff said he too lives in the County of Rockingham, the Town of Bridgewater; however, I do own the historic Ruddle Building at 2 North Main Street in Harrisonburg, and I am interested in historic preservation. I would just like to echo some of what Randy Buie said earlier about the new Municipal Building plan and how it fits in with historic preservation standards. One of the standards that the Secretary of Interior has promulgated relative to preservation says: New additions, exterior alterations, or related new construction will not destroy historic material, features, and spatial relationships that characterize the property. New work will be differentiated from the old, and will be compatible with the historic materials, features, size, scale, proportions, and massing to protect the integrity of the property and its environment. These are very much a concern, not only for the design of the building that is proposed, but for what may happen in the future. Harrisonburg will continue to grow, as it grows so will the City government, as will the building that is being proposed. Currently, the proposed building would sit just barely below the top of the current Municipal Building; if you are using the chimneys to measure, and if it is set at three stories. It is obviously more cost effective to build vertical additions to properties rather than horizontal, because you are not increasing the size of the footprint. So, twenty-five years from now, when we need room for more offices and we build up what does that do to the relationship to the buildings that we already have.

I know that in the Comprehensive Plan there is a statement that reads: "City Planners must assess and mitigate the impacts of all City proposals and projects on adjacent historic resources and areas". I would hope that in your capacity as an advisory body to the City Council you would remind them of the importance of applying those principles that they have directed you to come up with and that they have approved, and that they live by their own Comprehensive Plan language. Thank you.

Chair Fitzgerald asked if there was any one else wishing to speak. Hearing none, she asked Planning Commission if they would like to react to this input at the end of the meeting as part of agenda item six, Other Matters.

Dr. Dilts suggested discussing the comments now rather than waiting until the end of the meeting.

All members agreed if there was a discussion it should happen now.

Chair Fitzgerald asked Commissioner Baugh to update the Planning Commission on what City Council did last night regarding the Municipal Building.

Mr. Baugh said I will give the abbreviated edition. We heard a presentation from the architect and the plans do show a building which sits between the current Municipal Building and this building. In the discussion it was affirmed, unanimously, that we do want to have a public process to gather input on this. Before we do that we actually asked the architect to come back to Council with a site review of what we might be able to do on the other side of the existing Municipal Building. The architect said he could be ready in two weeks, so I am guessing that certainly within a month it would be on Council's agenda again. I could talk on and on about this; but, I think this is what the Chair is looking for.

Chair Fitzgerald said I have one question and I do not know that it was specifically answered last night at the meeting, although I think it was asked – were there other sites that were explicitly looked at.

Mr. Baugh said that was a piece I was going to address. To the extent that Council has discussed this and various options have been considered, that is certainly generally true. Let's focus on the parameters that have gotten us to where we are now. One is the desire to not incur the expense of buying additional property; the City owns a fair amount of property here. There has been the desire to not have to disrupt any City employees. There has been a long standing concern to minimize footprint because of the desire for a downtown park.

One of the things the presentation last night illustrated is that once you get serious about these things and have someone actually look at a site and do some planning about what a building would look like on that site; now you have to pay someone to do that. The only funding that has been authorized for this is the hiring of the architect. We cannot build a building until we have additional funding; this is all still very much in the planning stages. It may be that in the course of this process that there is the possibility that there are other sites or options that we could ask the architect to take a look; but right now the only one that was brought up by the other Council Members was the possibility of looking on the other side of the existing Municipal Building. You do not really know what a site is going to look like until you are willing to make the commitment to have a professional look into it and come back and tell you what works. Council is certainly willing to look at more than one iteration for the proposed building.

Mr. Way asked if there was anything regarding what the process would be.

Mr. Baugh said we talked about doing something very similar to what we have done with the Downtown Streetscape Plan. Perhaps having some sort of a charrette process.

Mr. Way asked will that be after the next plan is looked at.

Mr. Baugh said yes, it does not make sense to begin holding listening sessions right now without the second option to look at; you would probably get a lot of input that was asking if the second location, or any other location, was looked at.

Chair Fitzgerald asked if that would allow for a public input session or charrette sometime in mid-to late October.

Mr. Baugh said yes, something like that. Remember this is a process that is unfolding. I do not know that even after we see the third iteration, there will not be some other ideas that make us want to look at others. So any hesitancy I have in saying, yes we will have public input in late October, is not because I do not want to have public input, it is because the process is still developing.

Dr. Dilts asked what would be the purpose of a charrette at that point. If you have already got an architect who has done one or two or three designs; what does the charrette do for you?

Mr. Baugh said speaking for me; I see it primarily as one of the safety nets for the process. This is the part where if there is someone in the public with a perspective on this and has not come forward yet with some valuable information now is the time. A way where we have established a process where that input can come in. A charrette is just one way of getting people to get input to us. There is also email, telephones, and so on, that the public can contact us; even showing up at a Planning Commission meeting.

Mr. Way said you want this to come through the formal process of Planning Commission. If you are talking about safety nets and a charrette, to me, that is more of the design stage. When it comes to identifying two or three options that seems like something that could easily go before the Planning Commission and we could recommend or advise, based on input from the charrette.

Dr. Dilts said it may be my misunderstanding of what you meant by charrette. My idea of a charrette was that it was done ahead of time. You had a charrette about what kind of Municipal Building you needed or wanted, where it was going to be, etc. What you are really asking for now is, what is wrong with what we have done, or what is right with what we have done, and where are we going with it. We (Planning Commission) are happy to be involved in order to get a sense of the public and what they would like.

Mr. Baugh said that gets back to my question of what is there that is magical about input to Planning Commission as opposed to input directly to City Council?

Mr. Way said I do not think there is anything particularly magical it is just another step in the process. The point of this body is as an advisory body to City Council. Therefore, why would you not want us to do the work for you? There is also the legal reason, and my reading of the City Code suggest that we (Planning Commission) really should have a role in this.

Mr. Baugh said by having ratified the CIP you have taken that step. This has been in the CIP for years.

Mr. Way said I politely disagree based on the language in the ordinance. In that spirit of making sure the process is an open engagement, you must consider that we have a sense of planning; we have been intimately involved with the Comprehensive Plan. But I do defer to your decision as Council.

Mr. Colman said I agree with Mr. Way, but beyond that I think that it allows the public to go through the process. If Planning Commission is there to be part of the process, why not do it that way. Additionally some of the issues that have come up before Council would have already been heard and hopefully addressed during Planning Commission.

Mr. Way said I feel the public is looking for any opportunities for engagement and this is a formal way of doing it.

Chair Fitzgerald said this is at the behest of folks that have contacted us; it is not exactly as if Planning Commission is just saying we are happy to help; we are offering because people have been talking to us about this.

Mr. Baugh said I am happy to express this to the rest of the City Council.

Chair Fitzgerald said thank you for this conversation; and now we will move forward with new business.

New Business

Considering Amendments for Telecommunications Regulations

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

Mr. Fletcher said first I would like to point out the two documents placed before you. A citizen brought these in today for your information. This is a conversation she has communicated to the City Manager; it reaches back to December 2010 and February 2011 and some of staff recalls speaking to the person previously. She could not be present this evening, but she did want to make certain that you all receive this information and her concerns were spoken, even if it does regard public infrastructure and public property.

As we move forward on this report my intent is to be brief. I am not going to review all the different ideas from all the localities; I intend to just go over the basics. This is not a formal presentation, so feel free to interrupt me.

The report, research, and recommendation are to try and help answer the question of: “to what extent, if any, should the City Code be amended to address telecommunication facilities?” Hopefully, the report helps answer the question and helps you decide whether or not you want to move forward into drafting telecommunications regulations.

Mr. Fletcher proceeded to briefly review the report discussing how telecommunications are currently allowed throughout the City. The regulatory authority that gives the City the right to regulate telecommunications is outlined within the Telecommunications Act of 1996. The written report outlines the limits of state and local government and describes what we can do, what we can regulate, and specifically what the technology is. Also provided are five guidelines that a state or local government must abide by. This Act was predominantly the regulatory act until last year when President Obama signed the Middle Class Tax Relief and Job Creation Act of 2012. This Act really describes facility modifications. What this Act says is that a state or local government may not deny and shall approve any eligible facility requests so long as it does not substantially change the physical dimensions of that facility. This Act is complicated to understand and is still being interpreted.

What we typically see throughout the City are what is referred to as macrocells, the tall structures that have a lot of equipment attached. Typical regulations governing macrocells are – limited to specific zoning districts, height limitations, setback minimums, foundation landscaping or screening, abandonment requirements, administrative approval opportunities, application submission requirements, and in some areas, concealed technology. For years providers requested to erect towers, macrocells, because the coverage could stretch a radius of miles; however, there was always a gap in between structures. This is no longer true, as in most populated areas there is wall-to-wall cells site coverage. This works well for voice transfer; but data and video overwhelm

the system and necessitates the installation of microcells. These smaller microcells work in unison with the macrocell and can be in the form of boxes or an antenna on utility poles or a building.

Then we get into the more costly and sophisticated equipment of the Distributed Antenna System (DAS) which is comprised of three components: 1) the remote communication nodes; 2) the transportation medium; 3) a hub. This operates as another form of a microcell. There is also a newer technology term being used by the industry, which is the heterogeneous network, or the HetNet. This is the understanding that we are no longer just relying on macrocells; they are being bounced-off of many different types of equipment.

Although ultimately more provisions would be included in the ordinance and other discussions still must be had, at this time staff recommends some form of the following provisions be incorporated in an ordinance for the City to adopt: 1) To allow telecommunications within more zoning districts; 2) To create opportunities for administrative review and approval; 3) To allow telecommunications in public street right-of-way, other public right-of-way, and on publicly owned properties; 4) To require more information and details be submitted upon application; 5) To require all telecommunication facilities, not on alternative structures, be setback 110 percent the height of the tower; 6) To require landscaping or other material that effectively screens the view of the support buildings from adjacent properties; 7) To require freestanding telecommunications facilities to be designed to accommodate at least three providers or more depending upon the height of the facility; 8) To prohibit artificial lighting unless required by the FCC; 9) To require a form of surety to secure the cost to remove the tower and equipment and return the site to its original condition to the extent reasonably possible; 10) To allow at the discretion of the Director of Planning and Community Development, or their designated agent, to contract with experts to assist with the review of telecommunications facilities at an expense of the applicant not to exceed a specified amount; and 11) To incentivize microcell and DAS technology.

Mr. Fletcher said lastly comments from Industry Representatives were generally positive to the recommendations, but noted:

- Understand that requiring telecommunication towers be setback 110% the height of the tower could be too strict for an urban environment.
- Understand that small cells/microcells can only work where macrocells already exist.
- Understand that the implementation of requiring more collocations requires having taller towers to make it feasible.

And comments from City Departments:

- At this time, the Department of Public Works is not interested in allowing equipment on traffic control devices.
- At this time, HEC is open to discussing allowing collocations on transmission towers but not on distribution poles.

Mr. Fletcher said this concludes my presentation.

Dr. Dilts said I believe I read somewhere in the industry comments about other types of wireless devices that were not part of telecommunications. I believe the implication was that perhaps our scope needs to be larger.

Chair Fitzgerald asked if the comment was implying that we were too narrow in scope.

Dr. Dilts said she will get back to the comment.

Mr. Fletcher said what staff is looking for tonight from you is — do you agree with our recommendation that it should be amended; if so, staff will continue moving forward.

Mr. Way asked are we talking about amending the Zoning Ordinance.

Mr. Fletcher said it would be amending the Zoning Ordinance as well as a combination of working with HEC, Public Utilities, or Public Works to get administration policies in place. There may be multiple City Code amendments.

Mr. Way said much of this seems very similar to signage regulations, where it has a zoning component, yet it goes beyond the zoning ordinance.

Mr. Colman said would the City have revenue from renting space.

Mr. Fletcher replied yes, we currently have revenue from co-locations within the City on public property.

Mr. Colman said the HEC transmission lines are generally in an easement, but this co-location would also depend on what zoning they are located in.

Mr. Fletcher said yes. I have talked with the General Manager of HEC, Brian O'Dell about some easements being public, others are private, or within right-of-way. Of course we would have the City Attorney involved regarding the interpretations of the easement language.

Mr. Jefferson said I certainly feel this is definitely worth moving forward with. It appears to be something that needs to be re-evaluated, as the technology is always changing.

Chair Fitzgerald said I am definitely on board with moving forward too. I do have some questions regarding the specific eleven recommendations. Number 4, requiring more information and details upon application, I feel is a bit tricky. It feels as if it could get expensive very quickly, and I know you did some comments back from industry representatives regarding expense. I would be real interested in seeing how we could write that in a way that gave us information, but was not too onerous for the applicant.

We already discussed number 5, the 110% setback. I do not think that a single industry or City representatives responded that this was a good idea. Jim Junkins had some comments about the screening and what seemed to work well from the City's experiences.

Lastly, number 11, I do not quite understand why we have that one in there. Why specifically are we recommending that the City incentivize that particular technology?

Mr. Fletcher replied maybe incentivize was somewhat misleading in a revenue term. It is not a revenue intent; it is more to reduce the complications of our requirements to the industry and push them more to use microcell technology rather than macrocells – such as administrative approval for certain facilities.

Chair Fitzgerald said the idea is to cut road blocks for that particular technology as much as possible and control and regulate the big towers which are more obtrusive.

Mr. Fletcher said yes.

Dr. Dilts said how do you keep up with the rapidly changing technology as the regulations are being written?

Mr. Fletcher said technology was changing as I wrote this report; therefore I do not believe there is a way it could be done.

Dr. Dilts said I do agree with Chair Fitzgerald, I believe we need to move forward with this. I was struck by the balloon-test process for the Blue Ridge Parkway and wondered if, given our location, having sight line type of items within our regulations really should be important to us.

Chair Fitzgerald said are we reading the two pieces we had in front of us tonight, the letter with multiple signatures, as re-enforcing the community's interest in aesthetics, which has been brought up previously.

Mr. Fletcher replied that was my interpretation of what this citizen wished to get across to us. They even said to me that there were times of the day, given the direction of the wind, that the trees open up and one can see the water tanks and the apparatuses holding the equipment. There becomes a point where if you are going to allow towers, you cannot hide all the towers.

Mr. Colman asked if we had a map that showed the existing coverage of the macro towers within the City. At some point there is going to be a saturation that says we have enough towers to cover the entire City.

Mr. Da'Mes said it is not a coverage issue; it is a data capacity issue.

Mr. Colman said I understand the data coverage issue, but now we are discussing the smaller of the transmitters that would fill in those capacity gaps. So at some point we would have enough big towers to send signals from one to another; but at the same time understand that the smaller ones are meeting the demand.

Mr. Da'Mes said that is where administrative review to incentivize that type of technology instead of having to go through a SUP.

Mr. Colman said hopefully that would avoid having to erect any more large towers. In some ways the setbacks do help to discourage location of towers.

Mr. Fletcher said yes, there is that take on the extra setback for towers; however, we do not currently require it.

Mr. Da'Mes said some of these industry responses spelled out some rather poignant threats in terms of restrictions and what the City cannot do.

Mr. Colman asked if we were interested in seeing this type of facility going into residential neighborhoods.

Mr. Fletcher replied I do not know that we are at the point of being prepared to discuss that right now. As we begin to write the ordinance and we continue to look at the effects and hear feedback, we will be more prepared for that conversation. We need to get the question out there of "does the public want to start allowing them in residential areas".

Mr. Way said what is the "is" – a large tower in a neighborhood or a smaller microcell on a light pole.

Mr. Da'Mes said the idea that HEC is willing to allow these on certain poles opens up an entire area. Maybe we need to know where all these poles are currently located.

Chair Fitzgerald agreed and said that may eliminate having the need to consider putting them in residential areas.

Mr. Fletcher said you must consider the fact that Harrisonburg is not huge, and we have a lot of telecommunications towers currently, so what is the answer to “not being in my residential neighborhood?” People who live in Reherd Acres can clearly see the tower on Reservoir Street: is that in their neighborhood area?

Mr. Way said it seems as what you want to achieve in the ordinance is a certain level of regulatory dexterity, so that you have some type of light-footedness built in to it so that you can respond to these new challenges and new things that happen.

Mr. Da’Mes said the JMU student population accounts for a huge percentage of the usage of cell phones. Can we find out what JMU’s rational is or what they are open to in terms of technology on the campus?

Mr. Fletcher said I can contact the Real Property Office at JMU to inquire. However, if we want to allow or entertain having more of these type facilities around the area we need to take into consideration having these in residential areas.

Dr. Dilts said I want to ask about the fiber optic use. I know that fios requires fiber optic cable; is that always below ground or can it be above ground too?

Mr. Fletcher said from what I understand we already have some fiber optic cable that runs on some of the utility poles and it is aerial.

Chair Fitzgerald said the sense of Planning Commission is to move forward with the next step.

There was consensus among the Commissioners to begin work on a Telecommunications Ordinance.

Unfinished Business

None.

Report of secretary and committees

Mrs. Banks said in August City forces visited the Greystone Street area of the City for proactive zoning. Nine violations, consisting of tall grass and weeds, inoperable vehicles, and discarded materials, were found. For the month of September the inspectors will be in the Greendale/SE area of the City.

Mr. Baugh said at City Council last night we approved the right-of-way closing at Collicello Street. The rezoning request for the Chicago Avenue property, they had updated the proffers, shifted the building, which lead to a favorable recommendation from staff and approval from Council. Unfortunately there was some citizen input that we had not had previously, regarding noise and vehicle headlights shining into their homes. Had these issues been brought up earlier, it would not have surprised me that something could have been worked out for them.

Other Matters

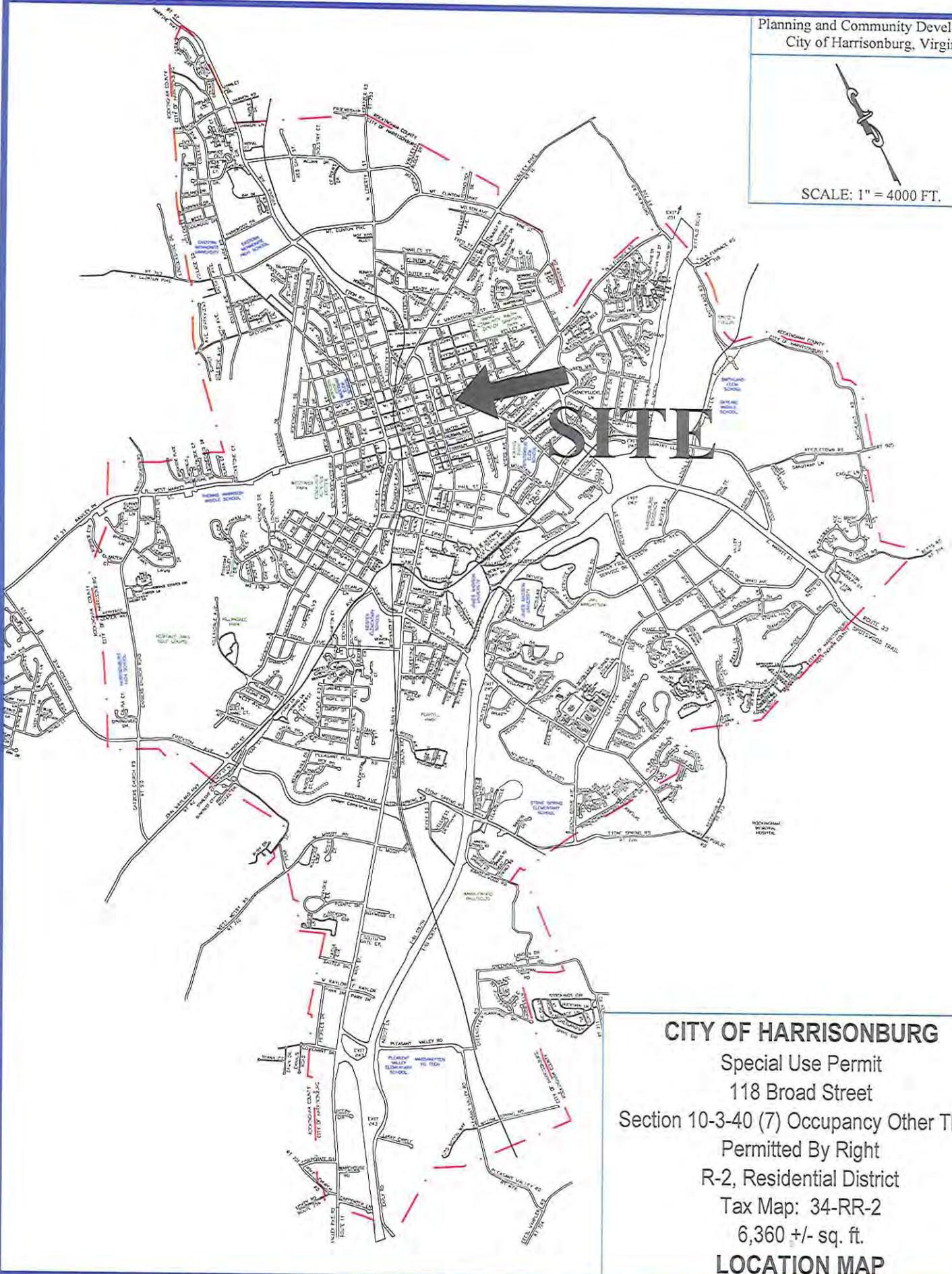
None.

Adjournment

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



SCALE: 1" = 4000 FT.



CITY OF HARRISONBURG

Special Use Permit
118 Broad Street
Section 10-3-40 (7) Occupancy Other Than
Permitted By Right
R-2, Residential District
Tax Map: 34-RR-2
6,360 +/- sq. ft.

LOCATION MAP



118 Broad Street - SUP
10-3-40 (7) - Occupancy greater than permitted



City of Harrisonburg, Virginia

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

STAFF REPORT
November 13, 2013

SPECIAL USE PERMIT – 118 BROAD STREET (10-3-40 (7))

GENERAL INFORMATION

Applicant: Alice and Rand Long
Tax Map: 34-RR-2
Acreage: 6,360 square feet
Location: 118 Broad 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 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: Single-family dwelling, zoned R-2
North: Across public alleyway, single-family dwelling, zoned R-2
East: Single-family dwellings, zoned R-2
South: Single-family dwelling and vacant lot, zoned R-2
West: Across Broad Street, vacant parcels, zoned M-1 and mixed use building of apartments and professional offices, zoned B-1

HISTORY

The subject property came to the attention of staff after a complaint was filed by a neighbor stating possibly more persons than permitted were occupying the house. Upon investigation, staff discovered there were seven unrelated individuals living in the dwelling. The property owners (applicants) received a certified notice of violation and were given thirty days in which to correct the violation. Three of the tenants moved within the first week. While continuing to work towards compliance the owners decided to apply for a special use permit (SUP) to allow four persons to occupy the house. The owners also submitted an appeal of the thirty day time period for compliance to the Board of Zoning

Appeals (BZA), hoping for a time extension in order to allow the SUP to move through the process, while still allowing the four remaining tenants to stay in the house.

On November 4th, the BZA granted the applicants an extension until January 6, 2014 to bring the property into compliance with the regulations of the R-2 zoning district. The applicants have informed staff that a tenant is moving out of the dwelling during the last week of November and another will be leaving at the beginning of the year; leaving just two tenants and complying with occupancy regulations.

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 eastern side of Broad Street, just north of the intersection with East Elizabeth Street, and is improved with a single-family dwelling. If approved the applicant desires to provide rental housing for four tenants. As required by the SUP, one off street parking space per tenant must be provided. Off street parking for the site can be accommodated in the rear and is accessible from Broad Street or an abutting alleyway to the north.

Broad Street serves as a dividing line between two Comprehensive Land Use designations in this neighborhood; Mixed Use Development Areas to the west and Neighborhood Residential to the east. The subject property lies within the Neighborhood Residential designation, 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. Across Broad Street from the site is a mixed use building of apartments and offices and single family dwellings; one block to the north are more apartment buildings and several single family homes. Given the mixed residential nature in this vicinity, one could argue a multi-tenanted dwelling is compatible with the existing character of the street. Staff, however, does not promote the furthering of this use across Broad Street and into the neighborhood, believing the street is the dividing line as indicated and demonstrated in the Comprehensive Plan.

The subject property is situated along a local street within the northeast neighborhood, with single family homes to the sides and rear of the lot. Parking for most of the adjoining parcels is on the public street; a drastic difference from the most recently approved occupancy SUP along West Market Street, which is an arterial street.

As shown on the submitted survey, the property is 6,360 square feet, which is only large enough to allow for a single family detached dwelling. A duplex structure would allow for occupancy by four persons (two in each unit); however a duplex dwelling requires 11,000 square feet of lot area.

The neighborhood to the east of Broad Street is primarily made up of single family dwellings and a few duplexes. Staff contends there is nothing special about this property to distinguish it from the others in the general area. Increasing occupancy increases traffic, causes parking concerns, more noise, and less accountability than the households that operate as single family homes in this neighborhood.

The special use is in contrast to the Comprehensive Plan designation of Neighborhood Residential and if approved would set the precedent for other rental properties within the neighborhood to want to exceed the by-right occupancy. Staff recommends denial of the request.

If there is a desire to approve the SUP, staff recommends the following conditions:

1. The parking spaces shall be screened from the adjacent single family properties to the south and east utilizing the mechanisms as specified in the table within Section 10-3-48.6 (b) of the Zoning Ordinance. (The table is shown below.)

Screen Abutting Street	Screen Abutting Adjacent Lot
4-foot high masonry wall	6-foot high masonry wall or solid wood fence
Or	Or
Evergreen hedge of 4-foot high (ultimate height) shrubs or trees planted a minimum of 5 feet on center so as to form a dense screen	Evergreen hedge of 6-foot high (ultimate height) shrubs or trees planted a minimum of 5 feet on center so as to form a dense screen

2. 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.

September 27,2013

Dear City of Harrisonburg Committee Members,

I am writing to request that the property at 118 Broad be allowed to have an occupancy of four. (10-3-40 (7))

After being reported for having 7 tenants, three of my renters left within a week and there are at present 4 in the house. I was told that by appealing, the tenants would be allowed to stay through the permit process. With this in mind 4 of the girls decided to stay.

At present, there is a parking pad in the backyard that can accommodate 2 cars and there is also a driveway that allows space for two cars that is attached to the house. There is access from an alley which runs alongside the property to the backyard from both the front and back.

My paper work and payment has been submitted for a special use permit and we are waiting for a decision from the city on this matter.

Thank you sincerely,

Alice Long

Oct. 8th

Date Application Received: 9-30-2013

Application for Special Use Permit City of Harrisonburg, Virginia

Fee: \$375.00 plus \$30.00 per acre Total Paid: \$ 405.00 ^{CB.}

Property Owner's Name: Alice & Rand Long
Street Address: ~~118 Broad St~~ Email: alicelong5@yahoo.com
City: # State: _____ Zip: _____
Telephone: Work 571-214-4290 Fax _____ Mobile same

Owner's Representative: Alice Long
Street Address: 7633 Trail Run Rd Email: _____
City: Falls Church VA State: VA Zip: 22042
Telephone: Work 571-214-4290 Fax _____ Mobile same

Description of Property and Request

Location (Street Address): 118 Broad
Tax Map Number Sheet: 34 Block: RR Lot: 2 Lot Area: 53' x 120'
Existing Zoning Classification: R2
Special Use being requested: Request that 4 people occupy the property. Special Use Permit

Please provide a detailed description of the proposed (use additional pages may be attached):
Use existing parking pad for parking + carport area. There is access from 3 directions for parking.

Names and Addresses of Adjacent Property Owners (Use separate sheet for additional names)
North: Dave Miller
South: Empty house - owner unknown
East: unknown
West: empty lot

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

Signature: Alice Long
Property Owner

ITEMS REQUIRED FOR SUBMISSION

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



Plat
1502/35

○ = Iron Pin Set
△ = Drill Hole

SITE PLAN of LOT 11 Garber & Garber Addition

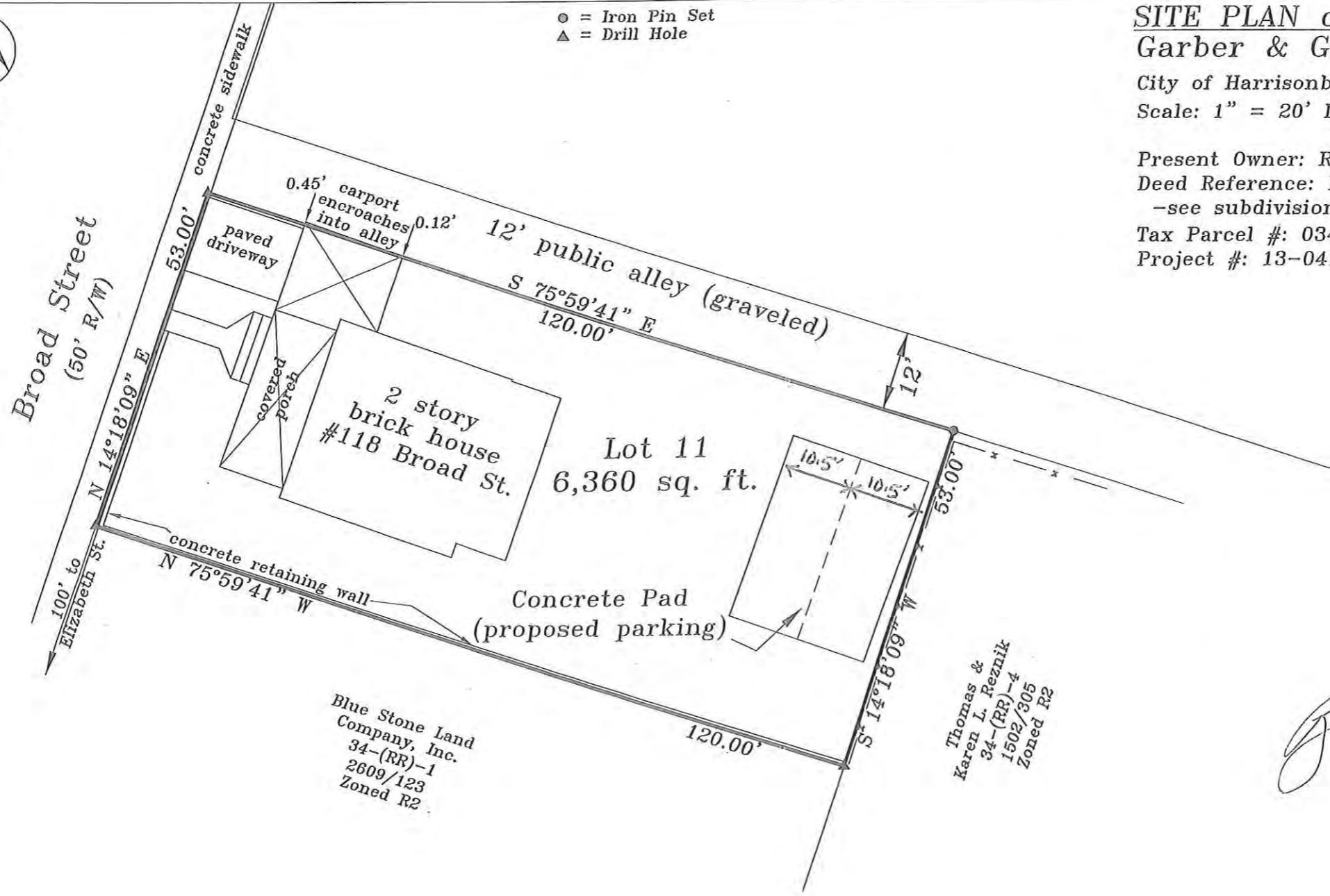
City of Harrisonburg, Virginia

Scale: 1" = 20' Date: September 17, 2013

Present Owner: RAND D. & ALICE M. LONG
Deed Reference: DEED BOOK 3851, PG: 577
-see subdivision plat in D.B. 78, Pg. 286

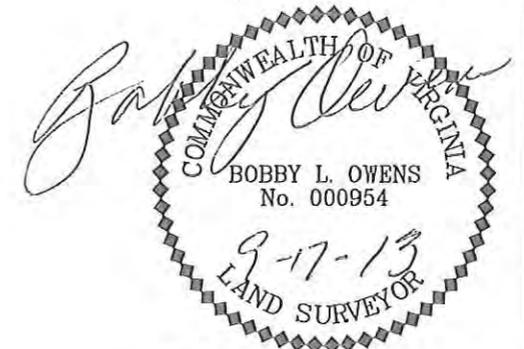
Tax Parcel #: 034-(RR)-2

Project #: 13-041



Blue Stone Land
Company, Inc.
34-(RR)-1
2609/123
Zoned R2

Thomas &
Karen L. Reznik
34-(RR)-4
1502/305
Zoned R2

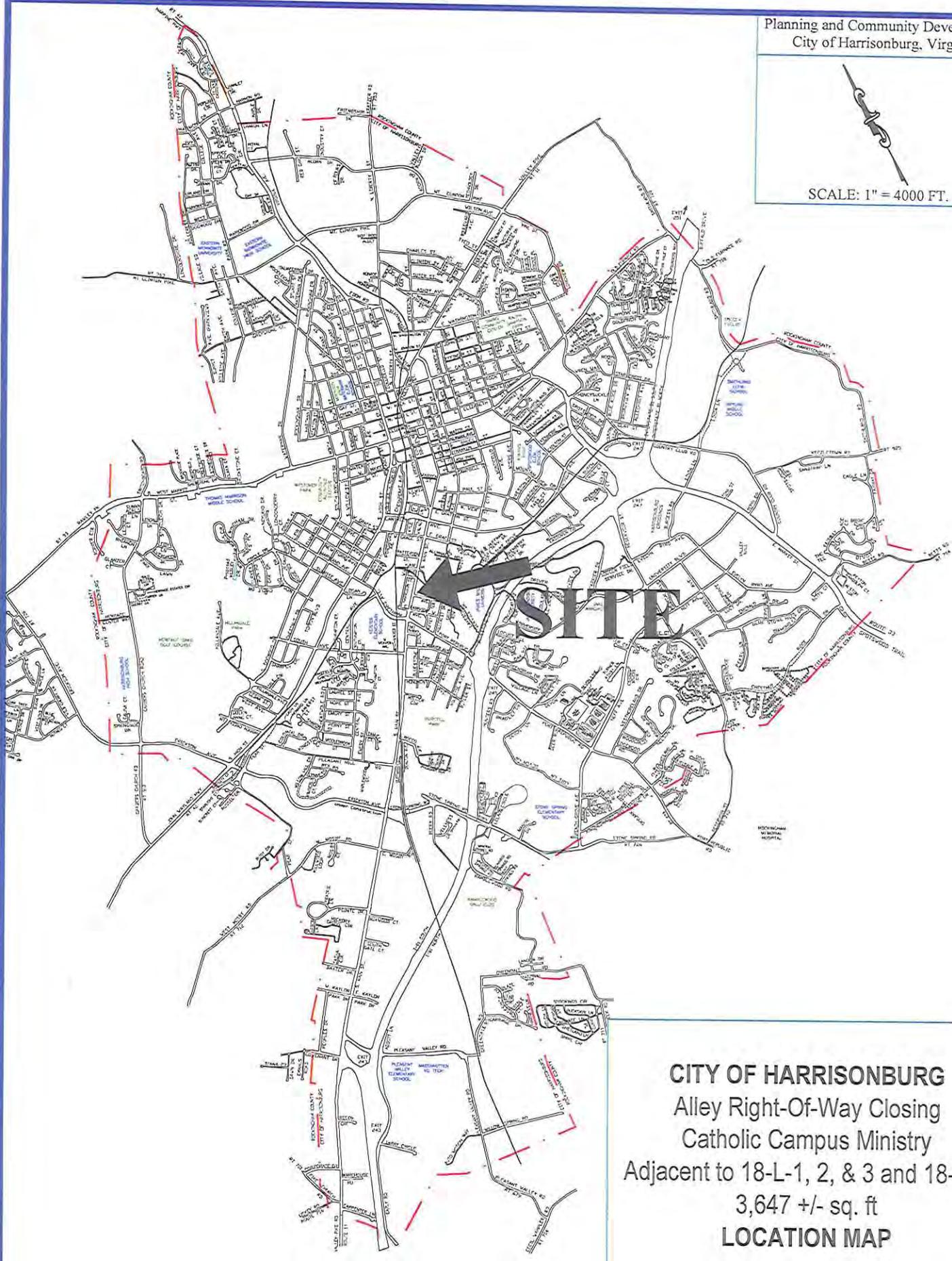


Bobby L. Owens, LS
1000 S. High St., Ste. A
Harrisonburg, VA 22801

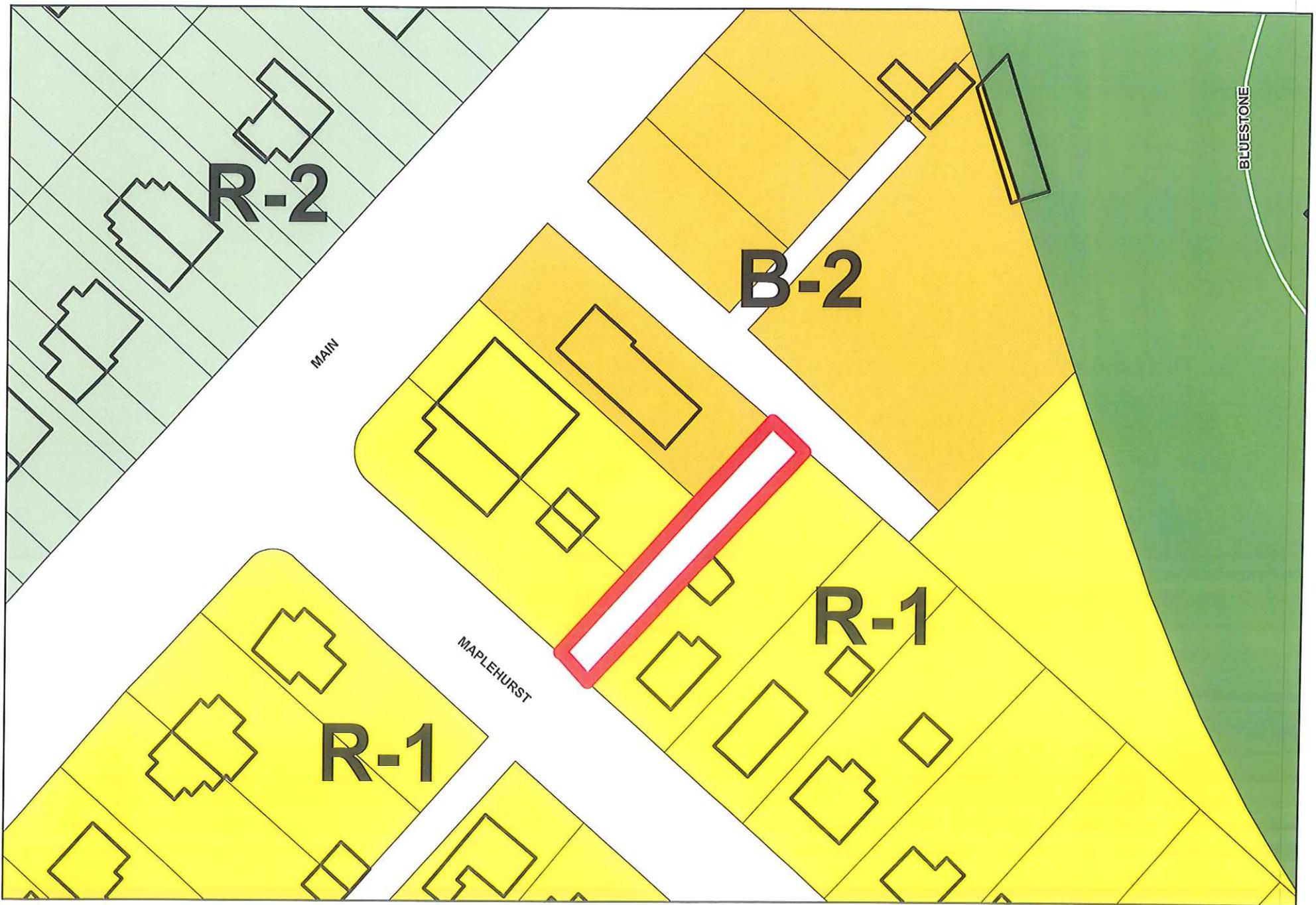
This Plat Represents A
Current Field Survey.



SCALE: 1" = 4000 FT.



CITY OF HARRISONBURG
Alley Right-Of-Way Closing
Catholic Campus Ministry
Adjacent to 18-L-1, 2, & 3 and 18-V-7
3,647 +/- sq. ft
LOCATION MAP



**Alley Closing - Catholic Campus Ministry
Adjacent to 18-L-1, 2, 3 and 18-V-7**



City of Harrisonburg, Virginia

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

STAFF REPORT
November 13, 2013

ALLEY CLOSING - Adjacent to 18-L-1, 2, & 3 and 18-V-7 (Catholic Campus Ministry)

GENERAL INFORMATION

- Applicant:** Catholic Campus Ministry
Tax Map: Adjacent to 18-L-1, 2, & 3 and 18-V-7
Acreage: 3,647 +/- square feet
Location: Off Maplehurst Avenue and parallel to South Main Street
Request: Consider a request to close an alley consisting of 3,647 +/- square feet

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

- Site:** An approximate 20-foot wide by 183-foot in length public alley right-of-way adjacent to 18-L-1, 2, & 3 and 18-V-7
North: Public alley right-of-way incorporated into parking lot area for James Madison University, zoned B-2
East: Single-family dwelling, zoned R-1
South: Across Maplehurst Avenue, single-family dwellings, zoned R-1
West: Catholic Campus Ministry facilities, zoned R-1 and James Madison University facilities building, zoned B-2

EVALUATION

The applicant is requesting to close a 3,647 +/- square foot alley that is located off of and perpendicular to Maplehurst Avenue. The approximately 20-foot wide alley travels 183-feet north from its intersection with Maplehurst Avenue, before its terminus at an abutting alleyway which is currently used as parking for James Madison University (JMU). Catholic Campus Ministry (CCM) owns three of the four properties directly adjacent to the area requested for closure. The remaining parcel is owned by JMU and they have determined they are not interested in purchasing any portion of this alley.

The alleyway is paved and at present is used by the applicant as access into parking for their properties and is not used for City services such as trash pick-up or emergency access. Harrisonburg Electric Commission (HEC) has an overhead power line and other utilities running through the alley and requests the area have the appropriate easements in place before selling the public right-of-way.

As noted by letter submitted with the application, CCM hopes to purchase the alley with the optimism of creating more off street parking for the facility. Staff discussed with the applicant's representative

that any new parking spaces for the site, or a redesign to create a new parking lot layout, would require the project to meet the parking lot landscaping requirements per Section 10-3-30.1 of the Zoning Ordinance. Staff noted there may not be enough area to create new parking and meet landscaping requirements; however, the applicant further noted the alley right-of-way would be needed at a future date should the applicants decide to enlarge the existing facility, or build a new one. Any enlargement of the facility would be required to comply with the City's off street parking requirements.

The City does not anticipate any negative consequences from vacating the alleyway. If approved the applicant would need to submit a revised plat showing how the alley would be divided among the adjoining properties. Staff recommends closing the alley with the condition of reserving an easement for HEC.

AGENDA ITEM ACTION REQUEST

	Meeting Date: September 24, 2013 Meeting Type: Regular <input checked="" type="checkbox"/> Special <input type="checkbox"/>
Requestor: <input type="checkbox"/> Manager <input type="checkbox"/> City Attorney <input type="checkbox"/> Department <input checked="" type="checkbox"/> Other Catholic Camp. Min.	Item: Consider referring a request to Planning Commission from Catholic Campus Ministry, with representative Peter Laver, to close a public alley containing 3633 +/- square feet. The subject is located behind 1052 South Main Street.
Reviewed: <input type="checkbox"/> Manager <input type="checkbox"/> City Attorney <input type="checkbox"/> Department <input type="checkbox"/> Other	Review: The applicant is hoping to acquire the public alley right-of-way and to incorporate it into their adjacent property, which is bounded by S. Main Street and Maplehurst Avenue and property owned by the Visitors of James Madison University. The reason for the closure of this alley will allow for more off-street parking for Catholic Campus Ministry.
Recommend: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Manager <input type="checkbox"/> City Attorney <input type="checkbox"/> Department <input type="checkbox"/> Other	
	Attachments: 1. Application and supporting documents.

Catholic Campus Ministry
1052 South Main Street
Harrisonburg, VA 22801
August 28, 2013

City of Harrisonburg - City Clerk
345 South Main Street
Harrisonburg, VA 22801

City Clerk:

This letter is regarding the closing of the city alley located behind 1052 South Main Street Harrisonburg, VA 22801 and adjacent to 24 Maplehurst Avenue Harrisonburg, VA 22801, both properties owned by the applicant. The alley is also adjacent to the James Madison University Facilities Management building. After contact with Jini Cook at JMU they have determined they are not interested in purchasing any portion of the alley. The reason for the closure of this alley will allow for more off street parking for Catholic Campus Ministry.

Sincerely,



Peter Laver
JMU CCM Advisory Board Member

Adjacent Land Owners

Catholic Campus Ministry (applicant)
1052 South Main Street
Harrisonburg, VA 22801

Catholic Campus Ministry (applicant)
24 Maplehurst Avenue
Harrisonburg, VA 22801

James Madison University (indicated not interested)
1050 South Main Street
Harrisonburg, VA 22801
Contact: Jini Cook 540-568-7204

Date application received: 9/4/2013

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

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

Applicant's Name: Catholic Campus Ministry
Street Address: 1052 South Main Street E-mail: pete@funkhousergroup.com
City: Harrisonburg State: Virginia Zip: 22801
Telephone: Work _____ Fax 1-877-571-1387 Mobile 540-421-7447

Representative (if any): Peter Laver
Street Address: 4997 Pleasant Valley Road E-mail: pete@funkhousergroup.com
City: Harrisonburg State: Virginia Zip: 22801
Telephone: Work _____ Fax _____ Mobile 540-421-7447

Description of Request

Location: Alley behind 1052 South Main Street

Square footage of area to be closed: Roughly 3,633 Square Feet

Cost per square foot: \$ _____ Total cost: \$ _____

Please provide a detailed description of the proposed closure (additional pages attached):
Alley connecting Maplehurst Ave to new James Madison University Parking Lot adjacent to the Facilities Management building. Between 1052 South Main Street and 24 Maplehurst Ave (both owned by the applicant)

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

North: James Madison University (agreeable Jini Cook 568-7204 cookvg@jmu.edu)

South: 24 Maplehurst Ave Harrisonburg, VA 22801 (same organization and agreeable)

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: 8-28-13

ITEMS REQUIRED FOR SUBMISSION

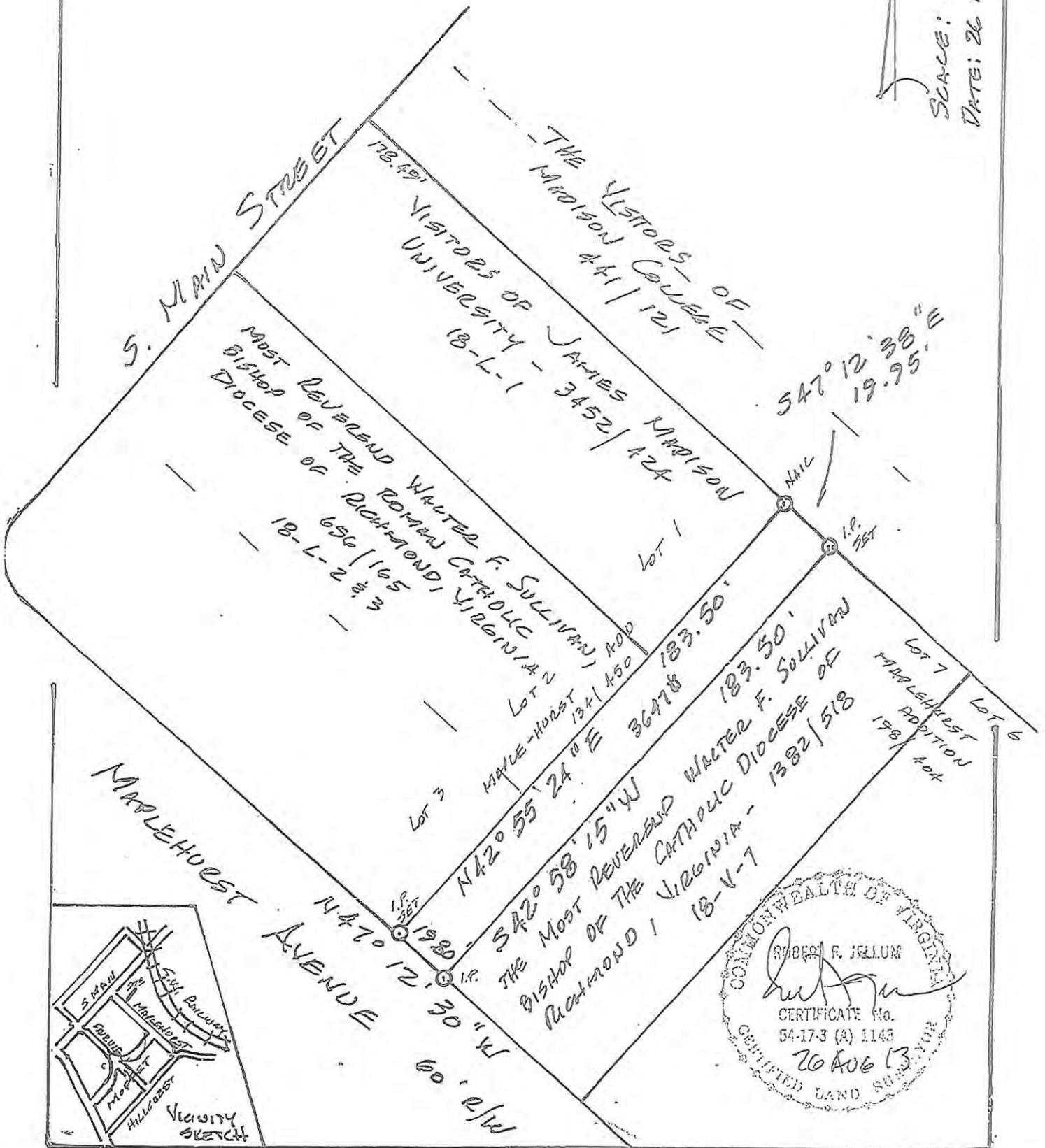
- Completed application
- Letter described proposed use
- Adjacent property owners
- Survey & metes and bounds description (prepared by a surveyor, engineer, or other person duly authorized by the State)
- Value per square foot of cost to purchase
- Fees paid
- Other _____

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.

SURVEY OF AN ALLEY TO BE VACATED

HARRISONBURG, VIRGINIA

SCALE: 1" = 40'
DATE: 26 AUG 13



COMMONWEALTH OF VIRGINIA
 RUBEN F. JELUM
 CERTIFICATE No. 54-173 (A) 1143
 26 AUG 13
 REGISTERED LAND SURVEYOR

The following is the metes and bounds description of a 3647 Square Foot strip of land located on the northeast side of Maplehurst Avenue approximately 178' southeast of the junction of Maplehurst Avenue and S. Main Street in Harrisonburg, Virginia.

Beginning at an iron pin set in the northeast line of Maplehurst Avenue, a corner with the Catholic Diocese of Richmond lot, thence partially with said Diocese lot and partially with a lot owned by James Madison University

N 42° 55' 24" E 183.50'

to a nail set, a corner with the JMU lot and another parcel belonging to JMU, thence with said parcel

S 47° 12' 38" E 19.95'

to an iron pin set, a corner with another parcel owned by the Catholic Diocese of Richmond, thence with said lot

S 42° 58' 15" W 183.50'

to an iron pin in the northeast line of Maplehurst Avenue, thence with said Avenue

N 47° 12' 30" W 19.80'

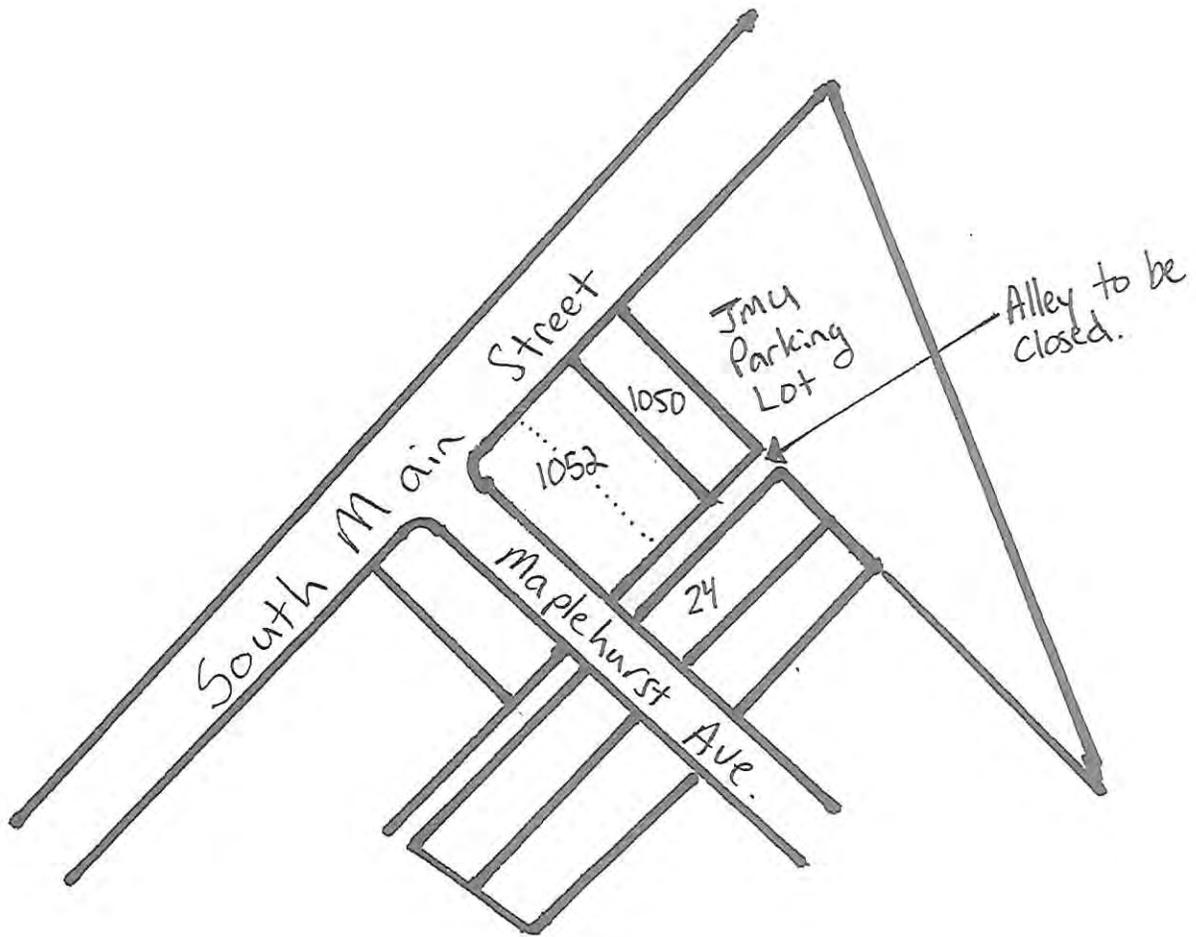
to the beginning and enclosing an area of 3647 Square Feet.

0041-1



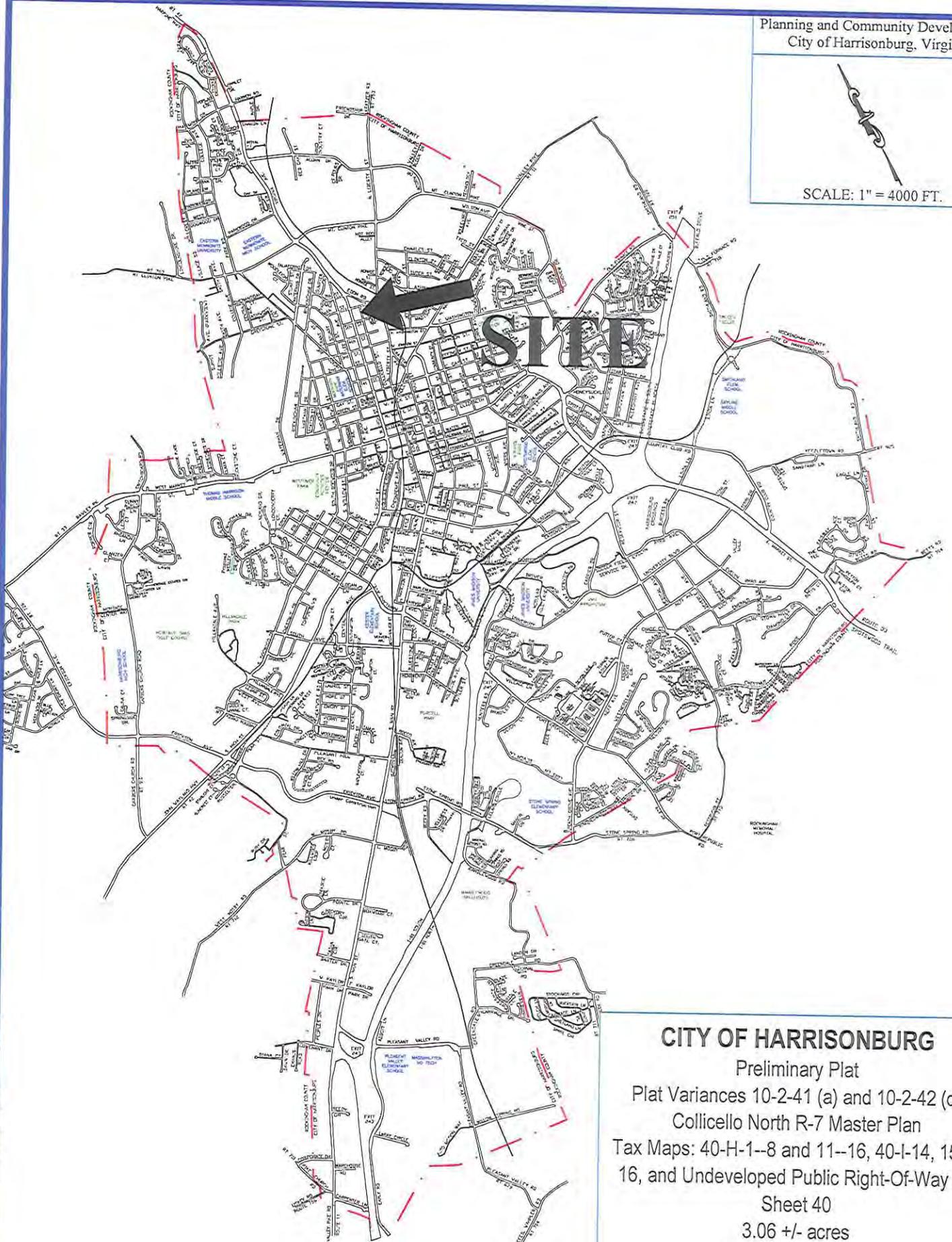
8.28.13

Sketch of alley to be closed.





SCALE: 1" = 4000 FT.



CITY OF HARRISONBURG

Preliminary Plat

Plat Variances 10-2-41 (a) and 10-2-42 (c)

Collicello North R-7 Master Plan

Tax Maps: 40-H-1--8 and 11--16, 40-I-14, 15, &
16, and Undeveloped Public Right-Of-Way on

Sheet 40

3.06 +/- acres

LOCATION MAP



Collicello North Preliminary Plat
Subdivision Variances Per 10-2-41 (a) & 10-2-42 (c)



City of Harrisonburg, Virginia

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

STAFF REPORT
November 13, 2013

PRELIMINARY PLAT - COLLICELLO NORTH

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 6th 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:** 3.06 +/- acres
- Location:** Bounded by Virginia Avenue, 5th Street, portions of undeveloped Collicello Street, and Edom Road
- Request:** Consider a request to preliminarily plat Collicello North and its public street right-of-way for the extension of Collicello Street. Two Subdivision Ordinance variances are being requested. The first is from Section 10-2-41 (a) to deviate from public street design standards and specifications outlined in the Design and Construction Standards Manual. The second is from Section 10-2-42 (c) to allow lots to not have public street frontage.

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-7
- 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 5th 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

Kin Group, LLC is applying to preliminarily subdivide their 3.06-acre, R-7 master planned property known as Collicello North. The property is located at the top of the hill along undeveloped portions of Collicello Street bounded by 5th Street, Virginia Avenue, undeveloped 6th Street, and Edom Road. The applicant is requesting to preliminarily plat the entire subdivision, which includes creating 36 parcels and the dedication of the planned extension of the Collicello Street public street right-of-way (ROW). As was anticipated during the rezoning process, the applicant is requesting two Subdivision Ordinance variances per Sections 10-2-41 (a) and 10-2-42 (c).

City Council approved the R-7, Medium Density Mixed Residential Planned Community District master plan in July of this year. In brief, Collicello North planned 15 detached units and 20 attached units (one duplex structure and three sets of six townhouse unit buildings) while allowing for the ability to provide for more residential units, including multi-family units, if the final design and density allows. The zoning of Collicello North allows the maximum 10 percent non-residential uses permitted by the district. The intent behind Collicello North's conceptually approved 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. As required by the district, Collicello North has at least 15 percent open space.

One noted difference when comparing the master plan to the plat is that one less attached unit is being platted. The developer decided to increase the number of bedrooms within the Type D townhouse units that front the proposed Chloe Lane (private street), which increased the parking requirement and thus reduced the number of units that could be built in this section of the development as there is not enough space to provide the minimum required parking spaces for the six originally planned units.

With regard to the requested variances, Section 10-2-42 (c) requires all parcels to have public street frontage. Only two lots of Collicello North will have public street frontage. The two commonly owned parcels will have the required frontage, and the other parcels abut this common area. As staff supported this concept for the master plan, we are supporting the requested variance to allow 34 lots to not have public street frontage. Many of the units within Collicello North will have frontage along private streets/parking lots. These areas 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.

The other requested variance is from Section 10-2-41 (a), which requires streets to conform to the design standards and specifications that are outlined in the Design and Construction Standards Manual (DCSM). Section 10-2-41 (a) of the Subdivision Ordinance states:

Proposed streets shall conform to the standards and specifications outlined in the Design and Construction Standards Manual except that variances to the standards for streets, alleys, blocks, easements, sidewalks, and all such related features may be approved on a case-by-case basis by the City Council when:

- (1) the proposed alternative would better achieve the walkable, pedestrian and bicycle-oriented environment the City desires;

- (2) 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
- (3) the proposed alternative would better balance the needs of pedestrians and vehicles, and better achieve the goals of the comprehensive plan.

Included within the packet is a statement from the applicant addressing why he believes the proposed development meets the three criterion for variance approval as outlined above.

The proposed design of the street does not conform to several sections of the DCSM. The deviations to the DCSM are described below.

- There is varying public street ROW for Collicello Street that is less than the required 50 feet minimum per DCSM 3.1.4 and Appendix F. The proposed ROW widths range from 25 to 39 feet.
- Pavement width along many sections of the street is not to the standard 26 or 30 foot width minimum per DCSM 3.6.4 and Appendix F. The proposed pavement width is a minimum of 24 feet.
- DCSM 3.6.4 and Appendix F require public sidewalks and curb to be within the public ROW, however several portions of the proposed public sidewalk and curb are outside of the proposed ROW. A public access easement would be provided for all of these areas.
- The centerline radius for the bend in Collicello Street does not meet the minimum standard per DCSM 3.6.3. The proposed centerline radius is 37 feet.
- Consecutive centerline curves without separating tangent sections are proposed to the east of Lot 8 and do not meet the standards per DCSM 3.6.2.1. The proposed length is 17.25 feet.
- The sight distance along the vertical curve at station 15+75 as shown on the street cross section sheet of the preliminary plat is less than the required K-value of 20 per DCSM 3.6.2.4 and 3.6.3. The proposed vertical curve K value for this section of the street is 11.1.
- The landing design at the intersection of 5th Street and Collicello Street does not meet the standard per DCSM 3.6.2.3. The proposed Collicello Street shall serve as the landing at the 5th Street intersection.

Aside from the two requested Subdivision Ordinance variances, the submitted preliminary plat conforms to the Subdivision Ordinance and to the approved master plan.

Staff supports the preliminary plat with the requested variances.

Date Application Received: 10-08-13

Total Paid: 920⁰⁰

Application for Preliminary Subdivision Plat Approval City of Harrisonburg, Virginia

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

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

Description of Property

Title of Subdivision: Collicello North Tax Map: 40-H-(1-8), (11-16),
40-I-(14-16)
Street Address: 909 Collicello St Zoning: R-7
Total Acreage: 3.06 Number of Lots Proposed: 34
Proposed Use of Property: Proposed subdivision, 34 single family homes, 19 attached, 15 detached

Property Owner

Name: Kin Group, LLC Email: dweaver@blueridgearchitects.com
Address: P.O. Box 1076 City / State: Harrisonburg, Virginia
Telephone: (work) 540-437-1228 (mobile) 540-810-7337 (fax) _____ Zip: 22803

Owner's Representative (if applicable)

Name: Dean Weaver Email: dweaver@blueridgearchitects.com
Address: 6322 Acker Lane City / State: Linville, Virginia
Telephone: 540-434-5755 (work) 540-810-7337 (mobile) 540-433-9273 (fax) Zip: 22834

Surveyor: Jeff Simmons - Simmons Surveying
Telephone: 540-432-0420 Email: _____

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

VARIANCES:

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

I (we) hereby apply for a variance from Section 10-2-41 (a) of the City of Harrisonburg Subdivision Ordinance and/or Section _____ of the City of Harrisonburg Design and Construction Standards Manual, which require(s):

Proposed streets shall conform to the standards and specifications outlined in the DCSM.

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

See attached letter and associated plat.

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

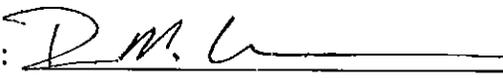
All lots shall front on a public street and no lot shall embrace any portion of a street or alley.

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

See attached letter and associated plat.

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

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

Signature: 

Property Owner

Signature: _____

Applicant, if different from Owner

TIA Review Fees

- (a). Would the development from this preliminary plat require a Traffic Impact Analysis by VDOT?

YES _____ NO X

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

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

- (b). Would the development from this preliminary play 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.

October 8, 2013

To whom it may concern,

I am formally requesting the variances needed to fulfill the needs of my R-7 Master Planned Neighborhood. My goals are to secure the variances approved through concept within the rezoning process of my Collicello North Master Plan.

Needed is a variance to street design standards within the Subdivision Ordinance Section 10-2-41(a), reason being:

- 1) The topography of the 3 acre site is extremely challenging and further complicated because of the two gas mains extending through and along the site. The narrower streets that I propose allow me to accommodate the widths of the gas utility easements and the retaining walls necessary while preserving a streetscape that is safely serviceable and carries the endorsement of the fire department.
- 2) The narrower street design incorporates several traffic calming technics that will increase safety for vehicular, pedestrian and bicycle traffic alike.
- 3) With a narrower street, properly designed to the principles adopted by the City of Harrisonburg R-7 zoning, we can effectively promote a safer, more beautiful, and more human scale environment for vehicles, pedestrians, and bikers alike as promoted by Harrisonburg's Comprehensive Plan.

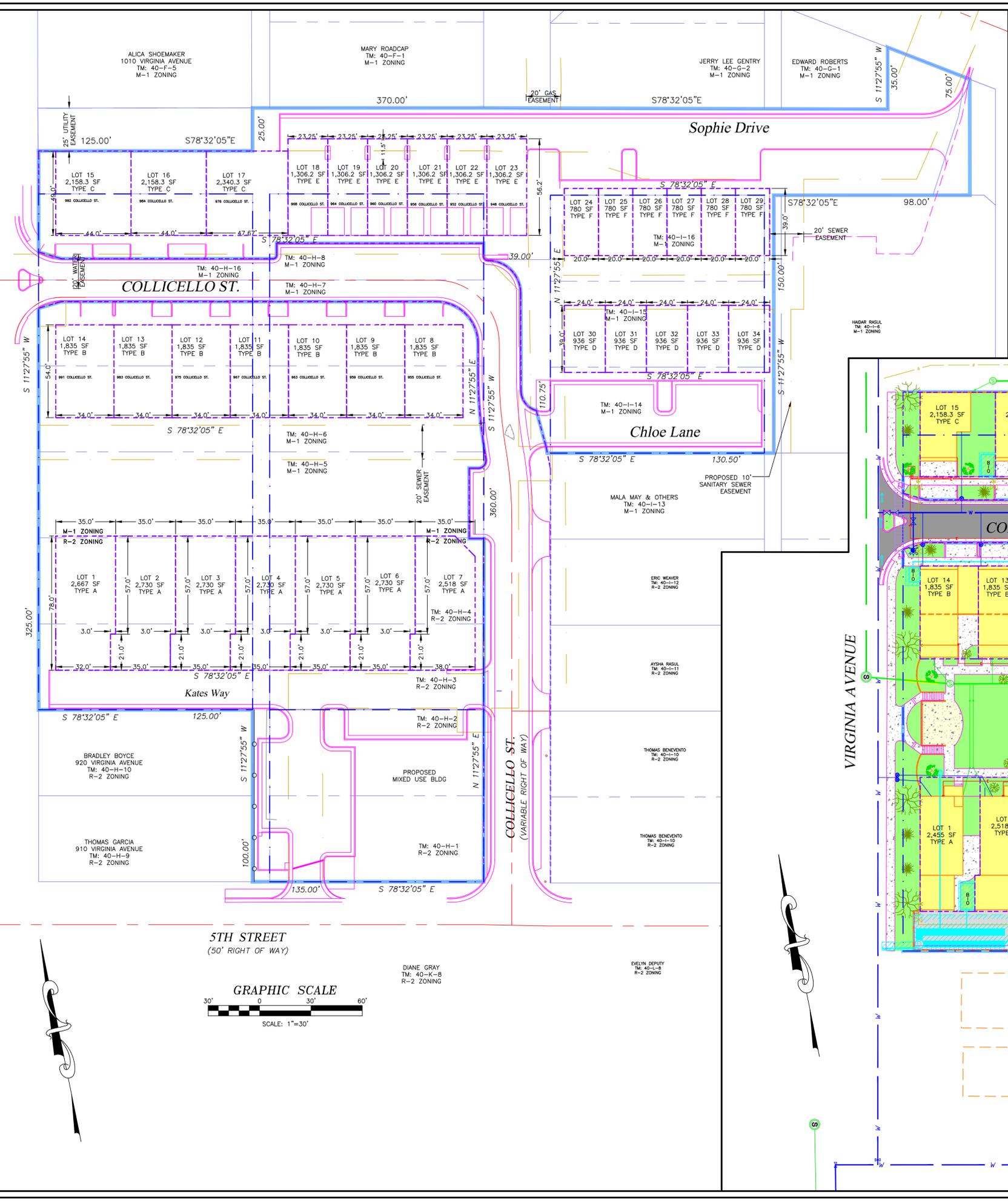
Needed is a variance to street frontage within the Subdivision Ordinance Section 10-2-42(c), reason being:

- 1) To facilitate the usable green space deemed desirable by the City of Harrisonburg in their adopted R-7 zoning, as well as, adhere to the New Urbanists Principles incorporated within the approved Collicello North Master Plan.
- 2) To help accommodate extremely challenging topography and utility requirements of the site in which some roads as projected by the City could not be built due to elevation changes and sight line requirements.
- 3) To facilitate human scale living environments consistent with Harrisonburg's comprehensive plan as intended for areas of green space and pedestrian & bicycle orientations.

Sincerely,

Dean M. Weaver

Kin Group Mgr.



PLANT SCHEDULE

	QUANTITY	COMMON NAME	BOTANICAL NAME	SIZE
UPRIGHT TREES (TYPE 1)		PRINCETON SENTRY GINKO	GINKGO GILOBA	2-2.5"
		ARMSTRONG RED MAPLE	ACER RUBRUM	2-2.5"
ORNAMENTAL TREES (TYPE 2)		SHOWGOOSE CHEERY	PRUNUS SERRULATA	6-8'
		CRAPEMYRTLE TUSCARORA	LAGERSTROEMIA INDICA	6-8'
		SWEETBAY MAGNOLIA	MAGNOLIA VIRGINIANA	6-8'
		GREENSPIRE LINDEN	TILIA CORDATA	6-8'
SHADE TREES (TYPE 3)		WHITE OAK	QUERCUS ALBA	2-2.5"
		BURR OAK	QUERCUS MACROCARPA	2-2.5"
		SHUMARD OAK	QUERCUS SHUMARDI	2-2.5"
		LONDON PLANETREE	PLANTASUS X ACERIFOLIA	2-2.5"

NOTE:
1. ALL LANDSCAPING SHALL NOT IMPEDE SITE DISTANCE PER DCSM 2.6.8 A & B
2. LANDSCAPING SHALL MEET ALL ZONING ORDINANCE REQUIREMENTS AND WILL BE VERIFIED WITH SITE PLAN SUBMITTAL.

Date: NOV 2013
Scale: AS SHOWN
Designed by: PBR
Drawn by: PBR
Checked by: EHB

BLACKWELL ENGINEERING, PLC
366 East Market Street
Harrisonburg, Virginia 22801
PHONE: (540) 532-9555 FAX: (540) 434-7604
E-Mail: BE@blackwellengineering.com

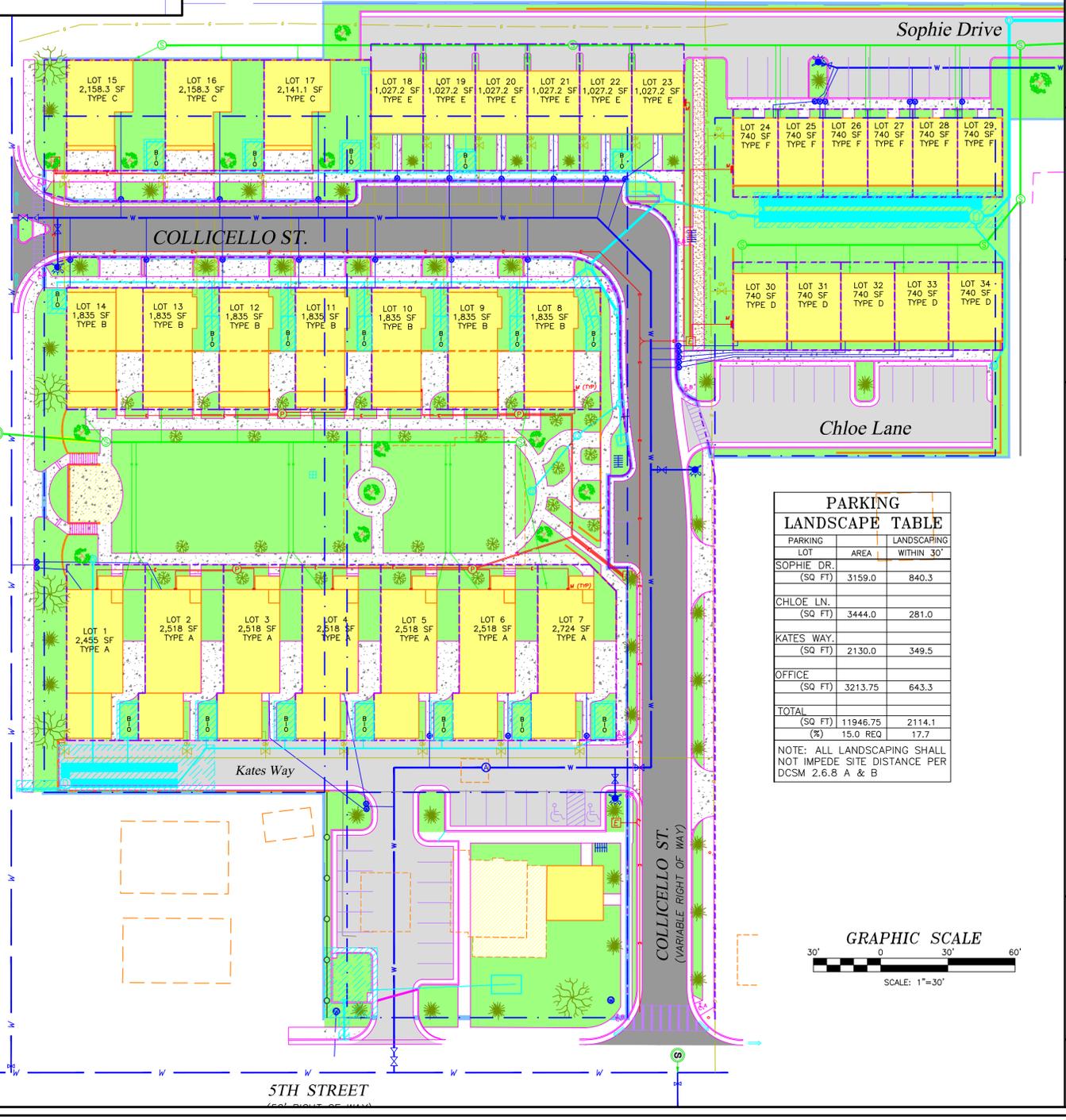
COMMONWEALTH OF VIRGINIA
EDMOND H. BLACKWELL
Lic. No. 023831
PROFESSIONAL ENGINEER

Revision Dates
10-14-13 City Comments
10-28-13 Planning Commission Comments

PRELIMINARY PLAT - LANDSCAPING / BOUNDS
COLLICELLO NORTH
KIN GROUP, LLC
PO BOX 1076
HARRISONBURG, VA 22803

Drawing No.
PP2
of 2 Sheets

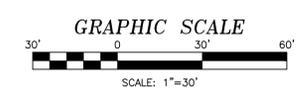
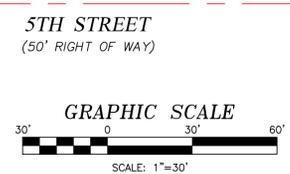
Job No. 2266

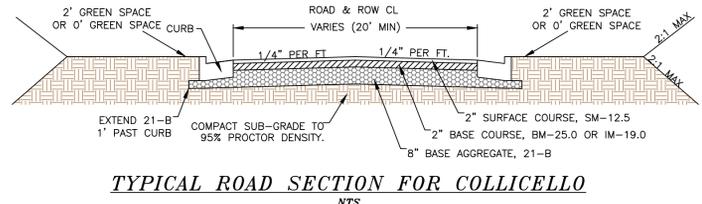
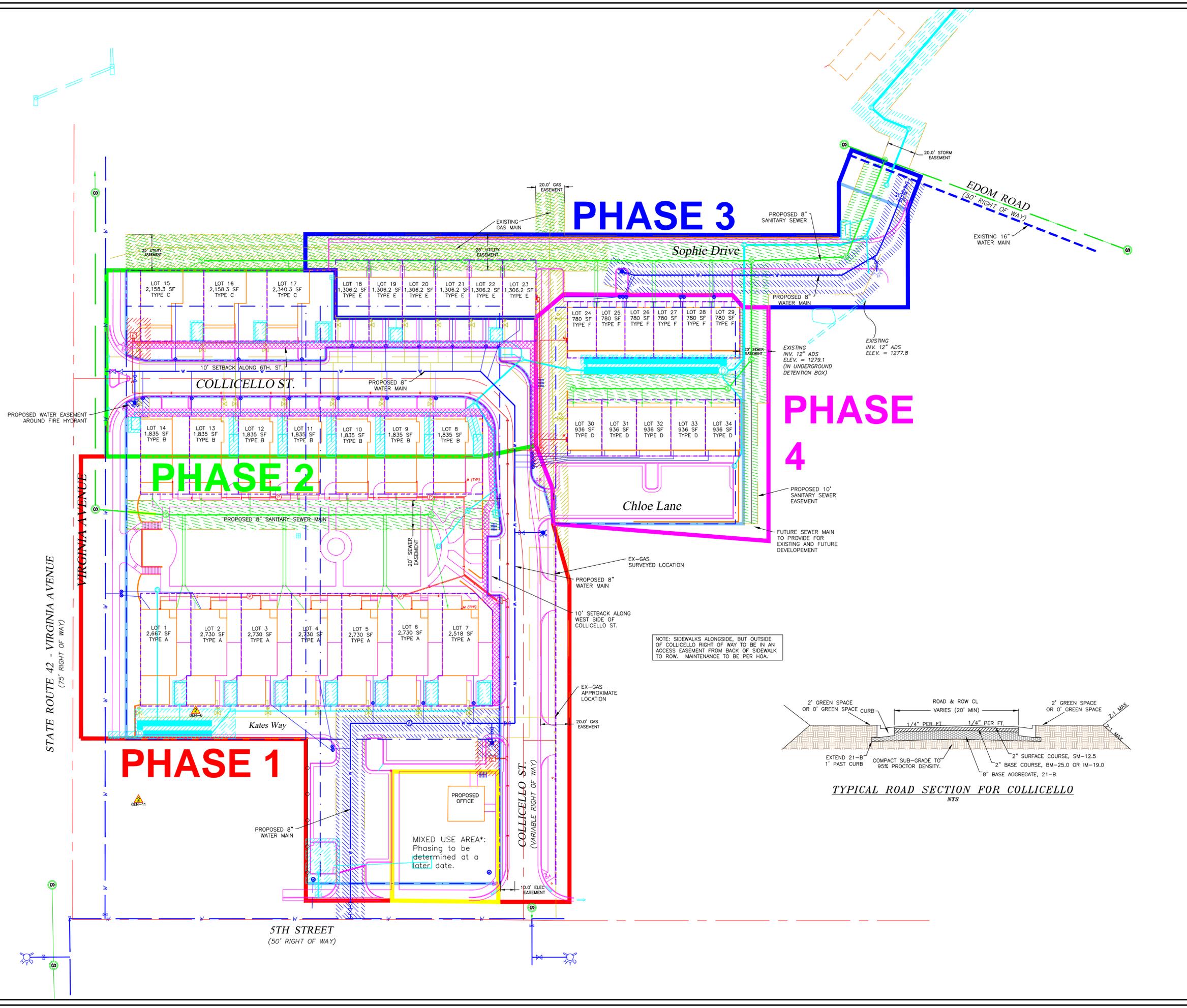


PARKING LANDSCAPE TABLE

PARKING LOT	AREA (SQ FT)	LANDSCAPING WITHIN 30'
SOPHIE DR.	3159.0	840.3
CHLOE LN.	3444.0	281.0
KATES WAY.	2130.0	349.5
OFFICE	3213.75	643.3
TOTAL	11946.75	2114.1
(%)	15.0 REQ	17.7

NOTE: ALL LANDSCAPING SHALL NOT IMPEDE SITE DISTANCE PER DCSM 2.6.8 A & B





ADDITIONAL NOTES:

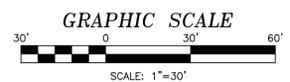
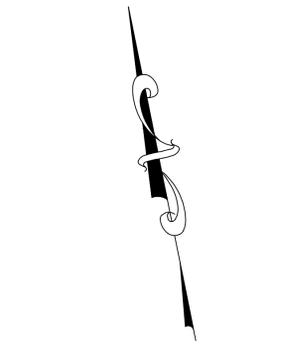
1: WHERE REQUIRED ALL PUBLIC SIDEWALKS AND OTHER INFRASTRUCTURE ADJACENT TO THE COLLICELLO STREET SHALL HAVE A PUBLIC ACCESS EASEMENT.

2: PHASES DENOTED BUILDING CONSTRUCTION ONLY. ALL SITE WORK SHALL FOLLOW PRELIMINARY PLAT.

3: PROPOSED PAVEMENT TO BE CONSTRUCTED AT 24' MINIMUM CURB TO CURB WITHIN 25' COLLICELLO STREET RIGHT-OF-WAY.

LEGEND

- CENTER LINE
- SITE BOUNDARY
- PHASE BOUNDARY
- MIX USE BUILDING
- ELECTRIC METER
- ELECTRIC TRANSFORMER
- ELECTRIC PEDISTOOL
- ELECTRIC/TELEPHONE
- EXISTING UTILITY POLE
- EXISTING LIGHT POLES
- PROPOSED UTILITY POLE
- WATER LINES
- SANITARY LINES
- SANITARY CLEANOUT
- STORM SYSTEM
- PROPOSED DITCH
- GAS LINES
- EXISTING PROPERTY LINE
- PROPOSED PROPERTY LINE
- EASEMENT LINE
- EXISTING BUILDING
- PROPOSED BUILDING
- PROPOSED ROAD/EOP
- EXISTING ROAD
- CURBING: CG-6 OR CG-7
- CURBING: CG-2 OR CG-3
- HANDICAP PARKING
- EXISTING FIRE HYDRANT
- PROPOSED FIRE HYDRANT
- WATER VALVE
- WATER METER
- AIR RELEASE VALVE
- ELECTRIC EASEMENT
- SEWER EASEMENT
- STORM/BMP EASEMENT
- WATER EASEMENT
- GAS EASEMENT
- PUBLIC EASEMENT



Date: NOV 2013

Scale: AS SHOWN

Designed by: PBR

Drawn by: PBR

Checked by: EHB

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COMMONWEALTH OF VIRGINIA

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PROFESSIONAL ENGINEER

Revision Dates

10-14-13	City Comments
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PRELIMINARY PLAT -- EASEMENTS / PHASING

COLLICELLO NORTH
KIN GROUP, LLC
PO BOX 1076
HARRISONBURG, VA 22803

Drawing No.

PP3

of 3 Sheets

Job No. 2266

Supplemental Letter

The development at Collicello North is a proposed, 34 single family, subdivision; applying for variances from within the City of Harrisonburg Subdivision Ordinance, and/or the DCSM. From the application above, noted are sections 10-2-41 & 10-2-42. Below is a description of all variances requested for the development at Collicello North .

Whereas:

- a) There is varying right-of-way for Collicello Street that is less than the required 50 feet per DCSM 3.1.4 and Appendix F. The proposed right-of-ways widths include 39' from 5th street to Chloe Lane, 25' after the intersection of Chloe Lane and Collicello Street, 34' in front of the Type E units, and 25' again approaching the intersection of Virginia Avenue and Collicello Street.
- b) Pavement, along many sections of the street, is not to standard 26/30 foot width per DCSM 3.6.4 and Appendix F. The proposed pavement at places is 24' curb to curb.
- c) Portions of the sidewalk, curb, and on-street parking outside of Collicello Street right-of-way will be maintained under the Collicello North Home Owners Agreement. These portions include any section that does not fall within the public right-of-way and shall be placed within a public access easement. See DCSM 3.6.4 and Appendix F.
- d) The centerline radius for the bend in Collicello Street does not meet the minimum standard per DCSM 3.6.3. The proposed centerline radius is 37.'
- e) Consecutive centerline curves without separating tangent sections are proposed to the east of Lot 8 and do not meet the standards per DCSM 3.6.2.1. The proposed tangent length is 17.25.'
- f) The sight distance along the vertical curve at station 15+75 is less than the required K-value 20. (See section 3.6.2.4 and 3.6.3). The proposed vertical K value for this section of the street is 11.1.
- g) The landing design at the intersection of 5th Street and Collicello Street does not meet the standard per DCSM 3.6.2.3. Existing roadway to be removed. The proposed Collicello Street shall serve as the landing at the 5th Street intersection.

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 6th 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

October 2013 Proactive-Zoning Report

For the month of October 2013 the proactive-zoning program inspected the **Ramblewood** section of the city. During the proactive inspections eleven violations were found. The violations consisted of inoperable vehicles and discarded material violations.

MONTH	SECTOR	4 th CYCLE VIOLATIONS	CORRECTED	1 st CYCLE	2 nd CYCLE	3 rd 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	5	1	0	2
May 2013	Hillandale	11	11	7	5	17
June 2013	Maplehurst/JMU	0	0	6	5	2
July 2013	Long Ave/Norwood	11	11	12	28	17
August 2013	Greystone	9	9	13	10	13
September 2013	Greendale/SE	1	1	3	2	5
October 2013	Ramblewood	11	n/a	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 November 2013 will be directed towards the enforcement of the Zoning Ordinance in the **Stone Spring Village/JMU** section of the City.